

BEFORE THE ARBITRATOR

In the Matter of the Arbitration
of a Dispute Between

GENERAL TEAMSTERS UNION, LOCAL 662,
affiliated with the INTERNATIONAL
BROTHERHOOD OF TEAMSTERS, AFL-CIO

and

CLAYTON SCHOOL DISTRICT

Case 19
No. 51215
MA-8531

Appearances:

Ms. Ruth E. Canan, Prevant, Goldberg, Uelmen, Gratz, Miller & Brueggeman, S.C., Attorneys at Law, 1555 North RiverCenter Drive, Suite 202, Milwaukee, Wisconsin 53202, appearing on behalf of the General Teamsters Union, Local 662, affiliated with the International Brotherhood of Teamsters, AFL-CIO, referred to below as the Union.

Ms. Kathryn J. Prenn, Weld, Riley, Prenn & Ricci, S.C., Attorneys at Law, 715 South Barstow Street, P.O. Box 1030, Eau Claire, Wisconsin 54702-1030, appearing on behalf of Clayton School District, referred to below as the District.

ARBITRATION AWARD

The Union and the District are parties to a collective bargaining agreement which was in effect at all times relevant to this proceeding and which provides for the final and binding arbitration of certain disputes. The parties jointly requested that the Wisconsin Employment Relations Commission appoint an Arbitrator to resolve a dispute reflected in a grievance filed on behalf of Andy Moskal, referred to below as the Grievant. The Commission appointed Richard B. McLaughlin, a member of its staff. Hearing on the matter was held on October 10, 1994, in Clayton, Wisconsin. The hearing was not transcribed, and the parties filed briefs by November 28, 1994.

ISSUES

The parties stipulated the following issues for decision:

Did the District have just cause to suspend the Grievant for one-half day without pay, and to place a letter to that effect in his personnel file?

If not, what is the appropriate remedy?

RELEVANT CONTRACT PROVISIONS

ARTICLE 2

MANAGEMENT RIGHTS

Except as otherwise specifically provided in this Agreement, the District retains all the rights and functions of management that it has by law. Without limiting the generality of the foregoing, this includes the right

1. to direct all operations of the District;
2. to suspend . . . and take other disciplinary action against employees . . .
6. to take whatever action is necessary to comply with State and Federal law . . .
12. to establish work rules;
13. to establish maintenance and disciplinary control in the use and operation of District property . . .

ARTICLE 9

SCHOOL BUS DISCIPLINE

The bus driver shall assist enforcing the District's student bus discipline rules. The bus driver shall also be responsible for timely reporting of known breaches of bus rider discipline to the Administration in accordance with District policy. Failure to enforce bus rider rules and/or failure to timely report serious breaches of discipline may subject the driver to disciplinary action.

. . .

ARTICLE 17

DISCIPLINE

The Employer shall not discharge or suspend any employee without

just cause. The Employer and Union agree that the concept of corrective or progressive discipline ought to be employed. In ordinary cases, discipline will follow this progression: documented verbal reprimand; written reprimand, suspension, and then discharge. No reprimands need to be given to the employee before he/she is suspended or discharged if the cause for suspension or discharge is a serious offense such as theft of property, drunkenness, drug intoxication, recklessness resulting in a serious accident while on duty, or carrying of unauthorized passengers while on duty.

BACKGROUND

The Grievant has served the District as a Bus Driver on a regular and on a substitute basis. He has been a regular driver since May of 1982. The grievance, filed on March 25, 1994, 1/ concerns the events of the afternoon of Friday, March 11. On that day, while he was driving students home on an afternoon route, a fight occurred. The Grievant described this disruption in a written statement, dated March 13, which states:

As Daren Ostenson was leaving the bus he stopped and said to me "watch Jerry Wellington he's trying to pick a fight, he's after Scott Moriak.

As I approached highway P's stop sign Jerry jumped across the bus, and slipped into the seat with Scott. I told him to get back to his seat, and he did.

As we returned from Bowen's stop, Jerry claimed that he dropped his pencil and that it was under Scott's seat, he again tried to jump into the seat with Scott, but I stopped him before he got completely across the bus, but a (sic) this time he refused to sit down. After the second verbal request for him to sit down, he finally did.

For about 2 miles and two stops . . . it was quite (sic). After we left Wilson's there was a scuffle and the kids yelled out that Jerry had bloodied Jason Anderson's nose. Steven Martel came forward and got paper towels for Jason . . . I went to Graunke's to get off the road.

After Jill Graunke got off, I set the brake and unfastened my seat belt. I told Jerry that I was tired of his "crap", and to get to the

1/ References to dates are to 1994, unless otherwise noted.

front of the bus. At this time Jerry's brother, Jeremy yells out to me and said "You, don't talk like that to my brother, and I responded by saying, "You, get up to the front of the bus too!" Jeremy came up first and said "Yeah What." This is when I grabbed him by his jacket and told him that I was in charge on this bus," and that he had better learn how to talk to people who are in charge over him. I then let him go and turned to Jerry and said to him, "you always have to be a big shot don't you, that other kids will never accept you as long as he was going to play bully, and to try and just fit in. Jerry then asked me "Am I off the bus," and I asked "Is that what you want." and said, "not yet."

Both boys went back to seats and sat quietly until their home stop, and got off with nothing more than dirty looks given. As Jason got off the bus I asked him what had happened, and from his story I was totally convinced he was a victim, and not the cause. I just want to add that after thinking about this incident this weekend, I have to say that in no way was Jeremy ever hit, in any way, period!! He also was not called any curse title of any kind, period!!

The Grievant testified that he turned the bus off after he found a safe spot to park the bus. He noted, in his rear view mirror, that Jason was bleeding fairly heavily. After he had unfastened his seat belt, he motioned with his left arm to Jerry to move to the front of the bus. He acknowledged he used the word "crap," but testified, initially, that he could not recall if he told Jerry to get his "ass" up front. He did not, however, deny using the term. He noted he had some concern, while he dealt with Jeremy, that Jerry would again strike Jason. He also noted he changed his route to assure that the Wellingtons would get off the bus as soon as possible. Had he continued on in the customary fashion, the Wellingtons would have been among the last students off the bus. There were, on that afternoon, roughly twenty-five students on the bus. Jason was not a regular rider, but was on the bus because he was going to visit his grandmother.

After leaving off the last of his student riders on March 11, the Grievant returned to District offices. He approached John Haugen, the High School Principal, to report the incident. As he attempted to do so, the Wellington brothers' father, referred to below as Wellington, approached them, with Maurice Veilleux, the District Administrator.

Wellington had phoned Haugen and asserted Jeremy had been hit by the Grievant. Haugen asked Wellington to come to the District offices to discuss the incident. Wellington and his sons arrived at the District offices at about the same time the Grievant did. After Veilleux and Wellington approached Haugen and the Grievant, the parties began to discuss the incident. Wellington claimed that the Grievant had struck Jeremy in the face, and that Jeremy's face showed the imprint of the Grievant's hand. He also claimed the Grievant had liberally used the word

"fuck" in dealing with Jeremy and Jerry. Veilleux could detect no marks on Jeremy's face. The Grievant vehemently denied striking Jeremy, and denied using the word "fuck." The Grievant acknowledged he grabbed Jeremy's coat, and acknowledged, on Veilleux's prompting, that this contact was improper. Veilleux and Haugen noted the existence of State statutes and Board policies regarding corporal punishment, and the Grievant made a comment to the effect that there might be fewer disciplinary problems if such statutes and policies did not exist. Wellington demanded some action on Veilleux's part, and offered to drop any complaint if the Grievant would apologize. Veilleux indicated he would investigate the incident, whether Wellington formally complained or not.

The Grievant delivered his written statement to Veilleux on March 14. Veilleux and Haugen contacted students who had been on the bus, and became convinced that the Grievant had not struck Jeremy. They also, however, became convinced that the Grievant told Jerry to "get your ass up here."

Ultimately, Veilleux decided to discipline the Grievant. In a letter to the Grievant dated March 18, he stated his conclusions thus:

. . . I have concluded my investigation of the incident. My findings were as follows:

- 1) Several students verified that you did state something to the effect "Get your ass up here . . ." to Jerry Wellington.
- 2) Students verified that you did grab Jeremy Wellington by the shirt after you motioned for him to come up to the front of the bus. You had indicated in earlier conversations that you did grab Jeremy.

As indicated in our conversation, these actions are unacceptable behavior on your part as a bus driver/school employee. Wisconsin Statute 118.31 prohibits corporal punishment. Physically grabbing students in the situation presented is totally unacceptable behavior. School policy also prohibits such actions on the part of school employees. Your cooperative and voluntary actions during this investigation were certainly taken into consideration in the decision-making process concerning this matter.

As a result of the aforementioned action on your part, you will be suspended from your driving assignment without pay on Monday,

March 21, 1994. A copy of this letter will also be placed in your personnel file . . .

Please be reminded that should similar action on your part take place in the future you may face further disciplinary action and/or termination . . .

The "policy" referred to in this letter is headed "Corporal Punishment" and reads thus:

The use of corporal punishment is prohibited.

For the purpose of this policy, "Corporal Punishment" means inflicting or causing to be inflicted physical pain for the sole purpose of punishment or as a disciplinary action.

It is judged by the Board that the use of physical force on students for disciplinary purposes may be necessary under certain situations to maintain discipline. However, the Board believes that other avenues of affecting student behavioral change should first be explored to their fullest extent.

The Clayton Board of Education understands that the authority of teachers and building administrators is necessary to assure that students are provided with an appropriate learning environment. It is also understood that at times inappropriate behavior may make it necessary to impose physical force or restraint to maintain order in a given situation.

Use of physical force or restraint shall be reasonable and appropriate when considering the nature and environment of the misbehavior.

Physical force used for the purpose of self-defense, for the protection of persons or property, to obtain a weapon or other object possessed by a student, or to restrain a student from injuring others will not be construed to constitute corporal punishment within the meaning and intention of this policy.

Any instances of physical force shall be reported in writing to the Administration for review.

LEGAL REF: Section 118.31(1) Wisconsin Statutes

Section 931.48 Wisconsin Statutes

This policy is referred to below as the Policy. Veilleux testified that he rejected the idea of issuing less than a suspension to the Grievant because the Policy is too significant; the force used by the Grievant was unreasonable; the force was not applied to the student causing the trouble; and the force was unnecessary to maintain student safety. Veilleux believed that the Grievant had exercised poor judgement, and had, in effect, precipitated the problem with Jeremy by not

moving the brothers up to the front of the bus sooner, and by provoking Jeremy with his use of profanity toward Jerry. Veilleux noted that he had discussed dealing with student behavioral problems with drivers on several occasions, and had incorporated the results of that discussion into the Job Description for Bus Drivers, which states:

. . .

PERSONAL/PUBLIC RELATIONS RESPONSIBILITIES:

. . .

- C. Maintain appropriate discipline on the bus at all times; including vocabulary, disrespectful or physically inappropriate behavior . . .
- E. Use a systematic approach when addressing a disciplinary situation
 - 1. Speak to student about the concern.
 - 2. Assign student to a closer seat to maintain supervision.
 - 3. Contact the Principal for assistance if misbehavior continues.
 - 4. Provide a written report of any disciplinary problems.

Following this procedure would have, in Veilleux's eyes, addressed the events of March 11 without any need for physical contact.

As of March 11, Jeremy was in fourth grade. Jerry was a junior high school student. Prior to the events of March 11, the Grievant had not been formally disciplined.

Further facts will be set forth in the DISCUSSION section below.

THE PARTIES' POSITIONS

The District's Brief

After a review of the evidentiary background, the District notes that the key facts are not in dispute. Critical to the determination of this grievance, according to the District, are the following: the District has distributed its procedure on handling disciplinary situations, and its Policy on the use of physical force; the Grievant is aware of both, and has received instruction in

their application; the Grievant used profanity in addressing Jerry; and the Grievant acknowledges grabbing Jeremy by the jacket.

Against this background, the District argues that the Grievant's excuses for his conduct are not credible. Initially, the District asserts that the Grievant's contention that his conduct was "necessary to maintain discipline" must be rejected. Noting that a student twice warned the Grievant that a fight was brewing, the District asserts that the Grievant had simply to move Jerry to the front of the bus in order to address the situation consistently with the District's disciplinary procedure. Beyond this, the District argues that the Grievant's use of profanity provoked Jeremy, thus causing, not addressing, a disciplinary problem. This incitement, according to the District, set the stage for the improper contact. That Jeremy complied with the Grievant's improperly delivered directive only makes his misconduct more egregious. His grabbing of Jeremy's jacket was, in the District's view, "purely for intimidation" reflecting little more than the Grievant's bullying of a child. Nor can the conduct be justified as a matter of student safety. That the Grievant first used this excuse at the arbitration hearing belies its merit. Beyond this, the District notes that "the fight had already occurred by the time the grievant intervened." The Grievant's actions were, according to the District, "too late and . . . inappropriate."

The District then contends that the suspension is supported by the evidence. That the Grievant "knew his actions in handling the incident were wrong", but "does not want any consequences to flow from his mistakes" warrants the imposition of a sanction sufficiently strong to get his attention. Nor should the suspension be viewed as an excessive penalty, according to the District. The District argues that bargaining history relevant to Article 17 establishes that the list of types of conduct which may constitute a "serious offense" is not exclusive. A review of the circumstances posed here demonstrates, according to the District, that the Grievant's conduct is a "serious offense" within the scope of Article 17. Relevant arbitral precedent establishes, the District argues, that progressive discipline should not be mechanically applied without regard to the underlying circumstances. The District concludes that a review of the record establishes that the suspension is appropriate because the Grievant as "the adult who was supposed to be in charge of the situation became frustrated and blew it." The suspension does not, the District notes, reflect that the Grievant is "a bad employee." Rather, it reflects the need for a strong signal to the Grievant that the Policy's application is a serious matter. The District concludes the grievance should be dismissed.

The Union's Brief

After a review of the relevant background, the Union argues that Arbitrator Daugherty's seven standard definition of just cause 2/ poses the governing basis for a review of the Grievant's discipline. More specifically, the Union asserts that the Grievant's conduct "did not constitute

2/ Citing Grief Bros. Cooperage Corp. and United Workers of America, 42 LA 555 (1964).

corporal punishment or unreasonable physical force." It follows, the Union contends, that the Grievant's discipline "is unwarranted" and that it is "grossly out of proportion to the actualities of (his) conduct, his work record, and his nature." This establishes, in the Union's view, a violation of Article 17. That the District failed to issue the Grievant a verbal warning makes this violation "twofold," according to the District.

Noting that the Policy has a statutory basis, and that "(b)oth the policy and the statute allow for the use of physical force reasonable under the circumstances," the Union concludes that the Grievant's conduct "fell well within acceptable parameters defined by the policy and the statute." Contending that neither the Policy nor the statute govern "*verbal expressions* of anger not otherwise constituting corporal punishment or unreasonable *physical* force," the Union concludes the Grievant's use of profanity did not warrant any discipline. The profanity was, in any event, "nothing more than verbal exclamation points", and the Union concludes that the language employed was reasonable in light of then existing circumstances.

That the Grievant grabbed Jeremy's jacket is not, the Union argues, corporal punishment. The Union characterizes the contact as a reasonable means of quelling the two brothers' open defiance of the Grievant's directives. Jeremy's conduct cannot, the Union contends, be meaningfully separated from his brother's aggression. That the Grievant could reasonably have forced both brothers into another seat establishes, according to the Union, that the lesser amount of contact at issue here must also be considered reasonable.

The Union then contends that the discipline is not reasonably related to the Grievant's character or work record. Due to the "social stigma which attaches to those charged and disciplined for conduct which the school board policy and (Sec. 118.31, Stats.) basically defines as harming a child," the Union argues that the discipline must be carefully scrutinized. Against this background, the Union asserts that the Grievant's unblemished work record and "demeanor at the hearing" establishes that the "discipline borders on the ludicrous and the libellous."

The Union contends that "impermissible considerations" taint the discipline. Political pressure and Veilleux's personal philosophy have, in the Union's view, made the Grievant's otherwise reasonable actions appear unreasonable. That Veilleux was unaware that Jerry "had caused altercations with two students on the bus that night" establishes, according to the Union, that Veilleux had not read or had ignored the Grievant's written statement. That considerations beyond "the substantial evidence of the facts of the case" entered into the disciplinary decision improperly taints the discipline imposed on the Grievant.

The Union concludes that the grievance should be sustained "by striking both the March 18, 1994 letter and the suspension from (the Grievant's) record" and that the arbitrator should "make him whole for any wages, rights and benefits lost as a result of the unjust discipline assessed."

DISCUSSION

The issues question whether the District had just cause to suspend the Grievant for his conduct on March 11. The Union asserts the Daugherty standards define the just cause analysis. Those standards are not, however, universally accepted, and I am reluctant to imply them into the parties' agreement. In the absence of a stipulation, I believe a just cause analysis turns on two elements. First, the Employer must establish the existence of conduct by the Grievant in which it has a disciplinary interest. Second, the Employer must establish that the discipline imposed for the conduct reasonably reflects its disciplinary interest. This does not state a definitive analysis to be imposed on contracting parties. It does state a skeletal outline of the elements which must be addressed and relies on the parties' arguments to flesh out that outline.

The conduct underlying the application of both elements of the cause determination is stated in Veilleux's March 18 letter. The letter highlights the Grievant's swearing at Jerry and grabbing Jeremy's coat. That the Grievant did this is not in dispute. Rather, the Union contends the District lacks any disciplinary interest in this conduct.

The District's contention that it has a disciplinary interest in the Grievant's conduct is persuasive. Veilleux's contention that moving the brothers to the front of the bus might have defused the situation has considerable persuasive force. Whether it would have or not, the fact remains that the Grievant did not follow the "systematic approach" specified in the Bus Driver job description for handling a "disciplinary situation." The District, at a minimum, has a disciplinary interest in assuring that its procedures are followed. Article 9 underscores this conclusion. Beyond this, the District has proven that the Grievant's failure to follow the procedure aggravated the situation. His swearing at Jerry helped bring an angry Jeremy into the mix. The Union contends that the swearing and the contact which followed it were necessary to defuse a situation which posed a safety issue until Jeremy was seated. This contention affords some insight into the Grievant's motivation for acting as he did. The accuracy of the contention is, however, belied by the Grievant's conduct. Jerry was the source of the safety issue. The Grievant's grabbing of Jeremy's coat did not address Jerry's ability to hit Jason again. That Jason was bleeding and was close enough to Jerry to be hit again can be granted. The severity of the situation is, however, established by the absence of any evidence that the Grievant moved past Jeremy. The bleeding and the proximity of Jerry to Jason did not, then, require the Grievant's presence. Even if the Grievant believed the contact with Jeremy was necessary, his grabbing of Jeremy's coat stands alone, not as an act necessary to separate combatants who were causing physical harm.

Since the District has demonstrated a disciplinary interest in the Grievant's conduct, it is necessary to determine whether the suspension and the accompanying written reprimand reasonably reflect that interest.

Article 17 states and guides the just cause analysis. The guide involved is the statement of

a four step system of progressive discipline governing "ordinary cases," but not "a serious offense." Incorporating this into the cause determination requires resolution of whether the Grievant's conduct is an "ordinary case" or "a serious offense." The District does not contend that the Grievant's use of the terms "crap" or "ass", standing alone, constitutes a serious offense. Rather the issue posed is whether the Grievant's profanity, coupled with his use of physical force, constitute a serious offense.

The record will support Veilleux's determination to suspend the "ordinary case" application of progressive discipline. The use of physical force, coupled with profanity, on a student poses a type of conduct which has sufficiently dire implications to be characterized as a serious offense. More significantly here, the evidence indicates the Grievant's March 11 conduct should be considered a serious offense. As touched upon above, the physical force was not used on the student causing the disruption, and was not necessary to prevent further injury. The Grievant's use of profanity contributed to the confrontation which resulted in physical contact, thus making his grabbing of Jeremy's coat improper conduct for which he must assume responsibility. That the Grievant ignored established procedure in addressing the disciplinary situation underscores the level of responsibility he must bear. In sum, Veilleux's determination not to apply the ordinary case application of progressive discipline cannot be faulted.

The record will not, however, support the severity of the suspension sanction. Two prefatory points must be addressed before examining the evidence on this point. First, it is necessary to underscore the significance of the discipline chosen by Veilleux. The suspension put the Grievant, under the terms of Article 17, on the threshold of discharge. Veilleux's March 18 letter implies "further disciplinary action" not including discharge could follow, but under the terms of Article 17 any further offense would result in discharge. Second, it should be stressed that the cause analysis turns on the reasonableness of the discipline imposed by the District. To alter the discipline requires something more fundamental than a subjective disagreement between the District's and my own view of what discipline should have been used.

In this case, the fundamental flaw in the discipline flows from an ambiguity within the Policy. That ambiguity confuses the disciplinary signal communicated to the Grievant. The ambiguity involves the Policy's breadth. More specifically, the ambiguity flows from the implications of covering "corporal punishment" and "reasonable force" in the same policy.

This ambiguity is manifested in the final paragraph of the March 18 letter, which implies that the Grievant may not be on the threshold of discharge as a result of the incident. As noted above, there is no support for this implication in Article 17. Nor is it clear why the Grievant should not be on the threshold of discharge if his conduct constitutes corporal punishment.

The ambiguity within the discipline flows from the fact that the Grievant's conduct does not fall within the Policy's or the statute's definition of "corporal punishment." The third paragraph of Veilleux's March 18 letter indiscriminately links the "unacceptable behavior" of swearing and grabbing Jeremy's coat with both definitions of corporal punishment. Sec. 118.31(1), Stats., defines "corporal punishment" to mean "the intentional infliction of

physical pain which is used as a means of discipline." The record shows no persuasive evidence that the Grievant inflicted any pain on Jeremy on March 11, and no persuasive evidence the contact involved was "used as a means of discipline." Thus, it is not apparent that the Grievant's conduct on March 11 falls within the scope of Sec. 118.31, Stats. The Policy defines "corporal punishment" more broadly, but still turns on the "inflicting" of "physical pain for the sole purpose of punishment or as a disciplinary action." It is not clear whether the Grievant's grabbing of Jeremy's coat was anything other than an attempt to seat Jeremy or to clear the Grievant's view of Jerry's behavior. That no infliction of physical pain took place takes the Grievant's conduct beyond the terms used by the Policy to define "corporal punishment."

The statute and the Policy extend, however, beyond corporal "punishment" and into the use of "force" to "maintain order" or for the safety of students. The use of excessive force is the ultimate basis for the Grievant's discipline. The difficulty posed here is that Veilleux's articulated basis for the discipline does not clarify whether the Grievant has been suspended for an unreasonable exercise of force or for the "corporal punishment" of Jeremy. The severity of the suspension sanction under Article 17 makes it appear the discipline was for the latter reason. As noted above, however, the evidence does not bring the Grievant's conduct within the scope of the definition of "corporal punishment." Sec. 118.31(4), Stats., requires "deference" to be given to "reasonable, good faith judgements" made by District agents. In this case, the evidence indicates the Grievant acted in the good faith belief his action was required to defuse a fight which had already produced one bloody nose. That his actions prior to swearing, then grabbing Jeremy's coat were restrained and proper underscores this conclusion. The policy does not expressly mention intent, but specifies that force must be "reasonable" and "appropriate." As the Union points out, there seems to be no persuasive basis to doubt the reasonableness of the Grievant's physically placing Jeremy or his brother into a seat closer to him. It is, against this background, difficult to understand why his brief grabbing of Jeremy's coat warrants a sanction based on "corporal punishment." There is, the Union persuasively notes, a stigma appropriately attached to that term. Discipline invoking that stigma should be well-founded in fact.

In sum, the March 18 letter indiscriminately links the Grievant's "unacceptable behavior" to "corporal punishment" violating State statute and District policy. Because no violation of statute or policy is apparent, it is impossible to sustain the sanction of placing the Grievant on the threshold of discharge under Article 17. The severity of such a sanction presumes an act of corporal punishment. The record will support a conclusion that the Grievant's conduct was less than reasonable in addressing the March 11 disruption. Thus, Veilleux's suspension of the ordinary case application of progressive discipline must be sustained. However, the record will not support a conclusion that the suspension reasonably reflects the District's interest in the Grievant's conduct on March 11. This splitting of the penalty risks the appearance of attempting to offer something to each party. The message I seek to communicate in reaching this result is, however, more fundamental. A good faith exercise of moderately excessive physical and verbal

force in a situation implicating student safety cannot be equated with the intentional infliction of physical pain for disciplinary purposes. The letter of March 18 lumps each type of conduct together. The record will not support this, and thus requires modifying the penalty to clarify that the Grievant's conduct is of the former, not the latter, type.

The remedy requires little comment. The financial make-whole is self-explanatory. The March 18 letter must be expunged from the Grievant's file because it does not clarify the basis for the discipline. Because the underlying offense is sufficiently serious to supersede the use of ordinary case progressive discipline under Article 17, the Award permits the District to insert a written reprimand in the Grievant's personnel file. The District has persuasively argued that the Grievant has attempted to deny any responsibility for his March 11 conduct. The written reprimand will, hopefully, rectify that denial.

AWARD

The District did not have just cause to suspend the Grievant for one-half day without pay, and to place a letter to that effect in his personnel file. The District did, however, have just case to issue him a written reprimand.

As the remedy appropriate to the District's violation of Article 17, the District shall make the Grievant whole by compensating him for the wages and benefits he would have earned but for his suspension from work on March 21. The District shall expunge the March 18 suspension letter from his personnel file(s). The District may, however, issue the Grievant a written reprimand for his conduct on March 11. The reprimand may refer to the "unacceptable behavior" detailed in the March 18 suspension letter, but shall specify that the reprimand is for his unreasonable use of verbal and physical force and his failure to follow established District procedure to address a disciplinary situation.

Dated at Madison, Wisconsin this 10th day of February, 1995.

By Richard B. McLaughlin /s/
Richard B. McLaughlin, Arbitrator