

**OHIO STATE EMPLOYMENT RELATIONS BOARD
IN THE MATTER OF THE FACT FINDING BETWEEN**

**PROFESSIONALS GUILD OF OHIO
(UNION)**

And

**AURORA ACADEMY
(EMPLOYER)**

SERB Case No:	2014-MED-03-0430
DATE OF HEARING:	September 11, 2014
DATE OF REPORT:	September 30, 2014

FACT FINDER'S REPORT AND RECOMMENDATIONS

Union Representatives:

Chauncey Mason, PGO Executive Director
Paul Henry, PGO Field Representative
Kimberlie Todd, Aurora Academy Union President

Employer Representatives:

Amy Goodson, Attorney for School Board
Cindy Wilson, Executive Director
Patrick Paule, Employee Benefits Broker

**Earlene R. Baggett-Hayes
Fact Finder**

INTRODUCTION

The undersigned was duly appointed by SERB by letter dated August 13, 2014, to serve as Fact Finder in the matter of the PROFESSIONALS GUILD OF OHIO (hereinafter referred to as “Union”) and AURORA ACADEMY (“Employer”) pursuant to OAC 4117-9-5(D). The parties agreed to extend the date for the Fact Finding hearing until September 11, 2014, and the deadline for the Fact Finder’s Report until September 30, 2014. Hearing was held at 7111 Adams, County Training Center, in Toledo, Ohio. The Union was represented by Chauncey Mason, Executive Director, and the Employer was represented by Amy Goodson, Attorney for the Aurora School Board. The parties engaged in Mediation for the entire session as both the joint and separate meetings reflected progress toward resolution. At the conclusion of Mediation, however, the parties had not reached an agreement. The parties stipulated and encouraged the Fact Finder, based on their belief that the Fact Finder had satisfactorily gained adequate knowledge of the issues and their respective positions, to render recommendations based on information received through their communications, and the documents submitted by each side. The Union had previously tendered documents and the Employer asked that it be allowed to submit post mediation documents by Tuesday, September 16, 2014. Both sides agreed.

Because the Mediation session was introduced as a confidential process, the Fact Finder will not divulge the dynamics that occurred, or the information disclosed, during this process. Rather, the Fact Finder relies upon the documents tendered by the parties (which bears some overlap of the Mediation session) in finalizing her recommendations.

FACTUAL BACKGROUND

The Employer, the Board of Directors of Aurora Academy, and the Professionals Guild of Ohio (a bargaining unit consisting of approximately 14 members, which are all of the full-time and regular part-time teaching and non-teaching employees but excluding all management level, supervisory and confidential employees including the Director) are parties to a Collective Bargaining Agreement (CBA) which has a term of July 1, 2012, through June 30, 2015. On or about March 25, 2014, the Union issued a Notice to Negotiate with the School pursuant to the reopener provision of Article 31, Section 2 of the CBA, which is limited to wages and insurance.

The unresolved issues are as follows:

Article 26 - Insurance

Article 28 – Wages and Salaries

CRITERIA FOR THE FACT FINDER

Rule 4117-9-05 sets forth the criteria the fact finder is to consider in making recommendations:

1. Past collectively bargained agreements.
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 interest and welfare of the public, the ability of the employer to finance and administer the issues proposed, and the effect of the adjustments on the normal standards of service.
4. The lawful authority of the employer.
5. Any stipulation of the parties.
6. Any 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 private employment.

The above criteria are limited in their utility, given the lack of statutory direction in assigning relative weight to each. However, they provide the basis upon which this Fact Finder makes her recommendations.

ISSUES

ARTICLE 26. INSURANCE

Union Position

The Union in its pre-hearing brief proposed that the current contract language be retained. The Union acknowledged that the Paramount Option HMO 80/20 (250) is substantially similar to what the employees were previously provided, and proposed that the Employer offer this plan preserving the current contract language as follows:

ARTICLE 26. INSURANCE, SECTION 1

The Employer will provide health, dental, and vision insurance to all bargaining unit employees and their dependents. Such insurance and the selection of insurers shall be those agreed to by the parties. The Employer will pay eighty percent (80%) of the cost of health and fifty percent (50%) of the cost of dental and vision insurance.

In its post-hearing position statement, the Union modified its position and supports having the Employer pay ninety percent (90%) of the health insurance premium for Aurora Academy employees and seventy percent (70%) of the health insurance premium for all spouses/dependents of Aurora Academy employees. The Union proposed the following language:

SECTION 1.

The Employer will provide health, dental, and vision insurance to all bargaining unit employees and their dependents such insurance and the selections of insurers shall be those agreed to by the parties. The Employer will pay ~~eighty percent (80%)~~ **ninety percent (90%)** of the cost of health **insurance for bargaining unit employees and seventy percent (70%) of the cost of health insurance for a spouse/dependent placed on a bargaining unit employee's insurance plan (the employee will pay ten percent (10%) of the single coverage premium plus thirty**

percent (30%) of his/her spouse /dependents' coverage). The Employer will pay and fifty percent (50%) of the cost of dental and vision insurance.

Employer Position

The Employer proposed in its pre-hearing position statement the Paramount Option HMO 80/20 (250) plan and averred that the plan offers equivalent to or better coverage than the current plan. The Employer proposed that Article 26 Insurance, Section 1, read as follows:

The Employer will provide health, dental, and vision insurance to all bargaining unit employees and their dependents. Such insurance and the selection of insurer shall be those agreed to by the parties. The Employer will pay one hundred percent (100%) of the cost of employee health premiums and fifty percent (50%) of dependent/spouse health premiums. The Employer will pay fifty percent (50%) of the cost of dental and vision employee, dependent, and spouse premiums.

According to the Employer, this proposal would allow for more stability in budgeting and also reduce the cost of health insurance for the majority of the employees.

In its post-hearing position statement, the Employer proposes that Article 26 read as follows:

The Employer will provide health, dental, and vision insurance to all bargaining unit employees and their dependents. Such insurance and the selection of the insurer shall be those agreed to by the parties. The Employer will pay ninety percent (90%) of the cost of employee health premiums and sixty-five percent (65%) of dependent/spouse health premiums. The Employer will pay fifty percent (50%) of the cost of dental and vision employee, dependent, and spouse premiums.

Discussion

Although the parties were unable to resolve their issues during the Mediation session, it is clear that the exchange of information and ideas assisted in bringing the parties closer to a resolution. The parties agreed that the Employer would offer the Paramount Option HMO 80/20 (250) plan to the employees as it is substantially similar to the previous plan and will provide substantial savings to the Employer. The parties are also in agreement that enrollment is “up.” The fact finder notes that although the changes in the school’s net position are in the negative, the documents reflect that there has apparently been some movement in a positive direction, rather than showing a constant or steady decline.

There are apparently a number of cost savings measures as reflected in the materials that are intended to facilitate positive economic movement. A few of those alluded to are a marketing campaign, changes to the transportation service, changes in the managerial structure and relocation to a more cost-effective facility. These strategic moves are in addition to other financial benefits expected to derive from modification to the health insurance plan. The Employer’s submission clearly asserts that it is willing to reasonably share with the Union savings that are realized from the new health insurance plan. Likewise, staff vacancies, consolidation and/or reductions, as evidenced in the documents, may be among some other strategic avenues for availability of funds.

This Fact Finder recognizes the challenges inherent in reductions in revenue per pupil and the ever-present obligation to demonstrate financial viability to sponsors, et al. However a presentation of a worst case scenario may tend to severely handicap the potential recipients of any positive gain whatsoever.

Recommendation

The Fact Finder recommends implementation of the Employer's post hearing proposal in which the Employer pays ninety percent (90%) of the employee health care premium and the Employer pays sixty-five (65%) of the health care premium for dependents/spouse, with the Employer also paying 50% for dental and vision for employees, dependents and spouse premiums.

ARTICLE 28. WAGES AND SALARIES

Union Position

The Union in its pre-hearing position statement proposed to maintain the current language of this Article. According to the Union, with the current contract language, the bargaining unit members are eligible to receive step increases for the upcoming contract year. The Union proposed to maintain the current contracted language as follows:

SECTION 1

Employees shall be paid at the step rates provided in Appendix A or Appendix B, including appropriate step increases for returning employees. Aurora Academy will pay returning employees a \$200.00 bonus no later than the last pay of January of the first year of this contract.

SECTION 2.

If the school stays in Continuous Improvement or moves up based on August 2012 school reports, returning teachers will be given a \$250 bonus to be paid in the last pay in September 2012.

SECTION3.

Employees will be paid on the fifteenth and last days of the month, unless the Fiscal Agent changes this schedule. In such instance, Employees will be paid according to the new schedule.

SECTION 4.

Employees who do not work an entire year may have their base wages paid to them over a twelve (12) month period.

SECTION 5.

In preparing for reopeners on wages and insurance, the Employer will provide all financial records normally provided to the Employer's Board to the Union and will make available the Board's Treasurer to assist in understanding the Employer's fiscal situation.

The Union also proposed a three percent (3%) general increase to the salary schedules contained in its Appendix A and Appendix B and presented those changes in its submission.

In its post hearing position statement, the Union reiterates its position that Article 28 of the contract should remain as it is currently written and that if the current language is maintained, then eligible employees on the wage scale would be entitled to an annual step increase.

Also, in its post hearing statement, the Union altered its initial proposal from a three percent (3%) general wage increase to a one percent (1%) general wage increase.

Employer Position

The Employer in its pre-hearing position statement proposed either of two options for the Union:

Article 28. Wages and Salaries:

- a) No change to the current language of Article 28. This option allows the employee to receive a step increase on Appendix A and Appendix B Wage and Salary Schedule effective on the date of ratification and execution by the Union of a Reopener Agreement. No other increase or change.

OR

- b) A change to Section 1 of Article 28 which would provide no step increase, but instead a two percent (2%) general increase to Appendix A and Appendix B Wage and Salary Schedule effective on the date of ratification and execution by the Union of a Reopener Agreement.

In its post hearing position statement, the Employer's proposal mirrored that which was suggested in the pre-hearing position statement.

Discussion

It is clear that economic viability is the goal of all parties in this matter. We have both the Employer's need to reflect financial stability and the Union's plight to maintain membership security,

and job stability. The Union presented comparables that purportedly reflect minimum and maximum salary comparisons to other Toledo charter schools. Although the information does not specifically address classifications, job titles, length of service, or other more specific information, the Fact Finder notes that the minimum rate of pay at Aurora is lower than that of any of the other Charter Schools listed. On the other hand, the maximum pay rate appears to be more compliant. These comparables were uncontroverted; therefore, the fact finder is not inclined to dismiss them. Rather, they are instructive and bode in favor of the Union's request for a general wage increase.

Recommendation

The fact finder recommends maintaining the current language of Article 28. Wages and Salaries, thereby providing step increases, and also recommends providing a general wage increase of one percent (1%) effective on the date of ratification and execution by the Union of a Reopener Agreement. In making this recommendation, the Fact Finder has focused on both the interest and welfare of the parties and the impact this recommendation may have on the overall operation.

/s/ Earlene R. Baggett-Hayes

September 29, 2014
Pontiac, MI

Earlene R. Baggett-Hayes

CERTIFICATE OF SERVICE

The above Recommendation was electronically served upon the following persons on September 30, 2014 at approximately 1:00 p.m.

1. SERB Email: med@serb.state.oh.us ;
2. AmyGoodsonLaw@gmail.com;
3. Cmason@professionalsguild.org;
4. Paul Henry