

✶

STATE EMPLOYMENT RELATIONS BOARD

STATE EMPLOYMENT
RELATIONS BOARD

In Re:

2007 OCT 29 A 9:58

Corrections Commission on Northwest Ohio (CCNO)
Case Managers Association, Local 79, IUPA, AFL- CIO

-and-

Case No. 06-MED-09-1013

Corrections Commission of Northwest Ohio

FACT FINDER'S REPORT AND RECOMMENDATION

APPEARANCES

For the Employee Organization:

John Roca, Attorney
Gallon, Takacz, Boissoneult & Schaffer, L.P.A.

Union Representatives Present:

Judy Masser
Christina Kuckuck

For the Employer:

Timothy C. McCarthy, Attorney
Shumaker, Loop & Kendrick, LLP

Management Representatives Present:

Salina Hill
Scott Bradbee
Jim Dennis

STATE EMPLOYMENT RELATIONS BOARD [SERB]-(Ohio)--

SCOPE OF DUTIES OF THE FACT-FINDING PANEL in accord with
Section 4117 of the Administrative Code

- A. The fact-finding panel shall attempt to mediate the disputes of the parties prior to conducting a fact-finding hearing.
- B. When mediation efforts do not resolve all issues at impasse, the fact-finding panel shall hold an evidential hearing except that the parties may stipulate facts and waive a hearing. For purposes of hearing, the fact-finding panel shall have the power to regulate the time, place, course, and conduct of the hearing, administer oaths and affirmations, examine witnesses and documents, take testimony and receive evidence, and request the Board to issue subpoenae to compel attendance of witnesses and the production of books, papers, and records relating to any matter before the fact-finding panel. The fact-finding panel may not choose a hearing location at a cost to the parties unless the parties fail to agree to an alternate cost-free location. Fact-finding hearings are to be held in private.
- C. The fact-finding panel, in making findings of fact, shall take into consideration all reliable information relevant to the issues before the fact-finding panel.
- D. The fact-finding panel, in making recommendations, shall take into consideration the following:
 - (1) Past collectively bargained agreements, if any, between the parties.
 - (2) Comparison of unresolved issues relative to the employees in the bargaining unit with the issues related to other public and private employees doing comparable work, giving consideration to factors peculiar to the area and classification involved.
 - (3) The interest and welfare of the public, and the ability of the public employer to finance and administer the issues proposed, and the effect of the adjustments on the normal standard of public service;
 - (4) The lawful authority of the public employer;
 - (5) Any stipulations of the parties; and,
 - (6) Such other factors, not confined to those listed above, which are normally or traditionally taken into consideration in the determination of issues submitted to mutually agreed-upon dispute settlement procedures in the public service or in private employment.

The instant matter is before the Fact-Finder pursuant to a Notice to Negotiate, with the parties attempting unsuccessfully to negotiate an amicable settlement on a successor collective bargaining agreement. The prior agreement had been in effect from January 1, 2004 to December 31, 2006. Pursuant to Ohio Revised Code Section 4117.14, the parties availed themselves of the fact finding procedure pursuant to ORC Section 411.7.14(C)(3)(a) and Ohio Administrative Code Section 4117-9-05(F). The bargaining unit includes approximately 12 employees, all full-time case workers with the CCNO. The initial union issues were wages, duration, sick leave discretionary days, breaks and lunch hours, health insurance, pension pick up, and retroactivity. Initial employer issues were leaves of absence, hours of work and work schedule, health insurance regarding a) premium costs and b) spousal coverage, as well as wages, and discretionary days.

A Fact Finding Hearing on Thursday, November 27, 2007 at Northwest State Community College, Archbold, Ohio had been preceded by continued negotiations, with the assistance of a mediator. Significant progress was attained as a result of good will and the professionalism of the bargainers. The parties chose not to pursue further mediation, as offered by the Fact-Finder, leaving the remaining issues health insurance, wages, breaks and lunch hour.

Wages

The IUPA requested increases of 3.5% on January 1, 2007; 3.0% on January 1, 2008; and 3.0% on January 1, 2009, plus a 25 cents per hour increase because of an increased workload, alleging that they have been called upon to perform additional duties over the years and for which they asserted that they have not been adequately compensated, compared with other units who have been so compensated. Related to wages/compensation, the Union also proposed that the Employer pick up 2% of bargaining unit employees' contributions to the state retirement system, justified by the increase in work tasks the employees have been required to perform since the last collective bargaining agreement. The CCNO wage proposal was a 2% increase on January first of each of the three years.

Recommendation: The Union proposal on percentage wage increases is recommended. It is supported by data from the a) State Employment Relations Board for a comparable unit, and its Annual Wage Settlement Report; b) Bureau of National Affairs Collective Bargaining Bulletin; c) Consumer Price Index for 2007. Comparison with other CCNO – IUPA units also require fairness for this small group of diligent employees

Retroactivity to January 1, 2007 is also recommended. The proposals for an additional 25 cents per hour, and for a 2% pension pick up are not recommended inasmuch as in consideration of this report as a whole they do not appear to be justified. Internal CCNO comparables, i.e., the wage levels in other CCNO units, were particularly persuasive. Parts C and D 1, 2, 3, 4, and 6 of Section 4117 are applicable.

Health Insurance

The IUPA proposed changes in health insurance commensurate with the changes negotiated between the Employer and the corrections officers supervisors unit. Specifically, and in general terms, the Union proposed that the CCNO continue in place a group health insurance plan for all bargaining unit employees whereby the Employer will pay 95% of the monthly premium costs and the employee will pay 5% of the monthly premium cost. The Union proposed that the employee's monthly premium cost may never increase more than 10% during any twelve month period, and that the co-pay for prescription medication be maintained at \$5.00 and \$10.00 for brand name medications. These proposals relate to Section 18.2 of the Agreement.

The IUPA also proposed that Section 18,2 (A) be altered to that employees who opt to waive the health insurance package receive 25% of the current premium they would otherwise be eligible to receive, and that employees have the ability to opt back into the group health care plan one time during a calendar year. The Union also suggested, in regard to Section 18.2 (B), if spouses who are not employed by the Employer are required to obtain insurance from their employer as their primary insurer, that such requirement be limited to those employees whose premium cost to obtain be no more than \$75.00 per month. The Union asserts that these proposed changes are consistent with what the Employer has negotiated with the corrections officers' supervisor's union.

The CCNO proposal was for a reduction from 95% to 90% for the Employer's portion of monthly premium cost, with an accompanying increase from 5% to 10% for the Employees portion (Article 18.2). The Employer also proposed a change in Article 18.2 (b) which would be likely to increase the cost for secondary coverage for an employee spouse.

Recommendation: The Union position, the same language and benefits as agreed to in the CCNO Supervisors Agreement, is recommended because

of the desirability of internal equity. Internal CCNO comparables, i.e., the health benefit levels in other CCNO units, were particularly persuasive. Parts C and D 1, 2, 3, 4, and 6 of Section 4117 are applicable.

Insurance

Article 18, Fringe Benefits

Section 18.2 **Insurance Benefits.** The Employer will supply group health insurance for all regular full-time employees. The group health insurance plan shall incorporate 90%/10% coinsurance levels (in network providers), deductibles not to exceed \$100 individual/\$200 family and annual out-of-pocket maximums not to exceed \$1,000 per individual/\$2,000 per family. The Employer will pay ninety-five percent (95%) of the monthly premium cost, and the employee will share the cost by paying, through payroll deduction, five percent (5%) of the monthly premium cost based on the coverage type (single, two-party or family) provided that the employee's monthly premium cost may not increase more than ten percent (10%) in any twelve (12) month period. The Employee premium contribution will be made on a pre-tax basis. The co-pay for prescription medications will be Five Dollars (\$5.00) for generic medications and Ten Dollars (\$10.00) for brand name medications. The Employer shall also provide, to active Employees, a life insurance benefit in the amount of Forty Thousand Dollars (\$40,000) at no cost to the employee.

Section 18.2

Insurance Conditions: The complete terms of the group insurance provided for herein are set forth in contracts and certificates of insurance that are issued or will be issued by the insurance carriers, and all of the benefits are subject to the conditions and provisions set forth in said contracts and certificates of insurance.

Breaks and Lunch Breaks

The IUPA proposed that an employee be permitted to take one 30-minute lunch break instead of the status quo, which requires two 15-minute lunch breaks, although under specified circumstances the employee could combine the 15 minute breaks. The CCNO had concerns about the clarity of scheduling, and sought firm deadlines for the employee's decision to request changes in scheduling regarding the length of lunch breaks.

Recommendation: Both the IUPA and CCNO positions are recommended in part, with recognition of the employer's needs for clarity of scheduling.

Two fifteen-minute lunch breaks remain an option, as well as a combined 30-minute lunch break. However, the employee would be required to commit to one or the other every six months. Parts C, D 1, 2, and 6 of Section 4117 are applicable.

Breaks and Lunch Hours

Section 11.7

Breaks and Lunch Hours. Each employee shall receive two (2) 15-minute paid breaks, one in the first half of the employee's shift and the other in the second half.

In lieu of two (2) 15-minute paid breaks, an employee may take one (1) 30-minute paid lunch break. Prior to January 1 and July 1 of each calendar year, each employee shall declare whether he or she will take two (2) fifteen minute paid lunch breaks or one (1) 30-minute paid lunch for the upcoming six (6) months.

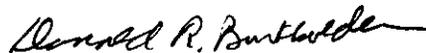
Discretionary Days

The CCNO proposed removal of Section 14.5, Sick Leave Discretionary Days. In view of the current language in the agreements of the other internal bargaining units, there is insufficient justification to deny them to the Case Managers. Parts D 2 and D6 of Section 4117 also are applicable.

Comments

The Fact-Finder appreciates the parties' professionalism, particularly their businesslike approach to the matter at hand. Although prior mediation had not been successful, and the parties chose not to use the services of the Fact-Finder for further mediation, each side presented an informed and well-researched argument. A general aura of trust and collegiality prevailed despite strong feelings. The Fact-Finder believed that the weight of the evidence under the factors to be considered did not justify the IUPA proposal for pension pick-up or the removal of discretionary days as proposed by the CCNO.

Respectfully submitted,



Donald R. Burkholder, Ph.D.
Fact-Finder

October 25, 2007

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the above Fact-Finder Report and Recommendation was served on October 25, 2007, upon the parties listed in the manner shown.

Original, Regular Mail

**State Employment Relations Board
Bureau of Mediation
65 East State Street, 12th Floor
Columbus, OH 43215-4213**

One Copy, Express Mail

**Timothy C. McCarthy
Shumaker, Loop & Kendrick, LLP
1000 Jackson
Toledo, OH
43604-5573**

One Copy, Express Mail

**John Roca
3516 Granite Circle
Toledo, OH
43615**