

***AFSCME Council 24***  
**WISCONSIN STATE EMPLOYEE UNION, AFL-CIO**  
*Arbitration Award Summary*

<b>WON:</b>		<b>CONTRACT</b>	1997-99
<b>LOST:</b>	XXX	<b>CASE NO.:</b>	15792
<b>SPLIT:</b>		<b>VOLUME:</b>	12-7
<b>ISSUE:</b>	DISCHARGE, ASSAULT	<b>PROVISIONS:</b>	ARTICLE IV, SECTION 9
<b>ARBITRATOR:</b>	GRENIQ	<b>LOCAL:</b>	82
<b>HEARD:</b>	12/3/98	<b>BARG. UNIT:</b>	BC
<b>AWARD:</b>	3/5/99	<b>EMP. UNIT:</b>	UW-M

The Grievant was a Custodian at the University of Wisconsin-Milwaukee. In December of 1997, an incident at the Student Union was reported to the University police. The incident involved the Grievant and a female custodian. Upon investigation, the University police concluded that the Grievant had approached the female custodian, had exchanged words and then put his forearm around her neck in a chokehold and dragged her backwards. The Grievant later pled no contest to a reduced charge of disorderly conduct under the Wisconsin Administrative Code. The Employer suspended the Grievant pending the outcome of its own investigation. The Grievant was subsequently terminated for assault.

It was the Employer's position that workplace violence was a serious issue that it had an affirmative duty to address. The Employer contended that the Grievant did not dispute that the events took place, but merely challenged when they took place.

The Union claimed that false allegations were made against the Grievant in relation to the incident in question. It pointed out that three witnesses testified that the Grievant could not have been in the area during the time of the claimed incident. Finally, the Union claimed that the Employer did not put its employees on notice about its policy concerning workplace violence and that no other employee had been terminated for violation of the work rule cited by the Employer.

The Arbitrator concluded from the evidence that the Grievant walked up behind the female custodian and put his forearm around her neck and that he pulled or dragged her for several feet against her will. This unwelcome threat of and use of physical violence was a violation of the cited work rule. The Arbitrator found that the Grievant knew or should have known that the conduct in which he engaged could result in his termination. The Employer applied the cited work rule in an even-handed manner and the penalty of termination was reasonable under the circumstances.

The grievance was denied.