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STATE EMPLOYMENT
RELATIONS BOARD

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RECOMMENDATIONS
FACT-FINDING PANEL
STATE EMPLOYMENT RELATIONS BOARD

Professionals Guild of Ohio

PROFESSIONAL GUILD OF OHIO

And

Case No: 01-MED-10-1057

FRANKLIN COUNTY CHILDREN SERVICES

Before: Theodore A. Cherry
Fact-Finder

Heard: April 16, 2002

Issued: April 26, 2002

I. FACT-FINDING HEARING

The State Employment Relations Board notified Theodore A. Cherry by letter dated December 31, 2002 of his appointment as fact-finder in Case No: 01-MED-10-1057, Professionals Guild of Ohio and Franklin County Children Services. The parties (PGO) and (FCCS) met several times to negotiate and held a mediation session to resolve the contract issues. The above sessions led to tentative agreement on many issues. The parties mutually agreed to a fact-finding hearing.

The parties submitted the outstanding issues to the SERB appointed fact-finder and a hearing was held on April 16, 2002 at 9:00 AM at Franklin County Services Administrative Building, 1951 Gantz Road, Grove City, Ohio.

Persons present were:

Charles W. DeGrove	PGO Executive Director
Don Bowen	Union President
Beth Earl	Union Vice President
Dell Keaton	Union Vice President
Mike Dittner	Union Representative
Elaine Edwards	Union Representative
Jill Bradfield	Union Representative
Robert Weisman	Attorney for FCCS
Paul Bittner	Attorney for FCCS
John Saros	FCCS Executive Director
Eric D. Fenner	FCCS Director, Employee Relations
Jeanette May	FCCS Director, Human Resources

II. MEDIATION

Mediation by the fact-finder was attempted, but both parties declined, preferring to proceed with the hearing. The formal hearing was held from 9:00 AM until 2:00 PM. The issues remaining were:

- A. Article 19 Health and Safety
- B. Article 25.1 Fringe Benefits – Cap
- C. Article 25.10 Proposed Short Term Disability Leave
- D. Article 29.8 Cash Out of Sick Leave
- E. Article 29.9 Proposed Use of Sick Leave to Care for Their Domestic Partner
- F. Article 32 Wages and Salaries
- G. Article 35 Duration
- H. New Article Family Centered Initiatives
- I. Appendices Wage/Job Classification – Data Entry Operator 2

III. CRITERIA FOR FACT-FINDING

The criteria set forth in Rules 4117-9-05 (J), 4117-9-05 (K) (1-6) were considered in making finding of fact to support of recommendations. The parties presented numerous exhibits and made extensive statements during the hearing to support their position. References to PGO and/or FCCS exhibits are by title and/or number.

IV. ISSUES AND RECOMMENDATIONS

Background:

The Franklin County Children Services (FCCS) is basically a child welfare unit with approximately 530 caseworkers and clerical staff members. The Professionals Guild of Ohio (PGO) represents all of the above staff members.

A. Article 19 Health and Safety

PGO Position:

All employees are provided with cellular telephones when they work in the field and that employees are provided with pepper spray to carry when they work in the field.

FCCS Position:

Complete the cellular telephone/Nextel two-way pilot program.

Opposed to allowing employees to carry pepper spray.

Discussion:

The PGO states that the use of pepper spray is a quick way to disable a person and/or animal and get out of a dangerous situation. A FCCS caseworker was killed during a home visit when an adult physically attacked her. Other self-defense methods were considered by the PGO, but they recommend the pepper spray.

The PGO feels that all members should have a cellular telephone provided when they go out into the field. This would provide immediate contact with supervisory personnel for safety concerns and for more efficient answers concerning case questions.

The FCCS states that 86% of PGO have private cellular telephones and are reimbursed .25\$ per minute for FCCS business use. The Safety Committee is studying this issue with the Nextel two-way pilot program. The FCCS understands the severity of the potential danger of a caseworker in the field. The FCCS feels that the quick request for providing pepper spray may be a "knee jerk" reaction to the situation. The FCCS suggests that the Safety Committee studies all aspects of this area and recommend some resolve for the employees.

Recommendation:

Both parties indicated that safety is an "on going" issue, and should be a reopener issue in the Duration Article. Both parties stated the Safety Committee had resolved some issues to better meet the needs of the employees. There was no indication by either party that a caseworker did not have access to a cellular telephone when going out in the field. The Safety Committee should finish the Nextel study and the findings recommended. The review of the private sector by the fact-finder revealed that many agencies in similar fieldwork situations are using pepper spray for self-defense, e.g. Postal workers and real estate personnel. Therefore the recommendations are:

1. Health and Safety Article be part of the reopener at the end of the first year of the contract for the second and third year of the contract.
2. Appendices to this three-year contract only.
Pepper Spray Issue/Training Program
First year - train two employees as trainers.
Second year - train case workers
Third year - evaluate and recommend
FCCS provide pepper spray canisters to employees
3. No change in the current contract language

B. Article 25.1 Fringe Benefits - Cap

FCCS Position:

Maintain current contract language.

PGO Position:

Percentage of total wages paid by the Employer into the fund that pays for employee insurance and tuition refund is increased from 15.5% to 16%.

Discussion:

The FCCS states that the present system does provide the employee with an excellent fringe benefit package. As salaries increase each year so does the dollar amount for this fund. FCCS exhibit D shows that yearly costs are below the 15.5% creating a cash reserve for future cost increases in this area.

The PGO agrees that there is a cash reserve but not enough to meet future needs in this area. PGO exhibit 6 and 10 points to the current partial year as being under funded.

Recommendation:

FCCS stated that partial year reports could be misleading. Premium payment in one month will cover several months of coverage. The yearly reports are a better indicator of the financial status of this fund. The

PGO did agree that the current fringe benefit program was excellent and did meet the needs of the PGO at this time. Therefore the recommendation is: No change in the current contract language.

C. Article 25.10 Proposed Short Term Disability Leave

PGO Position:

The Employer shall provide bargaining unit employees with the same short term disability insurance provided to non-bargaining employees during 2001, with no deduction from the Fringe Benefit Cap Fund.

FCCS Position:

Reject this proposal.

Discussion:

The PGO proposes that the short term disability insurance provided to non-bargaining employees for several years also are provided to PGO members without deduction from the Fringe Benefit Cap Fund.

The FCCS states that there are differences between the two groups as job classification, job requirements, training requirements and different job duties. This proposal is an increase budget item for the Employer, states the FCCS.

Recommendation:

There are job duties and requirements differences between the two groups. There are other leave programs that can help meet the need of the PGO. This proposal is an increase cost item for the Employer. Therefore the recommendation is: Reject this proposal.

D. Article 29.8 Cash Out Of Sick Leave

FCCS Position:

Maintain current contract language.

PGO Position:

Employees who have at least 240 hours of sick leave in their bank by their annual anniversary date are eligible each year to cash out their unused sick leave that was accrued in the prior twelve (12) month period and be paid one-half (1/2) of its value at the employee's regular hourly rate of pay

Discussion:

The PGO proposes that the annual sick leave cash out program, which has been available to non-bargaining staff for several years, be extended to PGO employees.

The FCCS states that this proposal would prevent employees from having a sick leave balance that would aid them in the event of an extended disabling condition for which sick leave has been accrued. The sick leave program is designed to provide employees full compensation during these times. This program would create an additional unfunded liability for FCCS.

Recommendation:

The main purpose of sick leave is to provide employees compensation during the use of sick leave. The proposed cash out program would reduce the amount of full compensation and number of days accrued when a need for short term and /or long term is present. Therefore the recommendation is: Reject the proposal.

E. Article 29.9 Proposed Sick Leave Use To Care For Their Domestic Partner

PGO Position:

Employees shall be permitted to sick leave to care for their domestic partner.

FCCS Position:

Reject the proposal.

Discussion:

The PGO believes that if you apply the intent and belief of the FCCS Employee Handbook to this situation, the proposal above will become part of the new contract. The PGO shared exhibits 21 (Sick Leave), 22 (Discrimination and Harassment), and 23 (Cultural Competency) to support their position. PGO exhibit 24 lists the agencies in this country that offer Domestic Partner Health Benefits. The PGO presented exhibit 29 entitled "The Franklin County Children Services Statement of Domestic Partnership" which is a proposed document demonstrating the commitment between the domestic partners.

The FCCS is opposed to this proposal for several reasons. The issue of providing benefits for employees and their domestic partner is a political issue that has the potential of raising strong public reaction in support or opposition to domestic partner benefits. The FCCS feels that a provision of such benefits by a public agency is best addressed by a legislative body and not pursuant to union negotiations. The FCCS feels that the definition of "domestic partner" is subject to interpretation. It should be addressed by a consistent legislative approach. The FCCS is opposed to adding such provision to the contract as it remains a significant issue for public debate. The FCCS stated that this proposal is an additional cost item which becomes an unfunded liability if approved.

Recommendation:

The question was asked about exhibit 29 (Domestic Partner Commitment Document) to the PGO. "Would your document be considered a legally binding document in a court of law?" The PGO answer was, " I have no idea." The fact-finder agrees with the FCCS that at this time there are several legal questions/issues that should be resolved before placing this item in a labor contract. Therefore the recommendation is: Reject this proposal.

F. Article 32 Wages and Salaries

FCCS Position:

1.5% general increase for the first year of the contract (in addition to the \$700 base rate increase which provides an additional increase ranging from 2.2% to 2.7%). Individual and Agency Performance Goals will not be tied to compensation for the first year of the contract, but will be maintained in the contract and measured. FCCS will negotiate compensation for the second and third years of the contract.

PGO Position:

All employees be provided with at least a 4% general increase and that they be placed on a wage scale that provides for 3% annual step increases based on merit, through the fourteenth year of employment.

Discussion:

The FCCS states that during the term of the current contract, employees were provided with a general increase each year and were also eligible for additional annual merit compensation goal based system. Franklin County has experienced a financial downturn resulting from a drop in revenue from sales tax and property tax according to the FCCS. The FCCS noted the fact that the anticipated new contract's expiration date will occur in the middle of a levy cycle. This fact has contributed to the FCCS proposal of the parties reopening wage negotiation after one year. FCCS states that expenses have increased significantly over the past year due to the increasing number of children who have required acute care. The Department of Health and Human Services has changed funding regulations that reduced funds for the FCCS.

The PGO states that while the Employer has asserted throughout negotiations that we are in hard economic times and sales tax revenues are in decline, this is simply not applicable to the FCCS. The FCCS has maintained a very healthy year end cash balance for the last six years according to the PGO. The cash balance has now reached the point where it equals over 40% of the FCCS budget. The PGO states that the FCCS does not depend on county collection of sales tax revenues, but on much less volatile property tax levies, federal funds and a small portion of state funds. The PGO feels that offering good wages is a chief inducement to keep good working employees in this very difficult job.

Recommendation:

Both parties agree that the "Merit Pay" in Article 32.8 (4) was a successful program. The employee knew of the FCCS goals. The employee was evaluated in relation to the goals and monetarily rewarded for a satisfactory evaluation. The FCCS improved its efficiency and delivery of services. The FCCS Board Fund Summary Reports for 1966 through 2001 indicates revenue increases for each year. There is no evidence that indicates this trend will change. Therefore the recommendation are:

1. A general increase of 1.5% for the first year of the contract retroactive back to January 1, 2002.
2. Wage and Salaries reopener for second and third year of the contract.
3. Continue the "Merit Pay" Program of 2001 for the first year of the contract.

G. Article 35 Duration

PGO Position:

One year contract.

FCCS Position:

One year contract on Article 32, Wages and Salaries and Article 19, Health and Safety with a reopener for second and third year, and a three year contract on all other components and articles.

Discussion:

The PGO feels that financial matters of the FCCS affects most articles of the contract, not just Wages and Salaries. Therefore the PGO would like to negotiate all areas of the contract after one year.

The FCCS has no interest in renegotiating a new contract after one year. The FCCS has proposed a compromise as states in their Position Statement.

Recommendation:

The suggested limited reopener above would conserve the resources of both parties. This would allow both parties to focus on the renegotiating on two issues. Therefore the recommendation is:

Three year contract retroactive back to January 1, 2002, except a reopener in year one on Article 32, Wages and Salaries and Article 19, Health and Safety for the second and third year of the contract.

H. New Article Family Centered Initiatives

PGO Position:

Employees are allowed to work at least 25% of their time at home.

FCCS Position:

Reject this proposal.

Discussion:

The PGO exhibit 25 states the terms and conditions of the proposed new article. The PGO states that since 1974, language has been included in contracts providing for flexible work schedules. This concept is laid out in Article 13, Section 13.1 of the current contract. The PGO feels that such an approach to working hours provides flexible and efficient services to the FCCS while providing the possibility of improved family and personal lives for the employees. The completed take home work would be done responsibly by the employee and would be under appropriate supervisory direction.

The FCCS states that all documents and forms are on a computer program available only in the FCCS office areas. Access to these programs is not available at home according to the FCCS. Many employees spend large portions of their workday in the field. Time spent completing paperwork provides an opportunity for employees to work at the office with immediate access to supervision according to the FCCS. The FCCS feels that working at home also creates concerns about time accountability.

Recommendation:

The computer programs necessary to complete a majority of the paperwork are located in the FCCS offices. Until the software is accessible at home, it stands to reason that the paperwork should be completed in the office. Therefore the recommendation is: Reject this proposal.

I. Appendices Wages/Job Classification – Date Entry Operator 2

PGO Position:

The Data Entry Operator 2 in the Intake Department be reclassified from pay grade 10 to 12.

FCCS Position:

Maintain current contract language.

Discussion:

The PGO proposes that the above job classification be moved up two pay grades to compensate the employee for additional duties not performed by other FCCS Data Entry Operators. The PGO present seven major job differences. The PGO took this matter through the job audit, grievance, and arbitration procedure last year. Since the principal issue for FCCS was that the classification being requested for these employees (Data Entry Operator 3) was classified as a lead worker, the whole unit could not be reclassified to that level. The PGO has concluded that wage adjustment for the sake of equitable treatment is in order.

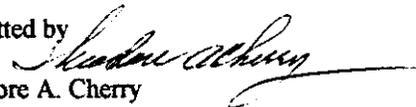
The FCCS states that this matter has already been litigated and resolved in favor of the FCCS.

Recommendation:

The fact finder asked the FCCS the question, " Are there any major job differences in the job classifications of the jobs in question"? The FCCS answer was. " No". The FCCS has a process to review,evaluate,update, and change job descriptions which should take care of this situation. Therefore the recommendation is: Maintain the current contract language.

Submitted by

Theodore A. Cherry

A handwritten signature in black ink, appearing to read "Theodore A. Cherry", with a long horizontal flourish extending to the right.