STATE EMPLOYMENT RELATIONS BOARD
STATE OF OHIO

STATE EMPLOYMENT RELATIONS BOARD
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In the matter of Fact Finding between:	)	SERB No. 08-MED-04-0506
	)	
AMERICAN ASSOCIATION OF UNIVERSITY PROFESSORS, CENTRAL STATE UNIVERSITY	)	Hearing: January 18, 2009 at Wilberforce, Ohio
and	)	
CENTRAL STATE UNIVERSITY	)	Date of Report: February 27, 2009

FACT FINDING REPORT

Appearances:

Mitchell B. Goldberg,	Appointed Fact Finder

For the Association:

Donald J. Mooney, Jr., Esq.,	Attorney
David Rubin,	Chief Negotiator
Henry Tucker,	Bargaining Team
Patricia Johnson-Dalzine,	Bargaining Team
Krishna Kumar Nedunuri	Bargaining Team
Lois McGuire,	Consultant
Lugene Bailey,	Bargaining Team
Robert Marcus	Bargaining Team

For the University:

Andrew C Hughey, Esq.,	General Counsel
Kimberly Manigault,	Director, Human Resources
Willie W. Houston, Jr.,	Associate Vice President, Academic Affairs
Curtis Pettis,	Director of Budgets and Financial Management

I. Introduction and Background.

The State Employment Relations Board ("SERB") appointed the undersigned as the Fact Finder for this public employment labor dispute on October 20, 2008. The parties agreed to extend the time limits for holding a hearing and issuing a report. The agreed upon hearing was held on February 18, 2009 at the campus library. The parties agreed that the report should be issued on February 27, 2009, by mailing the same to SERB by U.S. Mail, first class, on that date.

The parties complied with their statutory obligations by timely submitting pre-hearing statements to the Fact Finder before the commencement of the hearing. They presented their respective positions on the unresolved issues, and each party submitted documentary exhibits.

The bargaining unit consists of approximately 105 members who are full-time academic instructors, assistant professors, associate professors, and professors. The Employer operates a four-year state university with approximately 2,055 FTE students. The unit was certified on June 5, 1985. The collective bargaining agreement expired on August 31, 2008. The parties had approximately twelve negotiation sessions between June and September.

The Fact-Finder considered all of the required factors set forth in the Ohio Revised Code, the Administrative Code, and the SERB guidelines in issuing the following recommendations on the unresolved issues. All unchanged language in the

expired collective bargaining agreement, and all items and issues tentatively agreed upon between the parties are hereby adopted for purposes of this Report, and are hereby incorporated herein.

The unresolved issues are: (1) across the board salary increases (Article 32); (2) minimum salaries (Article 33); (3) promotional increases (Article 35); (4) equity pay adjustments (Article 36); (5) overload compensation (Article 37); (6) summer school compensation (Article 38); and (7) health and dental insurance benefits.

II. Economic Evidence.

The difficulties in the parties reaching an agreement for another three-year agreement are due to the present uncertainties surrounding the economic downturn, referred to as a deep recession. The problem is that no one knows when and at what level the downturn will bottom out. The University has already received two reductions in state funding and tuitions have been frozen. Enrollment numbers are always an uncertainty. The University was able to avoid a budget deficit due to the fact that it experienced a disproportionate number of out of state students in the last enrollment class. The out of state students pay higher tuitions than Ohio residents.

Central State is the smallest of the state four-year universities at approximately 2,171 students. Shawnee State in Portsmouth, Ohio is the next smallest at 3,976. Maintaining balanced budgets has always been difficult. It has minimal endowment

funds and low reserves. It is in the weakest financial condition of all of the Ohio public universities, community colleges and technical colleges.

CSU's tuition is the lowest of all Ohio public universities, and among the lowest in the OBR peer group. It has the lowest retention and graduation rates due to its mission to serve as an access institution, and due to the fact of its low-income student population. This has caused a high default rate on student loans.

CSU relies heavily on state funding, as much as 51%, the highest percentage among Ohio state universities. Accordingly, the budget reductions in October 2008 ($260,000) and January 2009 ($234,00) were significant. Increased enrollments of out of state students reduced this impact somewhat, but other cuts in funding and special programs are expected. For example the Speed to Scale initiative that was expected to provide special funding in '09, '10 and'11 was reduced. Funding was cut by $400,000 for this year. Moreover, this initiative and injection of funding was not intended to fund salary increases.

Notwithstanding these economic circumstances and past problems, the University believes that it compensates its academic personnel fairly and comparable to similarly situated employees. Comparisons to administrative staff salaries and increases are irrelevant. Special circumstances required some of the increases, but most were in line with proposals to the faculty. There are different markets for these employees that require certain adjustments. It believes that its proposals to the faculty are fair, realistic

considering the present economic environment. and comparable to faculty performing the same work at similar institutions.

The Association recognizes and understands the present economic problems facing the University. However, it believes that the University has sufficient funds to pay deserved increases to its members. The University approved a revised budget increasing the FY '09 total budget from $45.4 million to $46.8 million. The academic affairs budgeted expenses from '07 to '09 was increased by over $2 million. The Association believes that actual expenditures will be below budget due to vacancies not being filled.

The members in each pay class are substantially below the compensation levels paid to employees performing similar work with the same level of education at state universities, smaller colleges and universities, both public and private, and community colleges. The Association proposals are aimed at reducing these compensation discrepancies for its members who are high quality professional employees with higher education levels and experience. It believes that the University has the ability to address these concerns within its budgetary constraints.

III Unresolved Issues.

(1) Across The Board Salary Increases – Article 32

The Association believes that its proposal for a three-year contract at 5.5%, 6% and 6.5% is reasonable for the following reasons: Administrators received substantial pay increases from the 2006-2007 year to 2008-2009. Increases ranged from 2.95% to

17.25% for the first year to 2007-2008, and 2% to 21.15% for the next year. The average increases for the first year were 6.24% and 4.79% for the second year. Administrators received increases of 10.40% over those two years compared to 7% increases for faculty.

FTE enrollment has increased 40% from 2005 to 2008, showing a healthy revenue stream. Nevertheless, average salaries for CSU faculty at the professor level are substantially below the pay for professors at Ohio IIB colleges and universities, such as nearby Wittenberg and OSU Lima. The average professor salary for the 29 IIB schools is $75, 400 compared to the CSU average of $69,000. So called "benchmark" institutions used by the University for comparisons show the same result for professors. The average professor annual salary among these nine schools is $87,100, including nearby Wright State at $97,500. The disparity is highlighted when the 12 four-year state universities are compared. The average professor earns $94,700. The Ohio public IIB average professor salary is $86,400. More disappointing is the fact that professors at two-year schools offering associate degrees average $75,500. These include nearby Sinclair CC at $72, 200 and Wright State- Lake at $75,500. Moreover, minimum salaries for all faculty levels at CSU are substantially below the salaries paid for each level at Ohio's CB state universities.

The Association has computed that 70% of all IIB institutions in the country have higher average salaries for full professors than the salaries paid to full professors at CSU. It would cost the University $231,000 to bring its 21 full professors up to the average salary required to meet the 50th percentile from the present 30% level.

The University projected that the cost of the entire Association economic proposals would be $3,111,281. The salary proposal alone amounts to $2,206,338. It believes that these monetary obligations are unrealistic and unreasonable given the present economic circumstances facing the University. It is proposing a 2.5% increase for one year with re-openers for years two and three. It believes that this is a prudent approach until the present recession stabilizes. It believes that the Association members are fairly compensated in terms of their annual salaries.

The University uses a Board of Regents peer group for comparison. The group uses only Shawnee State in Ohio, but other similar institutions include schools throughout the country. When using this comparison, CSU pays higher than average salaries at every level except Assistant, which is at the average for this peer group. When the peer group is expanded to include other similar institutions to CSU, CSU pays higher than the average at every level.

Recommendation.

After reviewing the extensive economic exhibits and testimony I find that the University has within its means to pay conservative across the board pay increases to these unit members for three years. This is preferable to re-opening negotiations after the first year for all economic issues. I recommend across the board pay increases of 2.5% for year one, 2.5% for year two and 2.5% for year three. The increases shall be retroactive to September 1, 2008.

(2) Minimum Salaries.

The Association proposes to increase minimum salaries for each faculty level. Instructors would start at $35,200 instead of $32,000; Assistant Professors would start at $40,700 instead of $37,000; Associate Professors would start at $49,500 instead of $45,000; and Professors would start at $60,500 instead of $55,000. The University opposes these increases for economic reasons.

Recommendation: The Association has made its case that these increases for minimum salaries are necessary to obtain quality recruits. There is no question that the CSU minimum salaries are substantially below those of the other four-year state schools. The added cost is reasonable and not an excessive budgetary burden for the administration. The Association's proposal is accepted: instructors will begin at $35,200; assistant professors will begin at $40,700; associate professors will begin at $49,500; and full professors will begin at $60,500.

Recommendation: No change.

(3) Promotional Increases – Article 35

The Association proposes increases in the dollar amounts for promotions from instructor to assistant, from assistant to associate, and from associate to full professor. Present rates are $500, $750 and $1,000. These rates have not been increased since the '91-'94 contract. The proposed increases have a minimal impact upon the budget and are necessary to reward faculty for excellent service.

The University projects the proposal cost at $35,751 and believes that this additional increase in the budget expenditures is not warranted at this time.

Recommendation: I find that the Association's argument has merit and that the promotional amounts should be adjusted after the long period of remaining constant. I recommend the Association's proposal of increasing the amounts from $500 to $1,500 for promotions from instructor to assistant, $750 to $3,000 from assistant to associate and $1,000 to $3,500 from associate to full professor.

(4) Equity Adjustments – Article 36

Article 36 of the expired contract required the creation of a 'Compensation Study Committee" with equal representation from the administration and the Association. The committee's purpose was to gather data, study and make recommendations relative to the compensation in various ranks to address inequities. The University provided no less than $150,000 and no more than $180,000 in the first year of the contract, for a fund to distribute equity adjustments in faculty salaries, based upon the committee's recommendations.

The Association proposes additional funding to accomplish these needed adjustments. It proposes an additional $125,000 for each contract year of a three-year contract. The proposal is exclusive of fringe benefit costs. The University opposes these substantial expenditures for several reasons. First, the agreement in the last contract was

supposed to be a one-time proposal to correct inequities. The University now discovers that this proposal has become imbedded within the Association's economic contract proposals. Second, the proposal is excessive and beyond any reasonable amounts that the University can afford. Third, the proposal contains an expensive multiplier effect by excluding fringe benefits within the fund amounts.

Recommendation: I find from the evidence that equity adjustments are still necessary, notwithstanding the amounts provided for in the expired agreement. The amount should be much less than proposed by the Association, it should be on a one-time basis, and it should include amounts allocated for fringe benefits. Section 36.6 shall be amended as follows:

> The Administration will make no less than $114,000 available to be used for equity adjustments above and beyond salary increases provided by other articles of this Agreement. The dollar amount includes fringe benefit costs and adjustments as they apply to Bargaining Unit members and department chairpersons. The formula for distribution of these equity adjustments will be determined by the Compensation Study Committee no later than May 1, 2009. The adjustments to base salary will be made no later than June 1, 2009 and will be applied retroactively to September 1, 2008.

The remainder of Article 36 shall remain unchanged.

(5) Overloads, Extra Compensation – Article37.

The overload rate for teaching beyond the standard faculty workload is $600 per credit hour. This has been the effective rate for nine years.[1] The University opposes the Association proposal to increase the rate to $800 per semester credit hour for financial reasons. The projected cost would be $225,941 over a three-year contract period.

Recommendation: I find that the University has control over these expenditures by determining the amount of needed overload work. I find the Association's proposal to increase the rate after nine years to be reasonable. CSU has by far the lowest rate. Most Ohio four-year schools are over $1,000 per semester hour with Shawnee State at $2213, and Kent State at $4,007 (psh). I recommend the Association's proposal to increase the overload rate to $700 per credit hour per semester as defined in the faculty workload policy.

(6) Summer School Compensation – Article 38.

The Association believes that the current summer school payment rate is outdated and unfair. A member receives one-third of their salary of the previous academic year, not to exceed $1,088 per credit hour. A typical member who works a full-time load of ten hours would receive $10,880 for summer work unless the salary is less than $32,000 per year. This results in every faculty member receiving the $1,088 rate, since the

[1] The University converted from a quarter system to a semester system in 2005-2006. The rate was $400 per quarter hour, which is substantially the same as $600 per semester hour.

minimum salary is $32,000 and no person is below that rate. The existing rate is well below the other Ohio four-year schools. The Association proposes an increase to $1,300 per credit hour.

The University costs this proposal at $127,970 over the life of a three-year contract. This would add significant expenses to its budget.

Recommendation: I find that an increase in this area is justifiable considering the disparity with other schools. The summer school rate shall be increased from $1,088 to $1,200.

(7) Health and Dental Insurance.

The Association proposes the inclusion of domestic partners within its health and dental insurance benefits. Nine of 14 Ohio four-year schools have this benefit for same sex partners. Five of 14 include opposite sex domestic partners. It proposes no change in the plan existing before the University allegedly unilaterally implemented changes requiring faculty members to have the same plan as provided to administrators.[2] The changes result in increases in co-payments, deductibles and prescription drug charges.

The University estimates that adding domestic partner benefits would cost $69,420 over three years, an unreasonable and unnecessary added expense in its budget. It needed to address the dramatic increases in its health insurance costs. Its total benefit costs now amount to 43% of salary, a percentage that is up to 10% more than the average

[2] The University's action is the subject of a pending unfair labor practice charge filed with SERB.

of similarly situated universities in Ohio. Increasing the employees' share of these increased expenses is the only sound financial option available to the University. CSU is a small school with a small group for medical insurance purposes. It is not economically feasible to include more than one plan for all employees. The change was necessary for the financial health of the school.

The AAUP proposes increasing the annual maximum benefit for dental coverage from $1,000 to $3,000, and the lifetime maximum orthodontic benefit from $1,000 to $1,500. These benefits have not increased since 1985. The University opposes this proposal because it would add $32,400 in expenses over the contract period.

Recommendation: I agree with the University that it would be impractical and expensive to maintain more than one plan for all employees with this small group. Moreover, it makes sense to keep the same benefits for both faculty and administrators, since both groups have somewhat comparable salaries. The University's position relative to health and dental insurance plans and benefits will be accepted. The bargaining unit members shall receive the same benefits for health and dental insurance as those provided to administrators. The health and dental insurance plans, however, shall be amended to provide for benefits to same-sex domestic partners.

Date of Report: February 27, 2009

Mitchell B. Goldberg, Appointed Fact Finder

CERTIFICATE OF SERVICE

This Report was served upon Edward E. Turner, Administrator, Bureau of Mediation, SERB, 65 East State St., 12th Fl. Columbus, Ohio 43215-4213 by U.S. Mail, First Class on February 27, 2009. Copies were served by U.S. Mail, First Class upon Andrew C. Hughey, General Counsel of Central State University, 1400 Brush Row Rd., PO Box 1004, Wilberforce, Ohio 45384-1004; and Donald J. Mooney, Jr. attorney for AAUP, Central State Chapter, 600 Vine St., Suite 2800, Cincinnati, Ohio 45202-2409.

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