

**STATE OF OHIO
STATE EMPLOYMENT RELATIONS BOARD**

IN THE MATTER OF :
THE FACT FINDING BETWEEN : **CASE NO. 2016-MED-10-1282**
 :
PROFESSIONALS GUILD OF OHIO :
 :
 : **FACT FINDING REPORT**
 : **Submitted by John F. Lenehan,**
 : **Fact Finder, April 28, 2017**
 : **(Via Email)**
Employee Organization,

and :
 :
 :
GUERNSEY COUNTY CHILDREN :
SERVICES BOARD :
 :
 :
Employer. :

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FINDING AND RECOMMENDATION

I BACKGROUND

On March 6, 2017, The State Employment Relations Board (SERB) appointed John F. Lenehan as the Fact Finder in the case of the Professional Guild of Ohio and the Guernsey County Children Services Board (Case No. 2016 –MED-10-1282). A Fact Finding Hearing was held on April 10, 2017 at the Guernsey County Children Services Agency located at 274 Highland Ave., Cambridge, Ohio 43725. The Professionals Guild of Ohio (“PGO”, “Union”, “Guild” or “Employee Organization”) was representative by Chauncey M. Mason, Executive Director, Professionals Guild of Ohio. The Guernsey County Children Services Board (“Employer”, “Board” or “Agency”) was represented by Sandy Conley, Account Manager, Clemans, Nelson and Associates, Inc.. Also, in attendance on behalf of the Union were: Kristine Myers, Caseworker/Union Vice President and Kim Feldner, FSS/ Union President. Also, in attendance on behalf of the Employer were: Nicole Caldwell, Executive Director of Guernsey County Children Services, and Bill Loader, Business Director of Guernsey County Children Services.

Although, the possibility of mediating and settling the outstanding issue(s) was discussed, the parties decided that it would be more productive to proceed with the hearing. At the conclusion of the hearing, the parties agreed that the Fact Finding Report would be issued via email to the parties’ representatives and SERB on April 28, 2017. The following report is the Finding and Recommendation of the Fact Finder.

A. Description of the Parties and Bargaining Units

The Union, the Professional Guild of Ohio has represented the non-professional employees of the Guernsey County Children Services Board since 1991, and the professional employees since 1997. The employees are in two separate bargaining units under one collective bargaining agreement (“CBA”). A description of the bargaining units and contractual relationship is set forth in Article 2, Union Recognition, Section 1.of the CBA, and in pertinent part reads as follows:

“Section 1. The Employer recognizes the Union as the sole and exclusive representative for those employees of the Employer in two (2) bargaining units. Wherever used in this

agreement, the term: bargaining unit” shall be deemed to include those individuals employed full-time or regular part-time as designated below:

Bargaining Unit A

Family Support Specialist I, Family Support Specialist II, Family Support Specialist III, Clerical Specialist (I-IV), and Account Clerk

Bargaining Unit B

Child Welfare Caseworker I, II, III, and IV “.

The non-professional bargaining unit (“Bargaining Unit A”) has approximately five (5) employees and the professional bargaining unit (“Bargaining Unit B”) has approximately fifteen (15) employees.

The Employer, the Guernsey County Children Services Board, is the agency under Ohio Law designated to provide protective and needed services to the children of Guernsey County and their families. According to the US Census Bureau, 2010 Census Demographic Profiles and 2015 Estimates, Guernsey County is one of the Appalachian counties of Ohio with a population of 40,087, and an average per capita income of \$21,564. The Ohio Department of Job and Family Services, as of February 2017, estimated the unemployment rate for the county at 7.9%. The rate for Ohio at the time was 5.9%. The Employer has estimated the average annual income for the bargaining units’ employees at \$34,009.16.

B. History of Bargaining

The current CBA, covering both units is in effect for the period January 1, 2016 through December 31, 2018, with a provision to reopen in October 2016 negotiations for wages in calendar years 2017 and 2018. For the calendar year 2016, the parties agreed to a 2.5% increase, which is included in the base hourly rates set forth in Appendix A of the current CBA.

The negotiations for wages in 2017 and 2018 under the current agreement were unsuccessful. The matter is now before the Fact Finder for a recommended resolution.

C. Unresolved Issues

The only issue or issues for consideration during this fact finding are Wages for both units under Article 32, Section 2 and the wage schedule in Appendix A of the CBA. Specifically,

what, if any, increase in wages or compensation should be granted for the calendar years 2017 and/or 2018 to the employees in both units under the CBA.

II CRITERIA

Pursuant to the Ohio Revised Code, Section 4117.14 (G) (7), and the Ohio Administrative Code, Section 4117-95-05 (J), the Fact Finder considered the following criteria in making the recommendations contained in this Report.

- 1) Past collectively bargained agreements between the parties;
- 2) Comparison of unresolved issues relative to the employees in the bargaining unit with those issues related to other public and private employers in comparable work, given consideration to factors peculiar to the area and the classifications involved;
- 3) The interest and welfare of the public, the ability of the public employer to finance and administer the issues proposed, and the effect on the normal standards of public service;
- 4) Lawful authority of the public employer;
- 5) Stipulations of the parties; and,
- 6) Such factors as not confined to those above which are normally and traditionally taken into consideration.

III ISSUE(S)

ARTICLE 32

WAGES AND BENEFITS

Section 2

Appendix A

Union's Position

The Union states in its Position Statement that there are two unresolved issues, both arising under Article 32-Wages and Benefits: wages for 2017; and, wages for 2018. As a resolution for wages in 2017, it proposes a three (3%) general increase effective January 1, 2017

and a new Appendix B reflecting the increase. For a resolution to wages in 2018, it proposes a reopener in 2017.

In the Union's view, a significant obstacle to reaching agreement is the dissonance between the Employer's claim of a lack of funds creating an inability to provide a reasonable wage increase and the funds actually available to provide a reasonable increase. According to the Union, the Employer appears to be attempting to punish workers for rejecting its offer of a lump sum payment in lieu of wage increases. Instead of using the money that would have been spent on lump sum payments to fund wage increases, the Board has proposed and insisted on no wage increase.

The Union further claims that the Employer has crafted a budget in support of catastrophic economic conditions in the near term. This claim it states is supported by its Exhibit 3, which compares the estimates for 2017 expenses with the actual expenses incurred in past years. The Union maintains that the budgeted expenses were and are inflated.

According to the Union, another credibility issue is raised from the Employer's projections in the 2016 budget, which were not close to the actual numbers realized in 2016. Union Exhibit 4 is a comparison of 2016 projected revenue and expenses with the actual revenue and expenses for that year. Since the difference is significant, it should raise doubts about the Employer's assumptions in its 2017 budget estimates. Union Exhibit 4 shows that the Employer underestimated revenue by close to one hundred thousand dollars (\$93,889.30) and overestimated expenses by more than Two hundred thousand dollars (287,818.92). Thus, the Union claims that despite the fact that the Employer is starting fiscal year 2017 with more than three hundred thousand dollars that it projected a year ago, it persists in its claim that it does not have the ability to provide a reasonable wage increase to its employees. This, the Union states is unacceptable.

The Union estimates that the cost of a one percent increase for bargaining unit employees is approximately \$15,000.00. In its opinion, the Employer can easily accommodate a three percent increase given its current finances. It also notes that several higher paid veteran bargaining unit employees have left the bargaining unit in 2016 and been replaced by employees that will be paid substantially less. Finally, it notes its surprise that the Agency' Director received a 13.8% salary increase in 2016. The Director's raise of approximately \$10,000.00 would fund almost a quarter of the cost of Union's proposal to provide a three percent (3%) raise for the entire bargaining unit.

The Union states in its Position Statement the following regarding funding for children services, the opioid epidemic, contracted services and adequate pay for children service workers.

“Funding for children services operations is paid by a separate county-wide children service levy; the agency is not paid out of the county’s general fund. The well-publicized opioid epidemic that has swept the country has had a profound adverse effect on families creating increased demand for children services assistance. This demand has increased the cost of the “contracted services” expenses that is directly correlated to the increase in the number of children requiring custodial care. In 2015 and 2016, the Board has sustained close to three hundred thousand dollar increases for contract services each year (\$315558.03 and \$270,190.41, respectively) compared to little increase in prior years. (Exhibit 3). State and local officials at every level have made the opioid epidemic a top priority. In the state, legislation has been introduced to decrease the supply; of these prescription drugs. In Guernsey County, the Board has stated its intention to put a levy on the ballot to increase revenues to off-set increased costs. Equally important at this time is the investment that should be made to adequately compensate the workers on the front lines confronting the increased stress and workload demands created by the epidemic.”

As a result of the aforementioned levy campaign, the Union dropped its initial proposal for a four percent wage increase January 1, 2018 to timelier gauge the Board’s financial condition and society’s ability to assuage the drug epidemic. It now proposes a 3% wage increase effective January 1, 2017 and a reopener on 2018 wages.

Employer’s Position

The Employer proposes to maintain the status quo for 2017 and to defer the wage reopener to November 2017, based upon rationale summarized on page 3 of its Prehearing Position Statement which in pertinent part reads:

“There is no dispute between the parties that the work performed by the bargaining unit staff is both difficult and important to the community. Early on in the reopener, the parties discussed a possible stipend (lump sum payment) for 2016 [sic]. However, as custody cases and resultant costs shot upward, and deficit spending not only continued but grew, it became apparent that the Agency is just not in a position to increase continuing personnel costs through wage improvements at this time. The hard reality is that the Children Services Board cannot responsibly, nor in good conscience, place itself in a position of having to go to the voters of Guernsey County (with an average annual income of approximately \$12,000.00 less than the average bargaining unit employee) to seek an additional levy, after having just granted a wage increase- all the while knowing that deficit spending was occurring and additional funding would be needed.”

In support of its position, the Employer submitted fifty-three (53) pages of exhibits in addition to the CBA and proposed contract language. The exhibits submitted by the Employer were divided into the following categories: Tab 1) Labor Costings; Tab 2) Wage Increase Data; Tab 3) Wage Comparison Data; Tab 4) Financial Data; Tab 5) Information Relative to Ohio's Opiate Epidemic/Crisis; Tab 6) Ohio Department of Job and Family Services-Unemployment Rates by County- February 2017; and Tab 7 Executive Director Salary Comparison.

Tab 1) Labor Costings, Employer Exhibits 1-A and 1-B indicates that the labor costs for a 1% increase in wages, including an 18% roll-up, would be \$14,786.04. Tab 2, Employer Exhibit A is a comparison of wage increases and stipends paid to the Guernsey County children Services Bargaining units to SERB's record of increases paid to other bargaining units in Southeast Ohio for the years from 2007 through 2016. Exhibit 2-B under Tab 2 is the Annual Wage Settlement Report for the period 2007-2016.

Tab 3, Employer Exhibit- A is a demographic profile of Guernsey County, based upon information obtained from the US Census Bureau 2010 Census Demographic Profiles and 2015 Estimates. Employer Exhibit-B under Tab 3 compares the hourly rates paid to Children Services Case Workers in ten counties in Southeast Ohio with those paid to caseworkers in Guernsey County. This exhibit indicates that Guernsey County Caseworkers (Bargaining Unit "B") are paid \$0.60 above the average hourly rate at the starting rate and \$0.04 below the average hourly rate at the maximum rate. Employer Exhibit-C under Tab 3 compares the hourly rate paid to clerical employees in ten (10) other Southeast Ohio counties with those paid to non-professional employees (Bargaining Unit "A") in Guernsey County Children Services. This, Exhibit C, indicates that Guernsey County clerical employees (Bargaining Unit "A") are paid \$0.28 above the average hourly rate at the starting rate and \$0.49 below the average hourly rate at the maximum rate.

The Financial Data under Tab 4 contains the Employer Exhibits 4- A through G. These exhibits present detailed information on the five year projection of revenues and available cash, placement costs, budget analysis, budget reports, and increased costs of foster care.

The four pages of information contained in Tab 5 of the Employer's exhibits give a detailed description of Ohio's Opiate Epidemic. According to the reports Guernsey County residents are among the highest users of prescription opioids in Ohio. Tab 6 contains current information on Ohio's unemployment rates, indicating that Guernsey County is in the upper quartile for high unemployment.

The Employer's final Exhibit set forth as Exhibit 7 is a comparison of the former Executive Director Salary with that of the current Executive Director. This exhibit reflects cost savings of \$58,358.27.

Finding and Opinion

Both the Union and the Employer have done a superb job in presenting their positions. Based upon the Position Statements, the evidence and arguments submitted at the hearing, and the criteria set forth for a fact finder in making a recommendation, the following has been established.

First the Opiate Epidemic in Ohio has resulted in the unanticipated expenditure of Agency resources and will continue to do so in the future. As a result, the Employer is required to seek additional revenue through the levy process in order to continue its purpose and legal obligation of providing protective services to the children and families of Guernsey County.

The opiate crisis is beyond the control of parties. The Agency is doing what it can to deal with it. A pay increase for the Director of the Agency or a modest increase for its employees will not change the fact that the Employer must seek additional revenue through a levy.

Second, the Employer has the ability to pay some increase for 2017 based upon reserves and cash balance. Both parties agree that the cost of a one percent (1 %) increase in the base wage rates would be approximately \$15,000.00. Based upon the exhibits, there is enough cash and reserves for 2017 to cover the cost of a three per cent (3%) increase (\$45,000.00).

Third, the three percent (3%) wage increase for 2017 as proposed by the Union is excessive. The evidence submitted establishes that the wages of both bargaining units are comparable to employees doing the same work in other counties of Southeast Ohio. In addition, the exhibits submitted into evidence establish that the settlements reported by SERB are averaging less than three percent (3%). Relevant settlements are averaging around two percent (2%) or less.

Fourth, wages for 2017 should be increased by one and a half percent (1 ½ %). Based upon the unique situation of the Opiate Epidemic and the need for additional revenue through a levy, a slight increase in wages can and should be justified. It is in the public interest that the Agency retains, fairly treat and reward competent staff, especially during the existing crisis. To do so under the circumstances requires employees to be competitively compensated. A one and a half (1 ½ %) base wages will help do this.

The Employer's claim that it could not in good conscience go to the voters earning less income than that paid to the bargaining unit employees who just received a wage increase has some merit. The same claim could be made regarding the pay increase for the Executive Director, which certainly was justified.

Both the Union's interest in acknowledging the value of Agency's employees and Employer interest and obligation to provide services can be met by granting a wage increase of one and half percent (1 ½ %) which is less than the average settlement throughout Ohio and comparable counties.

Fifth, there should be a reopener to negotiate for wages to be paid in 2018. Considering, the uncertainty for the availability of funds after 2018, setting wages for 2018 should be resolved by a reopener in October or November 2017.

Recommendation

Therefore, it is recommended that Article 32 – Wages and Benefits, Section 2 read as follows:

ARTICLE 32

WAGES AND BENEFITS

Section 1. * * *

Section 2. The wage schedule is exhibited in Appendix A **and Appendix B** of this agreement and is incorporated herein. The schedule exhibited in Appendix A represents a two and a half percent (2.5%) increase for calendar year 2016. **The wage schedule exhibited in Appendix B represents a one and a half percent (1.5%) increase for calendar year 2017.** The parties will reopen negotiation **of** wages in **2017** for calendar **year 2018**. Written notice of intent to reopen on the issue of wages shall be submitted in writing between October 1 and October 31, **2017**.

Section 3. * * *

Section 4. * * *

IV
CERTIFICATION

The fact finding report and recommendations are based on the evidence and testimony presented to me at a fact finding hearing conducted on April 10, 2017. Recommendations contained herein are developed in conformity to the criteria for a fact finding found in the Ohio Revised Code 4717(7) and in the associated administrative rules developed by SERB.

Respectfully submitted,

/s/ John F. Lenehan
John F. Lenehan
Fact Finder

April 28, 2017

V
PROOF OF SERVICE

This fact-finding report was electronically transmitted this 28th day of April 2017 to the persons named below.

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/s/ John F. Lenehan
John F. Lenehan
Fact Finder

April 28, 2017