SERB EMPLOYMENT RELATIONS BOARD

2009 FEB 23 P 1:45

STATE OF OHIO
STATE EMPLOYMENT RELATIONS BOARD

In the Matter of:	:	
	:	
American Federation of State, County and Municipal Employees, Local 153 and Ohio Council 8, College Chapter	:	**08-MED-06-0697**
	:	**FACT FINDING REPORT FINDINGS AND RECOMMENDATIONS**
and	:	**February 20, 2009**
Kent State University	:	

APPEARANCES

For the Union:

Michael DeLuke, Staff Representative
Dave Shuckert, President
Mike DiPaola, Negotiating Team
Hattie Lemons, Negotiating Team
Charles Scott Virzi, Negotiating Team
Dave Brannon, Negotiating Team
Ray Davis, Negotiating Team
Marcia Gaskins, Negotiating Team

For the University:

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I. BACKGROUND

The Fact Finder was appointed by the State Employment Relations Board (SERB) on November 14, 2008, pursuant to Ohio Revised Code Section 4117.14(C)(3). The parties mutually agreed to extend the fact-finding period as provided under Ohio Administrative Code Rule 4117-9-05(G). They also agreed to extend the Fact Finder's report deadline until February 20, 2009. The parties are the American Federation of State, County and Municipal Employees, Local 153, Ohio Council 8, College Chapter (Union), representing maintenance, custodial, clerical, parking, and food service employees, and Kent State University (University). Founded in 1910, Kent State is an eight (8) campus system, one of the largest regional systems in Ohio. It serves an on campus living and learning approach at its Kent campus, which has approximately 20,000 students, while providing a small, liberal arts style education at seven (7) other campuses in northeastern Ohio.

II. THE HEARING

The fact-finding hearing was held on Monday, January 26, 2009 at the University's Student Center at its Kent campus. Each party provided a pre-hearing statement. The hearing began at 9:00 a.m and adjourned at approximately 5:30 p.m. The Fact Finder attempted mediation of the issues without success. The matter was then heard on the record. The parties introduced evidence and presented their positions regarding the issues at impasse. The parties jointly introduced the following exhibit into evidence:

1. Agreement between Kent State University and Ohio Council 8 and Kent State University Employees Local 153 American Federation of State, County, and Municipal Employees, AFL-CIO, effective October 1, 2005 through September 30, 2008.

Additionally, the parties introduced the following exhibits into evidence:

Union Exhibits

1. SERB Clearinghouse Benchmark Report, September 30, 2008 of various occupations at Ohio public universities.

2. Union Security and Checkoff provisions of Agreement between University of Cincinnati and Local 2544 of AFSCME, Ohio Council 8, February 12, 2006 to February 11, 2009.

3. Checkoff provision of Agreements between The Ohio State University and Communications Workers of America Local 4501, April 1, 2006 through March 31, 2009.

4. Dues Check-off provision of the University of Akron and Communications Workers of America Collective Bargaining Agreement, effective October 1, 2006 through September 30, 2009.

5. Union Security; Dues Deduction provisions of Agreement between Wright State University and General Truck Drivers, Chauffeurs, Warehousemen and Helpers Local 957, affiliated with the International Brotherhood of Teamsters, November 30, 2006 - November 29, 2009.

6. Union Membership provision of Collective Bargaining Agreement between Ohio University Local 1699 & Ohio Council 8 AFSCME, AFL-CIO, June 1, 2004 - 5:00 p.m. March 1, 2007.

7. Recognition, Dues Deduction and Association Rights provisions of Collective Bargaining Agreement between Kent State University and the Full-Time Non-Tenure Track Faculty Unit of the American Association of University Professors, Kent State Chapter, effective August 16, 2005.

8. Recognition, Dues Deduction and Association Rights provisions of Collective Bargaining Agreement between Kent State University and the Tenure-Track Unit of the American Association of University Professors, Kent State Chapter, effective August 23, 2005.

9. University Proposal #2, dated September 30, 2008

10. Classification Variance Schedule wage proposal of Kent State.

11. Kent State University Articles 13, 14, 20, 21, 25, 28, 31, 44, and 45

Recommendations and Proposed Revisions for AFSCME Collective Bargaining Agreement (2008-2011), Thursday, August 14, 2008.

University Exhibits

1. Kent State University - Kent Campus - Education & General Funds, Estimate of FY 2009.

2. Cost for $.70 increase proposed by Kent State University for Classified Employees of AFSCME Local 153.

3. Heath Care Plan Comparisons.

The issues remaining at impasse for the fact-finding included:

1. Union Security and Checkoff
2. Equalization of Overtime.
3. Sick Leave.
4. Vacation.
5. Parking.
6. Insurance.
7. Wages.

The Ohio public employee bargaining statute provides that SERB shall establish criteria the Fact Finder is to consider in making recommendations. The criteria are set forth in Rule 4117-9-05(K) and are:

(1) Past collectively bargained agreements, if any, between the parties;

(2) Comparison of the unresolved issues relative to the employees in the bargaining unit with those issues related to other public and private employees doing comparable work, giving consideration to factors peculiar to the area and classification involved;

(3) The interests and welfare of the public, 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;

(6) Such other factors, not confined to those listed above, which are normally or traditionally taken into consideration in the determination of the issues submitted to mutually agreed-upon dispute settlement procedures in the public service or in private employment.

The Fact Finder hopes the discussion of the issues is sufficiently clear to the parties. Should either or both parties have any questions regarding this Report, the Fact Finder would be glad to meet with the parties to discuss any remaining questions.

III. ISSUES AND RECOMMENDATIONS

Issue: Article 7, Union Security and Checkoff

Union Position: The Union proposes a new Section C that will require a fair share payment by non-Union members included in the bargaining unit.

University Position: KSU proposes a fair share fee upon a majority vote of sixty percent (60%) of the total bargaining unit.

Findings: The Union seeks a fair share pay provision upon notifying the University that voluntary membership in the Union totals fifty percent (50%) of the current membership. It presented evidence that five (5) other state universities have similar provisions. The University is the only one in Ohio that requires a vote. It also contends that the Kent State American Association of University Professors (AAUP) bargaining units, both tenure and non-tenure, require only a fifty percent (50%) vote.

Kent State responds that there are fourteen (14) Inter-University Council (IUC) schools and the Union presented evidence that only five (5) have a fair share fee. The University's philosophy is that such deductions should be put to a vote of the membership. The AAUP contracts require such a vote. Further, since less than fifty percent (50%) of employees in this unit are currently in the Union, a vote should be required before a fair share fee is imposed. The wages of this unit are lower and deductions from these employees' wages have a greater economic impact. Therefore, a greater percentage of voluntary participants should be required. The University is not opposed to a fair share fee. However, the issue is how it is communicated and executed during the contract. The University also suggests that the Union should reimburse it for non-work related time away, consistent with the AAUP units.

The Union responds that the entire unit is not required to vote on such issues such as health care, so a vote of the entire unit should not be required here. The University has taken this position only on the fair share fee. Nor does Kent State have any issue with requiring new hires to pay a fair share fee. The University contends that its proposal follows the language of the AAUP units.

The University certainly has an interest in a fair share fee provision. After all, it affects the employees in the bargaining unit and can impact employee relations. However, in the Fact Finder's experience in the public and private sectors, a fair share fee is typically not of great impact on an employer. Kent State did not present any facts to establish that the Union's proposal would affect the bargaining unit such that the University's proposal is needed. The Fact Finder is particularly intrigued by the sixty percent (60%) requirement proposed by the University. The evidence shows that this would be unique to the University and this bargaining unit. Kent State is not only the only IUC university that has a voting provision, its other contracts require only a fifty percent (50%) vote. It argues that a greater percentage is necessary to protect the unit, since it consists of lower wage earners. Other than the obvious impact any deduction has on an employee's wages, the Fact Finder does not see that lesser wages require an increased indication of Union support. After all, many low income wage earners pay fair share fees.

Kent State's concern that an election be held to gauge support for the fee does have some merit. It would certainly provide some stamp of fairness to the proceedings. However, it does not guarantee fairness. Without some outside entity running or overseeing the process, there is no guarantee that any election would be entirely error free. For example, who would monitor to make certain neither the University nor the Union unduly pressures employees to vote one way or another. The Union's proposal itself provides some guarantee that employees support the Union. The fair share fee only applies once the Union can show fifty percent (50%) membership in the Union and the University then has sixty (60) days to monitor the Union's showing of membership. There is also some concern that the University could use the vote as evidence of lack of support and lead to a decertification petition. The Fact Finder concludes that KSU's proposal could have unintended consequences.

The Union's proposal falls short in one (1) aspect, though. It provides for only fifty percent (50%) membership to enable the fair share fee. The Fact Finder determines that at least a majority of the unit should determine whether the fee is put in place.

Finally, KSU introduced no evidence regarding its proposal to have the Union reimburse it for non-work related time away. Thus, there is no basis for changing the current language on this issue.

Recommendation: The Fact Finder adopts the Union's proposal with two (2) exceptions. First, the Union must notify the University and present evidence of membership in the Union. Second, the Union must show voluntary membership greater than fifty percent (50%) of the total number in the bargaining unit. See Attachment 1.

Issue: Article 21, Equalization of Overtime

University Position: Kent State proposes changes to the language to equalize overtime opportunities for employees.

Union Position: The Union seeks to retain the current language.

Findings: The University is concerned about its supervisors' time spent managing the current overtime process. Its proposal allows employees wanting to work overtime to be placed on a rotation. For example, under the current system an employee on vacation during the week, i.e., Monday through Friday, and not called for overtime work on Saturday could file a grievance. The University contends that employees on vacation Monday through Friday typically do not want to work overtime during that weekend. The current Agreement requires that employees be offered such overtime, yet it necessitates a good deal of supervisors' time to try to contact employees to determine whether they want to work the overtime. Under the proposal, if the above employee missed the overtime opportunity, the employee gets another opportunity for overtime or is paid for the missed opportunity. Paragraph (H) of the proposal memorializes a memorandum of understanding agreed upon in April of 2008.

During negotiations, the Union did make a proposal as to equalization of overtime. It withdrew that proposal, however, prior to the fact finding hearing.

The University showed that the current method of equalizing overtime requires too much supervisory time to manage. Its proposal would lessen the time needed. At the same time, employees are protected in case they miss an overtime opportunity. The Fact Finder concludes that the University's proposal is worth trying.

Recommendation: The Fact Finder recommends that the University's proposal as to Article 21 be adopted.

Issue: Article 28, Sick Leave

University Position: The University seeks to include language expanding the defined categories of "immediate family" as used in the Agreement and allowing a department head's designee to approve leave. It also proposes language allowing employees to convert accrued sick leave to vacation or personal leave as noted in Article 32.

Union Position: The Union desires no change in the current language.

Findings: The University's proposal is meant to match the language of other bargaining units. The definition of "immediate family" tracks Family and Medical Leave Act (FMLA) language. The term "extended family" is removed. Sick leave conversion is dealt with in Article 32 and is consistent with non-bargaining unit sick leave.

The Union opposes eliminating the extended family provision.

Kent State seeks the change in part to match the language of its other bargaining units and in part to track the language of the FMLA. The Fact Finder has read the definition of "immediate family" carefully to address the Union's concern in eliminating the extended family provision. The Fact Finder cannot see where the Union and employees are disadvantaged by changing the language. Those who were defined as "immediate family" continue to be defined as such. All the family members who were previously defined as "extended family" are now included in the definition of "extended family." In fact, previously, an employee could take sick leave only for the death of an "extended family" member. Under the new language, an employee can take sick leave for the illness, injury, or death of those who were previously defined as "extended family" but are now included in the "immediate family" definition. This works to the advantage of employees in the bargaining unit.

Adding a department head designee makes approval of leave more efficient. Sick leave conversion is dealt with below.

Recommendation: The Fact Finder recommends the adoption of the University's proposal.

Issue: Article 32, Vacation

University Position: Kent State offers to include language acknowledging that the Associate Vice President of Human Resources can designate an alternative to approve vacation leave. Tying into Article 28, it proposes language permitting the conversion of accrued sick leave to personal or vacation leave.

Union Position: The Union seeks no change in the current language.

Findings: According to the University, allowing employees to convert accrued sick leave to personal or vacation leave is consistent with non-bargaining unit employees. The previous language permitted conversion only to vacation leave, while the new language allows an employee to convert accrued sick leave to personal leave.

The Union contends that sick leave conversion is currently in the Agreement. The

University proposal would permit conversion only as allowed in KSU policy. Contract language provides protections that are not available should it be governed by policy. For example, contract language can be grieved. Policy language cannot be grieved, only the policy itself or the implementation of it.

The Fact Finder agrees with the Union's position that contract language permitting sick leave conversion is different than University policy. It provides protections to the bargaining unit that policy does not provide. As noted above, an employee can grieve the contract language, while policy language generally cannot be grieved. Additionally, it can be assumed that the Union gave up something to obtain the sick leave language in the contract. Changing the language to permit conversion only in accordance with policy would cause the Union to lose what it has gained without a corresponding tradeoff.

Permitting the Associate Vice President of Human Resources to designate an alternative to approve vacation leave makes the system more efficient and is a reasonable change.

Recommendation: The Fact Finder recommends that paragraph (C) of Article 32 be amended to read:

> All use of vacation leave must be requested in writing using the form provided by the University, and is subject to the prior written approval of the immediate supervisor or designee. Vacation requests may be denied for operational and staffing reasons, but otherwise shall not be unreasonably denied. A copy of the vacation request will be returned to the employee. Once a vacation period is approved, it will not be changed or canceled within a two week period immediately preceding the first day of the vacation period, except with the mutual consent of the employee and his/her immediate supervisor or designee.

Issue: Article 44, Parking

University Position: Should the Union obtain its fair share fee proposal, Kent State proposes language requiring the Union to cover the cost of University parking passes.

Union Position: The Union proposes the keep the current language.

Findings: Currently, KSU provides parking passes to the Union President and the Chief Steward. These cost the University two hundred dollars ($200.00) annually. If the fair share fee is adopted, the University proposes that the Union should pay for this parking. The University will continue to cover the parking costs if the fair share fee is not realized.

The Union seeks to have the University continue to pay for parking, no matter whether the fair share fee is implemented.

The Fact Finder concludes that parking should not be tied to the fair share fee. The University offered to pay parking, and the Union obtained such payment, as the *quid pro quo* for some bargain. It should not ended based on the Union obtaining a fair share fee. The two (2) issues are completely separate. The Fact Finder sees no reason that the Union's parking privileges should be tied to fair share.

Recommendation: The current language is to be continued.

Issue: Article 45, Insurance

University Position: Kent State proposes increases to employee contributions toward health care insurance of: zero percent (0%) in 2009, two percent (2%) in 2010, and two percent (2%) in 2011. It proposes other changes, including domestic partner benefits. See Attachment 2.

Union Position: The Union opposes any increases in insurance costs.

Findings: The University contends that increases in employee contributions are necessary due to increasing costs and heightened pressure from its insurance providers to bring this unit into a similar cost sharing arrangement currently in place for the AAUP units. The contributions proposed are consistent with those in the AAUP contract. Employees enjoy a rich benefit package at a minimal cost to them. KSU covers approximately ninety-five percent (95%) of the cost of this unit, while it covers about ninety percent (90%) of the University overall. This unit provides about one-half of one percent (.5%) toward the total share of its costs. Outside the University, employee cost shares are fifteen percent (15%) or more. If KSU's proposal is accepted, no employee in this unit would pay even ten percent (10%) of the cost. Having employees pay toward the cost of health care encourages everyone to save money, which saves the University money. Kent State also proposes to increase the orthodontia benefits and add domestic partner benefits.

The Union argues that the average employee salary in the unit is approximately twenty-five thousand dollars ($25,000.00). Any increase in health care costs hits this unit harder than the AAUP units because AAUP units have higher average salaries.

There is no dispute that health care costs continue to be an important factor in collective bargaining. Indeed, health care is often more difficult to resolve even than wages. Costs continue to rise at percentages greater than the inflation rate. It is no surprise that employers seek to have employees share a greater portion of the burden and employees seek to hold the line on any increases.

In the Fact Finder's experience over the last several years, AFSCME employees are currently paying slightly under the norm for most public employees. Generally, public employees pay approximately ten percent (10%) of health care premiums. Of course, this varies depending on the type and size of the employer and the costs it can negotiate for coverage, the geographic location of the employer, the type and size of the bargaining unit, and so forth. For example, employees of the State of Ohio pay fifteen percent (15%) for health care, while employees of townships typically pay the lowest percentage, from two to three percent (2-3%). The ten percent (10%) is a generalization, but comports with the Fact Finder's experience. Under the University's proposal, employees will average eight percent (8%), depending on the plan chosen, for 2009, ten percent (10%) for 2010, and twelve percent (12%) for 2011. This places the unit right around the average premiums for public employees.

Kent State's financial position is another factor to consider. For employers in good financial health, asking employees to bear increased health care costs can be unreasonable. This can be particularly so when any health care increase offsets any increase in wages. Here, though Kent State is not in good financial health. As noted in detail below, it has suffered its first loss and expects another for the fiscal year ending in June 2009. Its financial condition is worsening in the short term, not getting better. Keeping health care costs at the *status quo* will put an even greater burden on the University. It has proved the need for employees to accept a slightly higher health care cost burden. Finally, accepting the Employer's proposal would put this unit on par with the health care cost arrangement of the AAUP units.

Recommendation: The Fact Finder recommends the University's proposal as outlined in Attachment 2.

Issue: Article 48, Wages

Union Position: The Union seeks wage increases of seventy cents ($.70) per hour for all classifications for the contract years beginning October 1, 2008, October 1, 2009, and October 1, 2010.

University Position: Kent State offers increases of three percent (3%) for 2009, 2010, and 2011.

Findings: The Union submits that the University offered a three percent (3%) increase across the board plus some additional money for certain classifications. The Union preferred to spread the total dollars out equally. When it calculated the amount of money the University had offered, it equaled seventy cents ($.70) per hour to every employee in the unit. The seventy cents ($.70) per hour would benefit the lowest paid employees the most. It projects its proposal would cost $1.6 million, which is what the University told the Union its own proposal would cost. Looking at similar job classifications at other Ohio public universities, Kent State's entry level and top level wage rates are below average in almost all classifications. The Union wants the bargaining unit closer to the average wage rates of these universities.

Historically, Kent State has had a strong balance sheet and a stable financial condition. Beginning in 2008, that condition began to change. The fiscal year ending in June 2008 resulted in the first operating loss in KSU history, about $2.2 million. The University forecasts a deficit of approximately $3.2 million for the fiscal year ending June 2009. About twenty-five (25) years ago, somewhere between one-fourth (25%) to one-third (33%) of operating revenues came from tuition with two-thirds (67%) to three-fourths (75%) of revenues coming from state funding. Today, those percentages have essentially flip flopped (67-75% from tuition, 25-33% from state funding). In today's dollars, approximately

$250 million comes from tuition, while about $100 million comes from the state. The state of Ohio has frozen tuition statewide at 2006-7 levels. The state informed public universities it would try to offset the tuition freeze with increased aid, but that increase has not materialized as projected. Specifically, the state pays out aid in three installments. The second installment to KSU was approximately $500,000 less than planned.

The University hoped to make up some of the revenue loss in increased student enrollment. It projected an increase of four hundred (400) new students. Enrollment actually increased by one hundred twenty-six (126) new students. In short, for fiscal year 2009, there is less student revenue and less state aid than projected.

Additionally, as is well known by now, the capital markets began to change in the summer of 2008. With the housing crisis and the resulting credit crunch, it became more costly to obtain financing. From May to August of 2008, the University experienced decreasing revenues and increased financing expenses in the capital markets. For instance, KSU issues variable rate debt that essentially requires it to refinance each week. As the credit markets became more expensive, it cost the University more. In fact, Kent State experienced approximately $3 million in greater costs for its variable rate debt. On top of this, the losses in the stock market also affected KSU. It has lost $85 million in its investments as well as about $6 million in dividends. It had projected $11.5 million in revenues from these sources.

All of this has forced the University to cut almost $1 million from the 2009 budget. Greg Floyd, Chief Financial Officer of the University, testified about $960,000 has been cut. Most of this has come from outside the general fund, in monies earmarked for certain purposes. Floyd also testified that he believes Kent State is facing an economic crisis, that it cannot even afford the three percent (3%) increases it has offered, but that he recognizes that has promised the increases and he has some concerns about the wage levels in certain classifications in the unit. Overall, according to Floyd, the University's finances are getting worse. Yank Heisler, the Dean of the College of Business and the interim CFO prior to Floyd's hiring, testified that Kent State attempted to cut costs, but was not able to cut much from the 2009 budget. Further cuts may come in 2010 and 2011.

Approximately seventy percent (70%) of the University operating budget is labor related costs. Any increase in wage rates, therefore, would impact the operating budget. Health care costs have increased not quite ten percent (10%). As is typical, these two (2) factors amount to a larger percentage of costs.

The Union counters that the AAUP contract provides for increases of three percent (3%) each year plus a four and one-half percent (4.5%) merit increase. This could result in increases quite a bit greater than three percent (3%). Additionally, the University could use earnings from its endowment fund to fund operating costs. The Union acknowledges that Kent State is facing some challenges, but it believes it can afford the $1.6 million its wage demand would cost.

There is no question that we are in a different world than the one we were in just a year ago. The housing crisis, credit crunch, recession, and layoffs have created the worst economy in decades. Ohio public universities are facing tough economic times. Kent State is fortunate that it has only faced this situation recently. The citizens of Ohio and the students at its public universities can only hope that the governor's plan will alleviate, if not solve, the situation. In the meantime, saddling KSU with costs it cannot afford at this time would be unreasonable.

The University projects that its proposal of three percent (3%) increases would cost it just over $900,000 for the three (3) year contract. On the other hand, the Union projects its proposal would cost $1.6 million, almost double the University's proposal. While there is merit to the Union's position that the classifications in the unit are behind similar classifications at other Ohio public universities, this is not the economic climate in which to make up those differences. Further, the Fact Finder was not presented with sufficient information to adequately compare the classifications at other universities with those at Kent State. For example, the Ohio State University and University of Cincinnati are located in larger cities with higher costs of living than Kent. Comparing classifications at those schools to Kent State is not always comparing apples to apples. OSU is a much larger university, also. It would be helpful to know the size of the bargaining units compared to Kent State, the number of steps in classifications, and so forth to get a complete comparison of wage levels.

Recommendation: The Fact Finder recommends increases of three percent (3%) for the contract years beginning October 1, 2008, October 1, 2009, and October 1, 2010.

Dated: February 20, 2009

Daniel G. Zeiser
Fact Finder

Attachment 1

Article 7 - Union Security and Checkoff

C. Starting with the first pay period following sixty (60) days after the Union notifies the University and presents evidence, for example, signed authorization cards, that voluntary membership in the Union totals **greater than fifty percent (50%)** of the total number of **current (fifty percent of the current membership is 188)** employees in the bargaining unit, all bargaining unit employees who are not members in good standing of the Union shall be required to pay, through payroll deduction, a fair share fee to the Union as a condition of continued employment. During the sixty (60) day period, the University shall audit the voluntary membership numbers to verify the claim of the Union. The date of notification of the University by the Union shall be considered the date of record for determination of the voluntary membership percentage. **All newly hired employees who do not become members of the Union, or University employees who are placed into a bargaining unit position and are not members in good standing of the Union, shall be required to pay a fair share fee to the Union effective with the first pay period following sixty-one (61) days from the employee's date of hire or placement into a bargaining unit position. Once established, the fair share fee shall remain in effect.**

The deduction of the fair share fee from the earnings of an employee shall be automatic and shall not require written authorization. Such fees shall be deducted by the University and remitted in the same method and during the same periods as Union dues.

University Counter Proposal #1
ARTICLE 45 - Insurance
Submitted by: Kent State University
SUBMITTED: September 30, 2008

ARTICLE 45
INSURANCE

A. ***Maintenance of Benefits.***

Effective ~~January 1, 2005~~ _______________, and through the life of this Agreement, the University agrees to offer health insurance plans according to the guidelines set forth below:

1. **During the life of this agreement, the percentage of the premium for medical insurance paid by employees will increase in accordance with the following schedule.**

2009	**0.0%**
2010	**2.0%**
2011	**2.0%**

~~1.~~ **2.** The University reserves the right to change medical insurance carriers during the course of the contract so long as the plan of benefits then in effect is not reduced and so long as there is no significant disruption in patient provider relationships as a result of a change in carrier.

~~2.~~ **3.** The University reserves the right to change carriers for other coverages during the course of the contract so long as the plan of benefits is not reduced.

~~B. *Health Insurance Benefit for calendar year 2005.*~~

~~For the period January 1, 2005 through December 31, 2005, the University will allow bargaining unit members to select one of the following health insurance plans under the terms and conditions set forth herein:~~

~~1. The *"SuperMed Plus PPO"* health insurance plan with deductibles, co- insurance, out-of-pocket limitations and other significant coverage limitations asset forth in Attachment A hereto.~~

~~a. Bargaining unit members electing the SuperMed Plus PPO plan will contribute on a monthly basis according to the attached Schedule A.~~

~~b. Bargaining unit members whose principal place of residence is other than in the counties of Ashtabula, Cuyahoga, Geauga, Lake, Lorain, Medina, Portage, Stark, Summit or Wayne will pay one-half of the employee contribution that would otherwise be applicable.~~

~~2. The *"SuperMed Select Basic POS"* health insurance plan with deductibles, coinsurance, out-of-pocket limitations and other significant coverage limitations as set forth in Attachment A hereto. In order to provide a plan with identical benefits but with different network providers, the University will also offer the EmeraldHealth Basic POS health insurance plan. The University will pay the full cost for providing the SuperMed Select Basic POS plan and the EmeraldHealth Basic POS plan.~~

~~3. The *"SuperMed Select High POS"* health insurance plan with deductibles, coinsurance, out-of-pocket limitations and other significant coverage limitations as set forth in Attachment A hereto. The employee contribution for this plan will be the same as that in effect for the SuperMed Plus PPO plan.~~

~~4. Effective with the ratification of the agreement, for all medical plan options the benefit limits for well-child care for children from birth to age nine (9) will be removed. Well-child care includes a review performed in accordance with the American Academy of Pediatrics. This review includes a history, complete physical examination, and developmental assessment along with anticipatory guidance, laboratory tests, and immunizations.~~

~~C.~~ **B.** *Health Insurance Benefit* ~~for 2006 and later~~.

Effective ~~January 1, 2006~~ ________________________, the University will allow full-time bargaining unit members to select one of three health insurance plans as set forth herein:

1. *The "90/70 PPO"* comprehensive medical insurance plan with deductibles, co-insurance, out-of-pocket limitations and other significant plan features as set forth in Attachment B hereto.

2. *The "80/60 PPO"* comprehensive medical insurance plan with deductibles, co-insurance, out-of-pocket limitations and other significant plan features as set forth in Attachment B hereto.

3. *The "70/50 PPO"* comprehensive medical insurance plan with deductibles, co-insurance, out-of-pocket limitations and other significant plan features as set forth in Attachment B hereto.

~~4. Effective January 1, 2006 for~~ ~~a~~**A**ll medical plan options ~~the following changes will be implemented:~~ **will have the following features:**

a. The lifetime maximum benefit will be ~~increased to~~ $2,500,000. The lifetime maximum will include all benefits paid under the university health plan since January 1, 2003.

b. The definition of dependent will ~~be changed to~~ include eligible children over the age of 20 up to their 25th birthday so long as they remain dependents of the employee. ~~and are students in a post-secondary institution progressing toward a degree or professional certification.~~ **An eligible dependent must be enrolled in an accredited institution of higher learning. It must be certified that the student is enrolled for a minimum of six (6) undergraduate hours per semester or four (4) graduate hours per semester, or their equivalent. Enrollment must be in a program progressing toward a degree or professional certification.**

5. ~~Effective January 1, 2006 coverage under the health, prescription drug and vision plans will be provided to employees with monthly contributions required.~~ Employees electing coverage under any of the Plan options will contribute a monthly amount which will be calculated with the contribution at the median university salary level equal to 10% of the cost of coverage for the 90/70 PPO, 8% of the cost of coverage for the 80/60 PPO and 6% of the cost of coverage for the 70/50 PPO. **Effective in the 2010 calendar year, employees electing coverage under any of the Plan options will contribute a monthly amount which will be calculated with the contribution at the median university salary level equal to 12% of the cost of coverage for the 90/70 PPO, 10% of the cost of coverage for the 80/60 PPO, and 8% of the cost of coverage for the 70/50 PPO. Effective in the 2011 calendar year, employees electing coverage under any of the Plan options will contribute a monthly amount which will be calculated with the contribution at the median university salary level equal to 14% of the cost of coverage for the 90/70 PPO, 12% of the cost of coverage for the 80/60 PPO, and 10% of the cost of coverage for the 70/50 PPO.** ~~There will be no difference in employee contributions based upon county of residence.~~ Contributions will be based upon the employee's salary on a schedule as depicted by the sample on Schedule ~~B~~ **A** attached.

~~6. The University will provide a one-time lump-sum offset for calendar year (CY) 2006 (1/01/06 through 12/31/06) toward required employee contributions to health care benefit plans.~~

~~a. The offset will take the form of a tax-advantageous account which will roll over from one calendar year to the next based upon utilization by the individual employee.~~

b. ~~The amount of the offset will be determined based upon the plan option an employee is enrolled in during CY 2005 in accordance with Schedule C attached.~~

~~D.~~ C. *Coverage for Preventive Services.*

All mammograms, routine PAP smears, and routine prostate function examinations (to include the prostate-specific antigen (PSA) test) are considered to be covered expenses under all medical plans, subject to the terms and conditions of those plans. These services will not be subject to the annual deductible, but will be subject to appropriate coinsurance and other coverage provisions.

~~E.~~ D. *Life Insurance Benefit.*

~~1. The life insurance benefit made available to Full-time bargaining unit members as of January 1, 2005, shall be maintained through December 31, 2005 with no employee contributions. The life insurance benefit is calculated as 2.5 times base annual earnings, rounded to the next highest $1,000, but not more than $200,000. A separate additional benefit up to the amount of the life insurance will be paid for accidental death, dismemberment, or loss of sight. The amount of Life and Accidental Death and Dismemberment benefits will be reduced to 65% at age 60, and further reduced (from the original insurance amount) as follows: to 50% at age 65, 30% at age 70, and 20% at age 75.~~

~~2.~~ **1.** The basic life insurance benefit made available to Full-time bargaining unit members ~~as of January 1, 2006,~~ shall be calculated as **three (3)** times base annual earnings, rounded to the next highest $1,000, but not more than $200,000. A separate additional benefit up to the amount of the life insurance will be paid for accidental death, dismemberment, or loss of sight. The amount of Life and Accidental Death and Dismemberment benefits will be reduced to 65% at age 65, and further reduced (from the original insurance amount) as follows: to 50% at age 70, and 35% at age 75. Basic life insurance and AD&D benefits will be provided with no employee contributions.

~~3.~~ **2.** ~~Effective January 1, 2006,~~ Full-time bargaining unit members ~~will be~~ **are** eligible to purchase additional amounts of group term life insurance at a level of between one (1) and three (3) times annual salary with a maximum of $500,000. The life insurance carrier will determine the guaranteed issue level at initial enrollment.

~~4.~~ **3.** ~~Effective January 1, 2006,~~ Full-time bargaining unit members ~~will be~~ **are** eligible to purchase group term life insurance for spouses at a level of between one (1) and three (3) times the employee's annual salary with a maximum of $500,000. The life insurance carrier will determine the guaranteed issue level at initial enrollment.

~~5.~~ __4.__ ~~Effective January 1, 2006,~~ Full-time bargaining unit members ~~will be~~ are eligible to purchase group term life insurance for eligible dependent children at a level of $10,000.

~~6.~~ __5.__ The University reserves the right to change the insurance carrier or otherwise alter the method of providing the life insurance benefit.

~~F.~~ __E.__ *Prescription Drug Benefit.*

~~The prescription drug benefit in effect as of January 1, 2005, shall be maintained until December 31, 2005. Full-time b~~__B__argaining unit members electing any medical plan except the HMO will be eligible to participate in the current prescription program. Purchases are subject to a 20% co-insurance from the employee (10% for generics), but are not subject to an annual deductible. The maximum coinsurance for any single prescription will be $50.

1. Prescription drug benefits for Full-time bargaining unit members electing medical benefit plans set forth in Section 45~~.B and 45.C~~ above shall also include coverage for oral contraceptives.

2. ~~Effective January 1, 2006~~ ____________ the prescription drug benefit provided to employees electing one of the medical plans set forth in Sections 45~~.C.1, 45.C.2, and 45.C.3~~ above will include the following features:

   a. Medications may be received from either a retail pharmacy or a mail service pharmacy subject to the limitations below. The maximum prescription available at a retail pharmacy is a 30-day supply; the maximum prescription available from the mail service pharmacy is a 90-day supply.

   b. Co-insurance levels will be 10% for generic medications, 20% for brand name medications and ~~30%~~ __40%__ for brand name medications when a generic equivalent is available. The maximum coinsurance for any single prescription will be $50.

   c. Benefits will be provided for maintenance medications (whether brand or generic) through a retail pharmacy for a 30-day prescription and two 30-day refills at the retail level. After the initial 90-day period, benefits will be provided for maintenance medications through the mail service pharmacy only.

~~G.~~ __*F.*__ *Dental Benefit.*

1. **__The university will maintain the current PPO plans, or the equivalent currently administered by Medical Mutual of Ohio.__**~~The dental benefits made available to bargaining unit members as of January 25, 2005, or their approximate~~

~~equivalents, shall be maintained.~~ The University will pay the full cost of the premium for single coverage~~. Effective January 1, 2005 and for~~ During the life of the contract, employee co-payments of premiums for dependent dental coverage will equal the actuarially rated premium for dependent coverage.

2. Bargaining unit members may elect to participate in the Aetna Preferred Dental Plan in lieu of the dental plan referenced in Section 45.~~E.~~ **F.** 1 hereof. The University will pay the full cost of the premium for single coverage or dual (one dependent) coverage. Employee co-payment of premiums for family coverage (more than one dependent) will be $10.00 per month.

3. The *University will eliminate the $25 deductible for orthodontia services,* increase the lifetime maximum for orthodontia services from $750 to $1,000, and increase the annual maximum benefit (per covered person) from $1,000 to $1,250 for the PPO. During the life of this Agreement, the University will also explore the feasibility of establishing a PPO plan where any unused benefit per person per year may be carried over to the subsequent year up to a maximum of two years.

~~H.~~ ***G.*** *Vision Care Benefit.*

The basic vision care benefit plan in effect as of January 26, 2005, shall be maintained. Any unused benefit per person per year may be carried over to the subsequent year up to a maximum of two years.

~~I.~~ **H.** ~~Effective March 1, 1993, the University established a plan, i~~ In accordance with and subject to applicable laws and regulations, pursuant to which full-time bargaining unit members may annually make a voluntary election to have a specified amount withheld on a pre-tax basis from the first and last paycheck of each month to be used to pay the bargaining unit member's share of any contributions to premium costs for medical or dental coverage under Article 45.

~~J.~~ **I.** ~~Effective March 1, 1993, t~~ The University established a plan, in accordance with and subject to applicable laws and regulations, pursuant to which bargaining unit members may annually make a voluntary election to have a specified amount withheld on a pre-tax basis from the first and last paycheck of each month to be used for reimbursement of eligible dependent care and health care expenses.

J. Domestic Partner Benefits.

1. Domestic Partners, opposite or same sex, of a bargaining unit member may be covered for all benefits in those instances where the partner is not eligible for or already covered by another employer. These benefits will include medical, dental, life, personal accident insurance and tuition remission at the same contribution level applicable to a spouse.

2. The benefit for domestic partners will be subject to IRS rules and regulations.
Elements and conditions of the benefit are:

a. To cover a domestic partner the following conditions must be met:
   - i. Share a permanent residence (unless residing in different cities, states, or countries on a temporary basis).
   - ii. Are the sole domestic partner of each, having been in the relationship for at least six (6) months, and intending to remain in the relationship indefinitely.
   - iii. Are not currently married to or legally separated from another person under either statutory or common law.
   - iv. Are responsible for each other's welfare.
   - v. Are not related by blood to a degree that would bar marriage in the state of Ohio.
   - vi. Are financially interdependent on each other verified by documentation of at least (3) of the following:
     - a. Joint ownership of real estate property or joint tenancy on a residential lease.
     - b. Joint ownership of an automobile.
     - c. Joint bank or credit account.
     - d. A will designating the domestic partner as the primary beneficiary.
     - e. A retirement plan or life insurance policy designating the domestic partner as the primary beneficiary.
     - f. A durable power of attorney signed to the effect that powers are granted to one another.

For the Employer: ______________________ ______________________

Date: ______________________

For the Union: ______________________ ______________________

Date ______________________

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...IC EMPLOYMENT
RELATIONS BOARD

2009 FEB 23 P 1:45

February 20, 2009

Michael DeLuke
AFSCME Ohio Council 8
1145 Massillon Road
Akron, Ohio 44306-4161

Seth P. Briskin
Meyers Roman Friedberg & Lewis
Eton Tower
28601 Chagrin Boulevard, Suite 500
Cleveland, Ohio 44122

Re: AFSCME Ohio Council 8, Local 153 and Kent State University
SERB Case No. 08-MED-06-0697

Dear Mr. DeLuke and Mr. Briskin:

Earlier today, I faxed my fact-finding report in the above matter to each of you. Enclosed you will find a complete report and signed signature page along my invoice. Please let me know if you have any questions about the award or my invoice.

It was a pleasure working with you. I hope to have the chance to work with you again.

Very truly yours,

Daniel G. Zeiser

Enc.

Cc. SERB