



**MANITOWOC COUNTY**

**POSITION DESCRIPTION**

**TITLE:** Child Support Case Manager

**DEPARTMENT:** Child Support Enforcement Agency

**REPORTS TO:** Child Support Coordinator

Function:

Under general supervision of the Child Support Enforcement Agency Coordinator, performs duties relating to the child support program relative to the establishment, enforcement and collection of child support payments and medical support.

Responsibilities and Duties:

1. Conduct interviews and inquiries to assess absent parents' ability to provide medical insurance coverage and/or child support and determine appropriate action.
2. Establish child support and medical support orders by stipulation or by recommending court action.
3. Review the adequacy of existing child support orders and modify inadequate orders either by stipulation or by recommending court action.
4. Identify delinquent payers and locate and identify sources of income and enforce compliance with court orders by implementing income withholding, or by referral for court action and prepare appropriate documents accordingly.
5. Draft petitions, orders, judgments, stipulations, summons', notices and motions relative to the establishment, modification, collection and enforcement of child support and medical support obligations.
6. Testify in court proceeding whenever required.
7. Initiate appropriate measures to locate absent parents.
8. Maintain necessary records of activities, prepare reports, maintain case files in accordance with the Agency Corrective Action Policy and maintain confidentiality relating to all Child Support Enforcement Agency matters.
9. Initiate activities, prepare and file reports,

maintain case files regarding the administration of the Medical Support Liability Program.

10. Perform other duties as assigned.

WORK ELEMENTS:

A. Education, Training and Experience:

Graduation from high school plus 1-2 years additional education in a legal or business related field. Three years of responsible work experience investigating and working with clients in the enforcement and/or establishment of child support and paternity cases.

B. Knowledge, Ability and Skill:

Knowledge of office procedures, English grammar and spelling; knowledge of the methods and practices of a Child Support Enforcement Program and the Human Services Agency's Income Maintenance Program; knowledge of State and Federal laws and regulations relating (to) the Child Support Program, the Medical Support Liability Program, and the Uniform Reciprocal Enforcement of Support Act; working knowledge of the functions of the Circuit Courts, Corporation Counsel, Family Court Commissioner, and District Attorney.

Ability to establish and maintain effective public and working relationships; ability to explain and enforce child support and medical support laws clearly and tactfully to attorneys, other government officials, and the public; ability to understand and draft court orders, stipulations, affidavits, judgments, petitions and motions in family support, paternity, and interstate actions; ability to perform work accurately and under pressure; ability to deal with hostile clients; ability to relate changes in statutes, policies, rules and regulations, and procedures to daily operations.

Skill in the operation of various office machines and computer/word processor terminals with accuracy and attention to detail.

Ability to organize and perform independently, to manage a number of tasks concurrently, and to make decisions with a minimum of supervision.

This position description is an illustration of the duties and responsibilities of this position and is not intended to be all inclusive.

Also on March 20, 1991, the County posted the position of Child Support Secretary. Interested bidders included Catherine LeClair, a grievant in this proceeding and Jeanne Wolf, the successful bidder. The following constitutes a complete job description of the Child Support Secretary:

MANITOWOC COUNTY

POSITION DESCRIPTION

TITLE: Child Support Secretary

DEPARTMENT: Child Support Enforcement Agency

REPORTS TO: Child Support Coordinator

Function:

Under general supervision of the Child Support Enforcement Agency Coordinator, provides a variety of secretarial services to the Child Support Coordinator and the Child Support Case Managers and performs general clerical duties relating to the child support program.

Responsibilities and Duties:

1. Types correspondence and reports; maintains case files and records.
2. Supplies accurate and concise information relative to the child support program to attorneys, courts, other authorized State and/or County agencies, and clients.
3. Drafts and prepares petitions, orders, judgments, stipulations, summons', notices and motions for review by the Coordinator and/or Case Managers.
4. Obtains applications whenever required from non-AFDC applicants and collects all appropriate fees.
5. Prepares files for presentation in court by child support attorneys.
6. Prepares weekly court calendar of pending IV-D actions.
7. Maintain necessary records of activities, prepare and file reports, maintain case files regarding the administration of the Medical Support Liability Program.
8. Perform other duties as assigned.

WORK ELEMENTS:

A. Education, Training and Experience:

Graduation from high school plus advanced training normally acquired through 1-2 years of technical training or equivalent with three years of responsible legal secretarial and office/clerical work experience and preferable child support enforcement experience.

B. Knowledge, Ability and Skill:

Knowledge of office procedures, English grammar and spelling; knowledge of the methods and practices of a Child Support Enforcement Program and the Human Services Agency's Income Maintenance Program; knowledge of State and Federal laws and regulations relating (to) the Child Support Program and the Medical Support Liability Program; working knowledge of the functions of the Circuit Courts, Corporation Counsel and Family Court Commissioner.

Ability to deal effectively with the public, court personnel and officials; ability to draft and understand court orders, stipulations, affidavits, motions and petitions in family support actions; ability to follow instructions and to relate prior instructions to new situations; ability to explain child support and medical support laws clearly and tactfully; ability to perform work accurately and efficiently under pressure; ability to work independently and manage a number of tasks concurrently; ability to relate changes in statutes, regulations and procedures to daily operations.

Skill in typing, the operation of various office machines and computer/word processor terminals with accuracy and attention to detail, and the operation of a dictaphone; skill in dealing with court officials, attorneys, other government officials and the public.

This position description is an illustration of the duties and responsibilities of this position, but is not intended to be all inclusive.

Catherine LeClair has grieved her failure to be awarded either of the two posted positions. Ms. LeClair has been a county employe for 21 1/2 years. Ms. LeClair began work in 1951. In the years 1951-52 Ms. LeClair was employed by the S.S. Kresge Company in Manitowoc, Wisconsin. She worked as a cashier for the Kresge Company and used a typewriter and adding machine in her employment. In August of 1952 Ms. LeClair took a job with Western Union Telegraph. She attended training school from August through November of 1952, and thereafter operated a telegraph from November of 1952 through 1955. Her work consisted mainly of sending and receiving messages on a teletype, which had a keyboard. From 1955 through 1967 she raised her family, and was not employed outside the home. In 1967-1968 Ms. LeClair performed factory work at Mirro Aluminum. In 1968 she left Mirro to go to work for Paragon Electric where she performed factory work from 1968 through December of 1970.

In December of 1970 Ms. LeClair took a job with Manitowoc County. Initially she was employed as a Switchboard Operator/Receptionist. She thereafter transferred to the County Clerk's office as a Secretary/Clerk II where she handled payroll. Her job included preparing payroll and making out payroll checks on bookkeeping machines. She also helped with withholdings. In 1977 the County went to a computerized payroll system, and moved its payroll function to the third floor. Ms. LeClair thereafter worked the payroll alone. She actually prepared the payroll, made out the various reports, i.e. state retirement, Social Security, life insurance, health insurance, and prepared annual W-2 forms. At times if a computer operator was on vacation or absent due to sick leave Ms. LeClair would enter certain data on the computer.

In March of 1980 Ms. LeClair transferred to the County Clerk's office

where she remained until January of 1986. She was employed there as a Secretary/Clerk II. While in the Clerk's office, Ms. LeClair kept track of and issued dog licenses, she reconciled payments from municipalities, worked with the County Board on its payroll, kept track of County Board meetings, made up the County Board payroll, worked on elections, with conservation licenses, and marriage licenses. She did a good deal of typing and performed a little work on word processing equipment. In January of 1986 Ms. LeClair was promoted to a Secretary/Clerk I position in the County nurse's office where she remained until June 1, 1991. While in the nurse's office, Ms. LeClair received some training on computers.

In all the positions she held Ms. LeClair was required to type correspondence and reports and to maintain case files. While in the payroll department she had a variety of reports to fill out in a concise and accurate manner. At times she had to prepare resolutions and documents for County Board consideration. While in the County Clerk's office she was responsible for handling marriage license applications, as well as hunting and fishing licenses. When employed as a receptionist, she worked at the switchboard and had to deal with the public on a regular and ongoing basis. While in the nurse's department she dealt with the public extensively on immunization days.

While in the clerk's office she prepared files for County Board use. She also was required to monitor the weekly agenda of County Board meetings. While in the nurse's office, she regularly scheduled appointments. She maintained records and did billings for home care agencies. While with the County Clerk she was required at times to check with the clerk of courts to see if an applicant for a marriage license had a finalized divorce. Occasionally Ms. LeClair was exposed to and obligated to work with anxious people seeking nurse's appointments and/or individuals who were hostile over some facet of the requirements for securing a marriage license. She was at times required to gather information on applicants for marriage licenses and from employes newly added to the payroll. Certain facets of her various jobs were confidential.

Kenneth Nelesen, Coordinator of the County Child Support Enforcement Agency was one of those who interviewed Ms. LeClair for the positions. Each applicant was subjected to a standardized questionnaire. According to Nelesen, LeClair indicated to the screening committee that she had no experience on word processing equipment, or personal computers. That she had no legal experience, nor had she drafted petitions, orders, judgments, stipulations, or other such items. Nelesen indicated that LeClair advised the committee that she had no knowledge or experience relating to the Child Support Enforcement Program. Nelesen did not regard LeClair as qualified.

Laura Braun also grieved her failure to be awarded the Child Support Case Manager position. Ms. Braun has been employed by the Manitowoc County Child Support Agency for approximately 17 years. As originally employed, Ms. Braun did home visits, and helped out on switchboard duties and on filing. In 1976 she did home visits to visit A.F.D.C. applicants, for the purpose of checking out the home to see how many children were there, who lives there and where they are at various times of the day. Such visits are required before benefits are distributed. In 1977 she worked as a receptionist for the Child Support Agency. Since 1981 or so, Ms. Braun has worked as a Child Support Specialist, regularly performing duties relative to the establishment, enforcement and collection of child support payments, and medical support. She conducts interviews to assess absent parent's ability to provide medical insurance coverage and/or child support. She has located sources of income and forced compliance with court orders by implementing income withholding. She did the collection and enforcement of child support and medical support obligations. Her task in that regard consisted of sending dunning letters. Ms. Braun has never testified in a courtroom. She has maintained activity records and prepared reports for court utilization. She is the only person employed by the

County who takes tax refund checks of delinquents. Ms. Braun has attended child support training seminars. She has taken child support enforcement program and state and federal law training. She works through the court commissioner, and previously worked through the District Attorney. She has dealt with angry clients and experienced a good deal of stress in her employment. Ms. Braun has been required to explain, but not draft documents such as stipulations, affidavits, judgments, petitions, motions, etc. She has been trained to operate word processing equipment but does not use it as a part of her job.

Jill Mertens was the successful bidder for the Case Manager, Child Support Agency position. Mertens had been a County employe for 13 1/2 years as of the date of the hearing. Before assuming the Case Manager position Mertens was a paralegal in the District Attorney's office. She worked in the District Attorney's office, handling child support matters since June of 1980. At the time she was there the District Attorney's office was responsible for enforcing certain child support matters. She was assigned some of those duties. Specifically, she typed and prepared documents for support of interstate paternity and child support orders. Toward the end of her term with the District Attorney she handled criminal non-support complaints. Her role in that regard was to draft and prepare for filing such complaints. It was her task to review the files and see to it that there was sufficient evidence to support the charges. All pleadings were approved by an attorney but the initial work was hers to perform. Each complaint was drafted and reviewed individually. While in the District Attorney's office Ms. Mertens conducted interviews and inquiries with clients but not in child support cases.

Until approximately 1990 the District Attorney's office handled mental health commitments, involuntary mental health commitments, and involuntary alcohol commitments. As a part of her job Mertens would meet with people who were involuntarily attempting to commit a family member or a friend. They would meet to determine whether or not there was sufficient probable cause to file for emergency detentions. At times she was accompanied by someone from the AODA agency. Other times she worked alone. Mertens drafted proposed stipulations and court recommendations, as well as petitions, orders, judgments, and handled pre-prepared summons. She has testified in court.

Prior to being employed by the District Attorney Mertens was employed by the Clerk of Circuit Courts for Manitowoc County, for two years as a Secretary/Clerk II where her job consisted of typing, shorthand, calendaring, clerking and various other duties. For a 15-month period in 1977-78 she worked as a legal secretary for a local Manitowoc attorney.

During her tenure in the District Attorney's office she was trained by the District Attorney and assistants to be a legal assistant which increased the level of her responsibility.

It appears that much of the work being performed by the Child Support Case Manager is work that was previously performed out of the District Attorney's office.

Jeanne Wolfe was the successful bidder for the Child Support Agency secretary position. Prior to her successful bid, Wolfe worked as the secretary in the Human Services Department for a period of 1 1/2 years. Prior to that, she was employed at the Manitowoc County Counseling Center as a records clerk for a period of about 3 years. Prior to her employment with the County Ms. Wolfe worked as a legal secretary for a private law firm for a period of about 10 years.

While employed by the private law firm, Ms. Wolfe had the responsibility

for drafting documents involved in the processing of divorce cases. She also drafted documents related to trial matters. Her task in that regard was to gather information to be included on documents and review and screen it, and set it forth on a pre-printed form. Prior to applying for the position in question Ms. Wolfe worked for approximately six weeks at the Department of Social Services as a fill-in when someone had retired. While there she gained some familiarity with the procedures and forms for AFDC and medical assistance. Ms. Wolfe had not otherwise worked with AFDC. She had no background in the IV-D, nor the medical support liability program. She has no formal training beyond high school, though she had extensive on-the-job training while employed by the private law firm.

While working with the counseling center she had numerous contacts with the Social Services office and gained some knowledge of the methods and practices of the Human Services Agency.

Ms. Wolfe had considerable experience operating a word processor prior to her appointment to the child support secretary position.

It was the testimony of Charlotte Endries, the steward in the Courthouse unit, that historically positions have been awarded based upon seniority. According to Ms. Endries there has never been a challenge to the qualifications of the senior person bidding.

#### ISSUE

The parties stipulated to the following issue:

Did the Employer violate Article 22, Job Posting, of the collective bargaining agreement by failing to promote Catherine LeClair to the position of Child Support Secretary or Child Support Case Manager, or Laura Braun to the position of Child Support Case Manager?

If so, what is the remedy?

#### RELEVANT PROVISIONS OF THE COLLECTIVE BARGAINING AGREEMENT

##### ARTICLE 22 - JOB POSTING

Notice of vacancies and new positions shall be posted within five (5) working days after the vacancy occurs on the bulletin board in each department as well as the bulletin boards in the Courthouse (located in the office of the County Clerk and the Personnel Department) for five (5) working days. The notice of posting shall include the following minimum information: wage rate, hours of work, department, position title, job description, and qualifications. Any employee desiring to fill any such posted vacancy or new position shall make application in writing at the Personnel Department. After the conclusion of the posting period, the applications shall be opened at the Personnel Department in the presence of a representative of the Union and a representative of the County Personnel Committee, or its designee, at a time to be mutually agreed upon.

Whenever any vacancy occurs, it shall be given to the

employee with the greatest seniority within seven (7) work days after the completion of the posting period.

When objections are made by the Department Head regarding the qualifications of an employee to fill the position, such objections shall be presented to the employee and the Union in writing by the Department Head or the Department Head's designee.

If there is any difference of opinion as to the qualifications of an employee, the County Personnel Committee and the Union Committee shall take the matter up to adjustment through the grievance procedure.

When new positions are to be created the Employer shall notify the Union in writing prior to filling the position. The department head shall complete a job content evaluation questionnaire using the form agreed to by the Employer and the Union. The parties shall meet and negotiate the wage rate for the new position.

The Employer shall notify the Union in writing of any significant change in the job description, job duties, assignment, or qualifications of a position it may desire. If requested by the Union, the position shall be re-evaluated using the job content evaluation questionnaire form agreed to by the Employer and the Union. The parties shall meet and negotiate as may be required under the circumstances. Significant changes shall be defined as a change of one (1) pay grade or more.

Negotiations as herein provided shall be initiated by written request of the Union to the Personnel Committee.

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#### ARTICLE 11 - TRIAL PERIOD

An employee upon being promoted or transferred to another classification shall serve a trial period of thirty (30) calendar days in the new classification. An employee who cannot do the work of the new classification within the thirty (30) calendar day trial period shall be returned to his or her former position. The Employer may step the employee back to his or her former position at any time during the trial period, subject to the grievance procedure. The employee may return to his or her former position if he or she so elects during the initial ten (10) calendar days of the trial period upon written notice to his or her Department Head. As provided herein, the employee shall be entitled to the pay rate for the position he or she is promoted or transferred to effective the date the employee performs the functions of the new position, unless the employee is stepped back or returns to his or her former position. The thirty (30) calendar day trial period may be waived by mutual written agreement between the parties. Continued service beyond the thirty (30) calendar day trial

period shall be deemed evidence of satisfactory completion of the trial period.

#### POSITIONS OF THE PARTIES

The County contends that it did not violate Article 22 of the collective bargaining agreement when it rejected the grievants for the positions of Child Support Secretary and Child Support Case Manager because they did not possess the minimum qualifications required for those positions. The right to establish minimum qualifications for a particular position is vested in the County and its decisions concerning whether an employe is minimally qualified can be overturned only if they were unreasonable under the facts, or capricious, arbitrary or discriminatory. The County views Article 22 as recognizing that in some instances the person with the greatest seniority may not be qualified for the posted job. According to the County Article 22 is an attempt to balance the competing interests between the employes and the Employer when filling job vacancies.

The County possesses the sole right to set the qualifications needed for a particular job and to determine the qualifications of the applicants for any particular job vacancy. The County's analysis of the background and experience of the two grievants revealed that neither possessed the minimum qualifications for the positions applied for.

Grievant LeClair did not possess the minimum qualifications required for the Child Support Secretary position. Specifically, LeClair did not possess the required three years of responsible legal secretarial experience. In fact, she had no legal experience at all. LeClair had never drafted or prepared petitions, orders, judgments, stipulations, summons, notices or motions as required by the job description, nor was there any evidence that she understood such documents. LeClair had no experience preparing files for presentation in court by child support attorneys. She had no knowledge of the methods or practices of the Child Support Enforcement Program or Human Service Agency's Income Maintenance Program. Nor did she have any knowledge regarding the state and federal laws and regulations relating to the child support and medical support liability programs. Furthermore, she lacked a working knowledge of the functions of the circuit courts, corporation counsel, and family court commissioner. LeClair testified that she had contact with these offices in prior jobs with the County, but there was no testimony to support a claim that she possessed a working knowledge of the operations of these agencies. There was no evidence that LeClair had an ability to explain child support and medical support laws to County clients in a clear and understandable manner. Finally, LeClair had no experience working on computer/word processor terminals.

The Employer points to the credentials of Jeanne Wolfe, the successful applicant, as an example of an individual who possessed the minimum qualifications necessary for the position. The Employer concludes that the position was that of a legal secretary and that LeClair fell totally short.

The County contends that grievant LeClair did not possess the minimum qualifications required for the Child Support Case Manager position. According to the County, LeClair did not have any education beyond high school and a legal or business-related field as required by the job. She had no experience in gathering relevant information for use with a client, did not have much experience in conducting interviews and inquiries that would enable her to assess a parent's ability to provide child and medical support. She had never been in a position that would have required her to make a determination as to the appropriate action the County should take. She had no experience establishing court orders by stipulation or by recommending court action. She

had no experience in reviewing the adequacy of court orders and correcting inadequate orders by stipulation or recommending court action.

Ms. LeClair is alleged to have had no experience in identifying delinquent payers or locating sources of income for clients. She had no background implementing income withholding or referring such matters for court action. She had never drafted a petition, order, judgment, stipulation, summons, notice or motion. She had never testified in a court proceeding. Ms. LeClair did not have the three years of responsible work experience investigating and working with clients in the enforcement and/or establishment of child support and paternity cases. She had no knowledge of the methods and practices of the Child Support Enforcement Program or the Human Service Agency's Income Maintenance Program. She had no knowledge of state and federal laws and regulations pertaining to those programs or the Uniform Reciprocal Enforcement Of Child Support Act. She had no working knowledge of the functions of the courts, corporation counsel, family court commissioner or district attorney's offices.

There was no evidence that she had an ability to explain and enforce child and medical support laws clearly to attorneys, government officials and members of the public. Similarly, there was no evidence that she could draft and understand court orders, stipulations, affidavits, judgments, petitions or motions in family support, paternity and interstate actions. Further, she had no experience dealing with hostile clients. Finally, she lacked the ability to operate a computer/word processor terminal.

The County argues that grievant Braun did not possess the minimum qualifications required for the Child Support Case Manager position. According to the County Braun admittedly had a fair amount of experience pertaining to the work performed in the agency. She is also knowledgeable on the computer. However, the County argues, Braun has no legal experience or training. She had never established a support order by drafting a stipulation. She had never drafted a petition, order, judgment, stipulation, summons, notice or motion. Nor had she ever testified in a court proceeding. Additionally, she did not have any significant experience in interviewing people, in particular individuals who would be unwilling to disclose necessary information.

Jill Mertens, the individual awarded the Case Manager position, had a great deal of legal experience and training. She had been a legal secretary for a number of years during which time she acquired experience in the preparation of legal documents. The County goes on to outline Mertens' experience working as a paralegal in the District Attorney's office in the Child Support area.

The County argues that it was not required by the contract to give the grievants trial periods in the positions applied for. The contract does not require the County to promote or transfer employees who do not possess the minimum qualifications and give them a chance to try out for the job. The County has no obligation to give trial periods to employees who do not possess the minimum qualifications.

With respect to Ms. Endries' testimony, the County contends that Endries has not been involved in every decision made with respect to this bargaining unit concerning filling job vacancies and is in no position to state definitively that positions have always been awarded on the basis of strict seniority without consideration of qualifications. Such an assertion is alleged to be ridiculous.

In the County's view, the Union's argument ignores the plain contract language in Article 22. The Article provides that vacancies are to be awarded

to the person with the greatest seniority who posted for the position, unless the person with the greatest seniority is not minimally qualified. The County has complied with the contractual provisions.

The Union argues that Catherine LeClair is qualified for the Child Support Secretary position. The Union points out that after working at Kresge, Ms. LeClair went to school through a program offered by Western Union. In its view, that satisfies the job description's requirement for education beyond high school. Certainly Ms. LeClair's training through Western Union should be considered. The Union notes that Ms. LeClair worked with a PC keyboard-like device at Kresge. After training through Western Union Ms. LeClair was a telegraph operator, sending messages via a keyboard. The keyboard was similar to a typewriter. The Union notes that a word processor had been installed in the office of the County Clerk, and that notwithstanding the fact that Ms. LeClair was denied the opportunity to be trained on that word processor she displayed the initiative to use the word processor when there was an opportunity and trained herself. The Union notes that while employed in the community health nurse's office Ms. LeClair kept track of immunizations on that computer. The Union contends that surely with Ms. LeClair's breadth of experience, her proficiency in operation of keyboard devices, any adaptation to a computer that she would need to make could have been facilitated by the same training afforded Jeanne Wolfe. The Union goes on to outline the responsibilities and duties of the secretary position and concludes that Ms. LeClair has satisfied those various experiential requirements. The Union concludes that surely anything else that Ms. LeClair would have to know about the court system to be a secretary in this department could be presented as a part of an orientation. The Union argues that it would be unreasonable to expect that employes must know every peculiarity of a position before they fill it. No new applicants would ever be eligible.

The Union argues that Ms. LeClair is also capable of handling the Child Support Case Manager position. The Union argues that Ms. LeClair has demonstrated competence and reliability in the performance of all work tasks, indicating her adaptability to new expectations.

The Union contends that Laura Braun is capable of handling the Child Support Case Manager position. The Union points to the testimony of Mr. Nelesen to the effect that Ms. Braun has attended various seminars and training programs, which he agrees were exhaustive. She availed herself of a wide range of training which was approved by Mr. Nelesen. Nelesen testified that "She's had extensive experience, you know, with the program, terminology, know what's required, and has been and is able to determine on a case-by-case basis what's appropriate, what is necessary, and what is adequate to pursue for either enforcement action or follow-up." According to Nelesen, from time to time Ms. Braun does make recommendations. The Union argues that this testimony of Nelesen's is clear evidence that Ms. Braun is capable of assuming the responsibilities of the Case Manager position despite any requirement of additional education or legal background.

Braun has been a Child Support Specialist since 1986. Her testimony indicates that she has performed the tasks of the Case Manager position with a couple of exceptions. She didn't write stipulations and she didn't refer for court action. That was the role of Mr. Nelesen and the court commissioner. It wasn't within her authority. However, she has helped in drafting some of the legal documents such as motions.

Ms. Braun has the legal background. She acquired it in her present position, through work experience and training. She has displayed this competence to the point that Mr. Nelesen reported that Ms. Braun "has been, and is able to determine on a case-by-case basis what's appropriate, what is

necessary, and what is adequate to pursue for either enforcement action or follow-up".

The Union concludes that neither of the successful applicants listed any formal education beyond high school on the application for employment in their personnel files. Clearly education was not a determining factor, it was a diversion. The Union believes that LeClair should be promoted to either of the two positions, and that if she is not promoted to the Case Manager position, that position should go to Braun. These conclusions all rest heavily on the seniority of the individuals. The Union believes both LeClair and Braun are minimally qualified for the positions for which they have applied.

#### DISCUSSION

I agree with the County's contention that an employe must be minimally qualified in order to get the promotion. The third paragraph of Article 22 permits the Employer to set forth objections relative to the qualifications of the employes who bid to fill the vacant position. Common sense dictates that an employe who seeks a new job must have the minimum qualifications necessary to perform that job. A contrary construction of the second paragraph would lead to an absolutely incomprehensible result. To the extent there exists a practice of strict seniority promotion of applicants that practice cannot operate to strip the contract of the third paragraph of Article 22.

I do not believe Ms. LeClair is qualified for either the Child Support Secretary or the Child Support Case Manager positions. With regard to the secretarial position Ms. LeClair does lack the legal training and background anticipated by the job description. That includes but is not limited to the generation and preparation of various documents. Additionally she lacks the substantive knowledge of the child support area. She is not familiar with the agencies, the program, the substantive law, or the court system. Ms. LeClair's computer skills would be best described as modest. The Employer contends that the job that he has created is that of a legal secretary. The Employer's contention in that regard is for the most part accurate. Ms. LeClair is simply deficient in too many areas. The Union contends that an orientation should be provided. The Union is right in this regard. The Union also contends that not every element of the job must have been performed to qualify the individual. I agree with that contention of the Union also. However, Ms. LeClair is deficient in too many areas to qualify for this job. It is no doubt true that she could learn the substance of the child support area. It is likely also true that she could master the computer. It is no doubt also true that she could learn the legal system and learn to be proficient in the area of preparing these various legal documents. However, it would be an awesome undertaking for her to learn to do each element of this job simultaneously. I think the task is too great. I believe the consequence is that she is not qualified to assume the position.

With respect to the Case Manager position, all of the foregoing noted deficiencies are problems. Additionally, Ms. LeClair lacks the formal education required by the position. It is true that she has had no meaningful interview/investigation background. She has not had the opportunity to engage in enforcement and related activities surrounding judgments. For all the foregoing reasons in addition to those set forth in the discussion around the secretarial position, I find Ms. LeClair is not qualified to handle the Case Manager position.

In its brief, the County indicates that it has rejected Ms. Braun for three reasons: 1.) she had no legal experience or training; 2.) she had never testified in a court proceeding; 3.) she did not have any significant experience in interviewing people, in particular individuals who could be

unwilling to disclose necessary information. The job posting requires 1-2 years of post-high school education. Neither Braun nor Mertens possess such training. It goes on to require three years of responsible work experience investigating and working with clients in the enforcement and/or establishment of child support and paternity cases. Both women qualify. The County has committed to satisfying this requirement with on-the-job training and to a waiver of formal post-high school education. The question raised in this proceeding is what constitutes the minimum qualifying on-the-job training. I agree that Ms. Braun lacked formal legal training. However, by all accounts she possesses a strong background in the child support area. It is no doubt of great value to possess legal training necessary to begin drafting orders, stipulations, petitions, judgments, summons, etc. However, the drafting of these documents is a product of understanding the substantive area of their origin and the court system. Her knowledge of the substantive area of the child support area is sufficient in my mind to prepare her to learn to do the more ministerial tasks.

The Employer is accurate in its concern that Ms. Braun has never testified in court. On its own, this criteria cannot be regarded as sufficient to exclude an otherwise qualified applicant.

The Employer contends that Braun lacked significant experience interviewing people. I disagree. Braun performed home visits attendant to AFDC payments. Those visits were investigative in nature. Additionally, as a Child Support Specialist she engaged in client interviews, many of which were described as hostile and anxiety-inducing. It is true that Mertens had interview experience. However, nothing in the record suggests that her interviews were conducted with potentially hostile witnesses.

As a Child Support Specialist, Braun was constantly involved in the enforcement and collection of child support payments and medical support under the supervision of the Child Support Enforcement Agency Coordinator. She did so until this facet of her job was folded into the duties of the Case Manager.

The Child Support Case Manager position represents a significant promotion for all applicants. It cannot be expected that all applicants will have performed all facets of the work in question. Braun possesses the basic qualifications required by the job posting. Article 22 of the labor agreement awards the job based upon seniority, provided minimal qualifications are present. The Employer in its brief essentially compares Mertens' background to Braun's and concludes that Mertens is more qualified. It may well be that Mertens is more qualified for the position. Mertens performed a good deal of the position when it was housed in the District Attorney's office. Under the terms of this contract, that fact is of no consequence. Braun is not required to prove herself equally qualified to Mertens. She is required to demonstrate that she possesses the minimal qualifications. The second paragraph of Article 22 provides: "Whenever any vacancy occurs, it shall be given to the employee with the greatest seniority. . ." It is only if that employee is not qualified under the terms of paragraph 3 that the Employer is free to move to a less-senior applicant. I do not find that to be the case here. Braun has some shortcomings, but they are relatively few measured against a background of familiarity with the work in general. It appears to me that within a reasonable period of time any deficiencies that may exist may be corrected. I do not believe that Braun is so inadequate to the task that a familiarization period will not cure whatever deficiencies exist. Her deficiencies in this regard are not unreasonable given the nature of the posted job as a promotional opportunity and her seniority rights. Should this prove not to be the case, the parties have a mechanism under Article 11 for relief.

#### AWARD

The grievance brought by Ms. LeClair is denied. The grievance brought by Ms. Braun is sustained.

REMEDY

The Employer is directed to put Ms. Braun into the position of Child Support Case Manager effective April 8, 1991 and make her whole for any loss of wages and/or other entitlements to which she may have lost.

Dated at Madison, Wisconsin this 3rd day of July, 1992.

By William C. Houlihan /s/  
William C. Houlihan, Arbitrator