STATE EMPLOYMENT RELATIONS BOARD
STATE OF OHIO

In the matter of Fact Finding between:	)	SERB No. 08-MED-04-0578
	)	
MONTGOMERY COUNTY BOARD OF MENTAL RETARDATION AND DEVELOPMENTAL DISABILITIES	)	Hearing: August 8, 2008 at Montgomery County, OH
	)	
and	)	Date of Report: August 15, 2008
	)	
PROFESSIONALS GUILD OF OHIO	)	

FACT FINDING REPORT

Appearances:

Mitchell B. Goldberg, Appointed Fact Finder

For the Public Employer:

David Kessler,	Dublin Management Group
Timothy Klagge,	Director of Human Resources
Rich Bourgault,	Dublin Management Group
Michael Proulx,	Assistant Superintendent

For the Union:

Chauncey Mason,	PGO Executive Director
John Campbell- Orde	PGO Representative
Cindi Saunders,	Vehicle Operator
Duane Rucker,	Vehicle Operator
Ronald Bonner,	Aide
Chad G. Maness,	Vehicle Operator

I. Introduction and Background.

The State Employment Relations Board ("SERB") appointed the undersigned as the Fact Finder for this public employment dispute on June 27, 2008. Pursuant to an agreement between the parties, a hearing was held on August 8, 2008 at the Madison Lakes County Park facilities in Montgomery County, Ohio. The parties agreed at the hearing that this Report should be issued on August 15, 2008, and mailed to SERB 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 presented evidence and submitted documentary exhibits.

The bargaining unit consists of approximately 116 full-time and part-time employees in the classifications of Dispatcher (2), Vehicle Operators (63), Vehicle Operator Aide (47), Mechanic (3) and Courier (1). The present contract in effect between the parties expires on June 30, 2009. However, Article 41, Section 41.8 and Article 45, Section 45.3 provide for a re-opener on wages, effective June 30, 2008.

The PGO issued notice to the Employer in May stating that it wanted to begin negotiations on the re-opener clause in order to fix the wages for the balance of the contract term. The parties met on two occasions in June, but could not come to an agreement on wages and on the amount of wages to be paid for a shift differential. These are the only disputed issues in this proceeding.

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

II. Economic Evidence.

The Union submitted evidence comparing the wages paid to each classification by the various local school districts at each step in the pay schedules based upon experience. The evidence shows that the unit members are paid much lower hourly wages on the average compared to the school district employees performing comparable work. For example, drivers at step 7 in this unit are paid \$13.88 per hour. The average paid in the school districts is \$17.71 per hour, a shortage of \$3.83 per hour. Aides are paid \$3.43 per hour less than school employees -- \$10.37 verses \$13.80. Messengers are paid \$5.75 per hour less, \$10.29 verses \$16.04. Mechanics are paid \$3.29 less per hour, \$17.11 verses \$20.40. The disparity in wage payments are more prevalent at the lower range of payments and less so at the higher steps.

The Agency financial statements show that it has sufficient funds to pay the increases sought by the Union – it does not claim otherwise. It started 2008 with over \$9.8 million as a cash balance. It projects over \$7.7 million for 2009, over \$7.7 million for 2010, nearly \$7.4 million for 2011 and over \$7.6 million for 2012. The Agency has historically been overly conservative in its past budget forecasts. In 2006, its revenue forecast was nearly $2 million less than it actually received, and its expenses were more that $6 million less than it budgeted for. In 2005, it budgeted for $41 million in revenue, and received over $44 million. It incurred over $1 million less in expenses than budgeted. In 2004, it received nearly $3 million less in revenue, but spent over $5 million less than budgeted.

The Agency enacted a new compensation program that increased the base salaries for staff positions and added another pay step for experience. Instructors received a 6% increase plus a step, Instructor Assistants received a 4% increase plus a step, and the Family Consultant and Early Intervention Specialist received 2% on the base plus a step. This was the result of a comprehensive study undertaken to compare existing wages to comparable positions in the marketplace.

The Agency believes that any wage adjustment at this time for the balance of the contract should reflect the economic realities of the local labor market and the poor economy. Ohio's unemployment rate in June 2008 was 6.7% compared to a national figure of 5.7%. The Consumer Price Index has surged due to high food, energy and staple prices. The local economy is dismal. Dayton has been listed in Forbes as among the 10 fastest dying cities in the U.S., joining three other Ohio cities, Canton, Youngstown and Cleveland. Major manufacturing facilities have recently closed or are planned for closing. This will cause a further spike in unemployment in the area.

Busing costs have increased because of high fuel prices. At some point, based upon increased costs, which include higher wages, the Agency may be forced to look at other options to control costs, such as subcontracting the work. Presently, the Agency receives a fixed amount from Medicaid, $39 for two one-way trips. The County must contribute 38.5% of the costs and the federal government pays the rest. This is for transporting adults; there is no reimbursement for transporting children.

There are considerable budget cuts being implemented from the state, where the Agency receives funding. For 2009, the Governor wants to implement a 10% cut from each department, the Ohio Department of MR/DD has reduced its budget by $17 million. Further cuts will involve $29 million from state funds issued to the counties. This Agency will expect to receive between $1.2 and $1.3 million in reductions. The Agency expects funding reductions to occur in 2008 as well.

Collections from the commercial activity tax that replaced the tangible personal property tax for businesses will remain constant because the state has agreed to hold the counties harmless for losses due to the elimination of the personal property tax through 2010, but beginning in 2011, the hold harmless amounts are reduced by 1/7 each year. Moreover, the counties used to collect and distribute the tax revenue from the personal property taxes. Now, the state collects and distributes the collections from the commercial activity tax to counties at its discretion. The net result to the county will be the loss of personal property tax revenue, and a shortfall from commercial activity tax revenues to make up the loss.

The Agency receives money from the human services tax levies that combine funding for all social service agencies. The Agency requests funds from the gross amount collected as its share. It always receives less than it requests.

Specific economic factors affecting the Agency include the reduction of staff that was necessary due to the reduction of pre-school services that were provided. The Agency contracts with school districts to provide services related to MR/DD. Three districts cancelled their contracts causing the elimination of teachers, teaching assistants and other positions. This has also resulted in the loss of riders for the vehicles. The loss of children and adult riders has resulted in the loss of 10 full-time positions in the transportation department. This has been absorbed through attrition and not filling vacancies in order to avoid layoffs. Nevertheless, the loss in volume has increased the department's overhead.

III. The Parties' Positions and Proposals.

The Union takes the position that its members have been shortchanged in terms of economic parity with employees doing similar work outside the Agency, and in terms of internal compensation. It assisted the Agency with its support for the tax levies. The compensation system was reorganized for professionals and other staff members. This was done in order to bring them in line with others doing similar work in the market, and to correct inequities. However, the members of this unit were ignored in the process. They continue to receive the lowest hourly wages for their respective jobs. This continuing problem must be addressed and rectified now, particularly in these hard economic times when living expenses are rising dramatically due to high fuel costs, high-energy prices, and higher prices for food and staples. These members are part of the working poor, those whose incomes are below $27,000 per year. Forty-seven per cent of the members earn $20,000 or less per year. Eighty per cent earn less than $27,000 per year. The median annual wage is only $19,000 per year.

Base wages for the members were not increased in 2005. A 3% increase was agreed upon for 2006. The Union proposes a raise of $1.00 per hour across the board to begin to correct this equity problem, both externally and internally. A percentage increase is inadequate to lift up the bottom part of the wage scale where the inequities are the highest. The payment should be in a lump sum retroactive to July 1, 2008 for the balance of the CBA. The Union argues that the money is in the budget to fund this increase, and after funding, the Agency will still be left with substantial cash balances.

The Agency believes that the Union's arguments regarding pay equity are misleading and inaccurate. It is misleading to focus only upon hourly rates when comparing unit members to 9-month school employees. It is more relevant to look at comparisons of annual income, reflecting the fact that unit members are 12-month employees. For example, annual salaries of school employees at step 7 for the following school districts is as follows: Northmont - $11,911, Trotwood - $20,774, Vandalia - $13,038, Brookville - $11,623, Northridge - $14, 652, Huber Heights - $23,745, Kettering - $18,348 and Mad River - $16,479. The annual wages for step 7 members in this Agency is $24,030, at the high end of this spectrum. At the maximum end, annual wages for drivers at the school districts range between $14, 000 and $18,000, with Huber Heights and Trotwood in the $24,000 range. The annual earnings at the maximum step at this agency are $31,944. More telling, are the figures when extra earnings are included for driving field trips and for overtime work. Twelve employees earn in excess of $25,000 per year, and three earn more than $31, 000 with a high of $43,000. Employees in this Agency also enjoy excellent benefits that exceed the levels paid in most of the school districts. The Agency believes that the members are well compensated for their work skills, and are paid in accordance with the market for similar services in the community. There is no need to pay more than the market rate when jobs win the area are scarce, and there are large numbers of potential employees seeking work. It believes that many if not most of the school 9-month employees would prefer to work at this Agency on a 12-month basis in order to earn more money. The Agency believes that a 2% across the board increase is reasonable – this is the same increase provided to non-bargaining unit members of its staff.

IV. Mediation.

The Fact Finder, with the agreement of the parties, attempted to mediate the economic issues. This met with some success. The total payroll for the bargaining unit is $2,428,000 for 2008. A 1% across the board raise costs approximately $24,000. The Union adjusted its position and proposed a $.50 per hour raise for all classifications across the board, effective on July 1, 2008. Another $.50 per hour would be paid on January 1, 2009. Also one additional step would be added to the schedule. The estimated total cost for this proposal is $186,000.

The Agency adjusted its position. It agreed to pay a raise of 2% across the board on the base. Every employee who has a step will get an additional step, amounting to another 2%. Those in steps A through I would receive another step. The Agency costs this proposal at approximately $120,000, leaving the parties about $66,000 apart.

VI. Recommendations.

WAGES

Based upon all of the evidence and arguments, I recommend the following wage increase for the balance of the contract:

1. A 3% across the board increase on the base
2. Every member with a step will receive a step increase (2%).
3. Those members in steps A through I will receive another step payment (2%).

SHIFT DIFFERENTIAL

The present shift differential is $.25 per hour. This has been in place for a long time. The Union proposes an increase to $.50 per hour. This is a minor cost that affects only 20 members. The increase will help offset the higher commuting costs for members who must make up to three trips a day from their homes to work to work these off-shifts.

I recommend that the shift differential be increased to $.35 per hour. All of the recommendations shall be retroactive to July 1, 2008.

Date of Report: August 15, 2008

Mitchell B. Goldberg

Mitchell B. Goldberg,
Appointed Fact Finder

CERTIFICATE OF SERVICE

This Report was served upon Edward E. Turner, Administrator, Bureau of Mediation, SERB, on this 15th day of August 2008 by U.S. Mail, First Class. Copies were served upon Chauncey M. Mason, Professionals Guild of Ohio, P.O. Box 7139, Columbus, Ohio 43205-7139, and David S. Kessler, Dublin Management Group Ltd., 300 W. Wilson Bridge Rd., Suite 100, Worthington, Ohio 43085.

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