# OHIO STATE EMPLOYMENT RELATIONS BOARD

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| In the matter of fact finding between: | ) | No. 04-MED-06-0671 |
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| DISTRICT 1199, SERVICE EMPLOYEES INTERNATIONAL UNION (SEIU) AFL/ CIO, CLC | ) ) ) | **FACT FINDING REPORT** |
| | ) | |
| and | ) | |
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| CINCINNATI STATE TECHNICAL AND COMMUNITY COLLEGE | ) ) | Date of Award: |
| | ) | November 4, 2004 |

APPEARANCES:

Mitchell B. Goldberg, Appointed Fact Finder

For the Union:

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For the Public Employer:

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I. Introduction and Background.

SERB appointed the undersigned, Mitchell B. Goldberg, as the Fact Finder for this matter on August 31, 2004. The parties entered into extension agreements for the fact-finding period. The agreed upon date for the fact-finding hearing was October 18, 2004, and the parties agreed to extend the period for issuing this Fact Finding Report until November 4, 2004.

The parties submitted position statements in accordance with the SERB rules and guidelines. The bargaining unit consists of approximately 116 full-time and part-time office and technical employees including the following job titles: Academic Records Specialist, Academic Records Supervisor, Accounts Payable Clerk, Accounts Receivable Accountant, Accounts Receivable Specialist, Admissions Records Supervisor, Analyst (Business Tech), Budget Accountant, Cashier, Clerical Assistant I, Clerical Assistant II, College Representative-Recruiting, Computer Laboratory Technician, Computer Operator I, Computer Operator II, Coordinator of Educational Relations, Coordinator of Veterans Affairs/Foreign, Student Advisor, Disbursement Specialist Entrance Testing Specialist, Executive Assistant I, Executive Assistant II, Financial Aid Advisor, Funded Programs Specialist, Graphic Arts Center Supervisor, Interpreter, Lab Manager, Payroll Assistant, Programmer, Programmer/Analyst, Property Accountant, Publishing Production Specialist, Receiving Clerk/Expeditor, Registration Supervisor, Scheduling Supervisor, Senior Laboratory Technician, Small Press Operator, Student Development/Retention Specialist, Switchboard Operator/Receptionist, Telecommunications Specialist, and Tutoring Center Coordinator. Excluded from the unit are supervisory, confidential, managerial, seasonal and casual employees, students and guards as defined by Ohio Revised Code Chapter 4117.01, and all employees covered by other collective bargaining agreements. The functions of the public employer and the employees in the unit were described in detail.

For purposes of this Report, all unchanged or unopened articles, and all articles agreed upon, or tentatively agreed upon between the parties are adopted, included, and incorporated into this Report and made a part hereof. Twelve of the existing 58 articles in the expired agreement were opened. The parties tentatively agreed to nine of the twelve open articles: Article 6 – Union Representation, Article 10 – Hours of Work etc., Article 15 – Labor/Management Committees, Article 21 – Filling of Vacancies, Article 22 – Classification System, Article 23 – Conflict Resolution/Grievance Procedure, Article 24 – Disciplinary Procedure, Article 35 – Certification Adjustments, and Article 48 – Medical Leave. The three unresolved issues for fact-finding are Article 31 – Wages, Article 40 – Vacations, and Article 44 – Health Insurance/Flex Benefits.

This matter was heard on October 18, 2004 at the Employer's offices in Cincinnati, Ohio. The following recommendations take into consideration all of the criteria set forth in SERB Rule 4117-0-05 (J).

## II. Financial Evidence.

The Board believes that it cannot meet the Union's financial demands relative to wages and benefits because it must address the following financial concerns over the next three years of the collective bargaining agreement and into the future. State subsidies have decreased over the past few years and further decreases are expected in the coming biennium. For example in FY '04, subsidy and access funds received from the State were $330, 491 less than originally appropriated. In FY'03, the College received $1,906,077 less than originally appropriated. In FY'02, the College received $1,244,122 less than appropriated, and in FY'01 the deficiency was $478,630. The '04 subsidy and access funds received were $873,846 less than the funds received in FY '01. The state subsidies have been reduced notwithstanding that the College has increased its revenue with higher student enrollments.

The College raised tuitions by 9% last spring and is now at the maximum level it can charge students under law. Its operating loss increased from $23,595,569 in FY'02 to $26,697520 in FY'03. The FY'03 cash flow loss from operations was approximately $3, 200,000. After applying non-operating revenues, the FY'03 net operating loss more than doubled from '02, $3,033,081 to S6,964,000. The unaudited income statement for the fiscal year ending June 30, 2004 shows revenues of $2,162,131 less than budget and total expenses of $825,188 more than revenue. These figures cause concern for the College because of potential state involvement in its operations. Its ratio fell below the 1.75 state threshold in FY'03 when the ratio fell to 1.3. Another year below the ratio results in a fiscal watch status with the State.

The Union believes that the College has gained control over its financial problems and that its financial circumstances are much better for the future. The FY'05 budget projects revenues to increase substantially from the projected '04 amount of $44,982,765 to $52, 507,420, a 12% increase. The assumptions include a 4% rate increase for student enrollment and a rate increase in tuition from $65.00 per credit hour to $71.40 per credit hour, or a $6.40 per hour increase. Wages are projected to increase 5.4%, benefits are projected to increase 15.8%, and staff benefits are projected to increase 25.6%.

Ms. Simpson, the Chief Fiscal Officer reported at the September 28 Board of Trustees meeting that the College is very close to its projections for '04. She stated: "There is consistency and stability in the environment of the institution." Growth has been stable and the efforts of cost containment have been successful. Tuitions were increased at the April Board meeting. Dr. Wright reported that the fiscal picture is improving "with the trend looking 'very good and very positive.'" Enrollment increased by 3%.

The financial circumstances were in good enough shape for the Board to agree to a lucrative employment contract for Blackwell Consulting Services. Blackwell provides for information technology management, design, development and planning services. The five managers are employed for three years beginning in FY'04, and are paid a total of $729,000 in year one with 4% increases in each of the following years. The average annual payment per manager in year three is approximately $198,000. These committed payments by the College reflect a bright financial picture as opposed to the picture painted by the College in these proceedings.

III. Unresolved Issues.

A. Wages (Article 31).

The Union is proposing across the board increases of 5% in each of the three contract years. The Board is proposing to pay 2.75% in each year.

The College argues that the Union's position is out of line based upon recent inflation history. The CPI has risen only 13% in the Cincinnati area since 1998. SEIU wages, however, over the period have risen significantly higher. The College paid SEIU a higher increase last year than 14 of the 20 other technical colleges in Ohio, and a higher increase than paid by the University of Cincinnati. Recent public employees contracts show increases in the 2-3% range. The City of Cincinnati agreed to 3% increase for the police and 2% for its AFSCME employees for the next three years. The wages paid by the College have been very competitive. Moreover, the College pays longevity pay, bilingual pay, educational recognition pay and shift differentials. Employees also can receive substantial cash payments for waiving benefits such as health insurance under a liberal flex benefit program.

The Union contends that its proposal is more in line with the wages paid by the College to other employees. Of the three IUOE units, two are being paid 4% each year under contracts running through 2006, The other receives annual increases of 2.9% through 2007, however, employees are receiving additional pay for certifications that could provide increases as much as 5.8% per year. The College's budget for FY'05 assumes across the board employee wage increases of 4% for each bargaining unit. The wages should be increased to the levels proposed by the Union if employees are to begin paying a percentage of health insurance premiums and if limits are placed upon their cash-out options under the flex plan. Otherwise, employees will receive net losses of income as the result of these changes.

Recommendation.

I recommend across the board pay increases as follows: Year one – 3%, year two – 3.25%, and year three – 3.5%. The rates upon which these percentages are to apply are set forth in the Proposed Tentative Agreement between the parties dated October 15, 2004 under Article 33, Compensation.

B. Vacation (Article 40).

The Union proposes to increase the vacation leave for employees. Presently, employees receive 10 working days after one year of employment, 15 working days after five years, and 20 working days after ten years. The Union wants to add 25 days after 15 years of service for non-exempt employees, and add a schedule for exempt employees of 20 days after one year of service and 25 days after ten years of service. The Union wants to correct the inequities of a two-tier system that was agreed to in the last contract that distinguishes between employees hired before and after July 1, 1996.

The College believes that the employees already have substantial time off. Any additional time will cause it to incur substantial expenses to cover the work for employees who are off. A one-year employee now receives 31 paid working days off. A ten-year employee has almost two months off with pay.

Recommendation.

No change.

C. Health Insurance (Article 44).

The College believes that, because of the large percentage increases in premiums over the last several years, it is now time for all of its employees to begin contributing some money for the premiums. The College, through a broker, saved some money two years ago by moving to another insurer; however, the 2003 Anthem contract called for a 19% increase in premiums. The increase for 2004-2005 is 25%. The College cannot find insurers willing to bid for the business. The usage among employees has increased to a level of 101%. The College must find some way to bring these costs under control. The Board has issued a directive that all management and non-bargaining unit employees shall begin to contribute toward the premiums. Other union contracts are in place, but the College will attempt to obtain employee contributions when they expire.

The College is proposing that employees in this unit begin paying 10% of the annual premium. The 2004-2005 monthly premiums for the family plan are $1,027.25, and $380.46 for the single plan. The College is now only one of four colleges out of 21 technical and community colleges to pay 100% of the premiums. Only two colleges have plans as good as Cincinnati State. The average employer percentage payment is 91.1% of the premium for family plans and 89% for single coverage. Private employers pay much less. Recently, the City of Cincinnati settled with AFSCME on an agreement providing for higher employee contributions.

The College is further proposing to increase co-payments for office visits from $5 to $20 and prescription drugs from $5/$12/$15 to $10/$20/$30 (formulary generic/formulary name brand/non-formulary). This will begin to address the large percentage premium increases and the proposal is in line with other colleges and public employers.

Finally, the College is attempting to address the problem by limiting the cash-out provision now available under the Flex Plan. Employees now may waive the benefits and receive cash up to $11,326 if they qualify for family coverage. The College can no longer afford these cash payments because of the large premium increases. It proposes to limit the cash-out payments to 50% of the unspent fringe benefits that include health insurance, dental, vision, disability, life insurance and employee assistance.

The Union believes that the College"s proposals are draconian and would result in employees suffering substantial losses in compensation even with across the board pay increases. Under the College's proposal, employees who do not waive coverage will suffer losses ranging from .3% to 2.1% in compensation just with a 10% health insurance monthly premium contribution. Those who waive coverage will suffer losses ranging from 14% to 22% when they only receive 50% of the cash-out benefit.

The health care system in the United States, to the extent there is a system, is in a crisis. No one has any answers for controlling the spiraling premium costs other than by reducing benefits. Fully paid employer premiums are quickly becoming history even in the public sector. The items addressed in the College's proposal are necessary to address the problem, although the amount of the benefit cuts should be tempered to provide gradual changes so that employees are not faced with catastrophic income losses. This is a particular concern for those employees paid at lower wage levels.

Recommendation.

I recommend that the Employee contribution be fixed at 5% of the monthly premium during the term of the contract, but the employee's contribution shall be capped or limited at $19.02 per month for a single plan, and $51.36 for a family plan. The office visit co-payment shall be at $15. The drug payments shall be at $10/$20/$30. The Flex Plan waiver amounts shall be frozen at the present level and shall not be increased during the term of the contract. The cash-out limit, however, shall be changed to include the above changes in plan design and employee contributions. These changes shall not be implemented until they are applied to the management and non-bargaining unit employees of the College, and in no event shall they be implemented sooner than January 1, 2005.

Date: November 4, 2004

Mitchell B. Goldberg

Mitchell B. Goldberg, Fact Finder