

STATE EMPLOYMENT
RELATION'S BOARD
Nov 2 10 14 AM '00

IN THE MATTER OF FACT FINDING

BETWEEN

SUMMIT COUNTY CHILDREN SERVICES BOARD

AND

COMMUNICATION WORKERS OF AMERICA,
LOCAL 4546 AFL-CIO

BEFORE: Robert G. Stein, Factfinder

SERB CASE NO. 99 MED 12-1175

PRINCIPAL ADVOCATE (S) FOR THE UNION:

Larry Vuillemin, Esq.
Robin Schenault, President, Local 4546
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and

PRINCIPAL ADVOCATE (S) FOR THE EMPLOYER:

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INTRODUCTION

The Summit County Children's Services (hereinafter referred to as CSB) is a social service agency that provides a vital service to abused, neglected, and dependent children in Summit County, Ohio. The bargaining unit is a "deemed certified" unit that is comprised of several administrative and professional classifications.

The parties have a twenty (20) year bargaining relationship which has been at times a contentious one. In January of 2000, the parties entered into an Interest based bargaining process (hereinafter referred to as "IBB"). IBB is a process that places emphasis on the underlying interests of each party rather than the position taken by a party that is more common in traditional bargaining. The impetus for entering into this non-traditional process was an outgrowth of an unfair labor practice charge settlement reached under the jurisdiction of the State Employment Relations Board (SERB Case #99-ULP-04-0246). The parties experienced difficulties in resolving grievances during the life of the Agreement. It was hoped that the use of a non-traditional interest based negotiations process would provide a foundation for improving the bargaining relationship.

Bargaining (following initial orientation and training) began in February of 2000. The bargaining process was time consuming and included more than thirty-nine (39) bargaining sessions and twenty (20) subcommittee sessions. A tentative agreement was reached on all of the issues, and it was ratified by the Union. However; it was rejected by the CSB's Board of Trustees. The parties attempted to resolve the issues that that were objectionable to the CSB Board. However, they were unable to reach a compromise.

Whenever parties to negotiations bargain in good faith (as was the case in this matter) and reach a tentative agreement, the party who rejects the tentative agreement carries an extra burden. There is a presumption in good faith bargaining that the agents bargaining on behalf of each respective party reach agreement with a reasonable assurance that the tentative agreement will be acceptable to their respective governing authorities. Yet, there are no guarantees that tentative agreements will be accepted regardless of how earnest the bargaining teams are in their dealings. The reality of bargaining is that miscommunications may and do occur and sometimes a bargaining team misreads its constituency. It is of little use to fix blame when this occurs. It is far better to take the necessary steps to find a sensible way to conclude negotiations. By initiating fact finding, the parties are seeking a

reasonable conclusion to their tireless efforts and those of the SERB mediator, Doug Corwin.

The Employer objects to the tentative agreements reached on sixteen (16) issues. The remaining issues that were tentatively agreed upon during the interest based bargaining process are not contested by the Employer. The Factfinder includes those issues under the section of these recommendations labeled TENTATIVE AGREEMENTS.

This is an unusual and difficult fact finding in as much as it represents the application of a traditional fact finding process to the failure of a non-traditional interest-based negotiations process. When such an event occurs, the parties must understand that the Factfinder is acting under the direction of SERB and therefore must conform to the rules and regulations promulgated by SERB and as well as follow the statutory requirements contained in ORC 4117. Although Factfinders have a great deal of latitude, all recommendations made must be based upon the criteria contained in statutory law.

The Factfinder in this matter has the advantage of perspective, having been the mediator and factfinder in the previous round of bargaining. The high regard this Neutral has for the people on both sides of the bargaining table provides for a greater understanding of the issues as well as what the parties had experienced in their bargaining

relationship. The Factfinder is also familiar with the work of the Agency and the important place the Agency has in the community.

CRITERIA

OHIO REVISED CODE

In factfinding, the Ohio Revised Code, Section 4117.14 (G) (7) establishes the criteria to be considered for fact-finders. For the purposes of review, the criteria are as follows:

1. Past collective bargaining agreements
2. Comparisons of the 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 and the ability of the employer to finance and administer the issues proposed, the effect of the adjustments on the normal standard of public service;
4. The lawful authority of the 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 issues submitted to mutually-agreed upon dispute settlement procedures in the public service or in private employment.

These criteria are limited in their utility, given the lack of statutory direction in assigning each relative weight. Nevertheless, they provide the basis upon which the following decisions are made:

ISSUE 1 QPAC

Union's Position

See UPS (Union's Position Statement)

Evidence/Argument Summary

The Union argues that QPAC works and that the IBB process resulted in properly increasing QPAC's role in the Agency. The Union contends that its evidence demonstrates that the Executive Director attempted to eliminate QPAC as late as August of 2000.

Employer's Position

See EPS (Employer's Position Statement)

Evidence/Argument Summary

The Employer argues that QPAC is viewed as a valuable entity, but is inappropriate for it to be dictating the size of caseloads the Agency assigns to Case Workers. It argues that QPAC should remain as defined in current contract language.

Discussion

9 The undersigned Factfinder recommended the concept of QPAC in the prior round of bargaining. It is a principle borrowed from the teachings of the late W. Edwards Demming. The activities of a committee such as QPAC have become the cornerstone of the quality revolution that has taken place in the United States and throughout the world. Employee input into decision making is absolutely essential to the delivery of quality service. In order for QPAC to be effective it must be an integral part of how the Agency examines issues and provides the Board of Trustees with meaningful input.

However, it is also a fact that the responsibility for decisions rests with the body that is legally responsible for those decisions. That body is the CSB Board of Trustees. It would be inappropriate for QPAC to substitute its judgement for the Board and to make decisions without the approval of the Board. The proper function of quality improvement committees is to make recommendations. Committees do not have the overall perspective of an agency's activities or the legal responsibility for spending taxpayer dollars.

RECOMMENDATION

A QPAC shall be established as a permanent body, composed of representatives from the various departments of the Agency, to be established as an integral part of the Agency's collective bargaining agreement and an integral part of the Agency's quality control with or subordinate to the Board of Trustees.

B During the first quarter of 1990, QPAC shall present to the Board of Trustees a list of issues for consideration. The Board of Trustees shall provide a written response to each issue by the end of the first quarter of 1990. The Board of Trustees shall also provide a written response to each issue by the end of the first quarter of 1990. QPAC shall study and make recommendations. In addition, the Board of Trustees shall provide specific direction regarding the frequency and length of QPAC meetings.

C QPAC meetings shall be held during normal working hours and shall be considered a part of the normal duties, responsibilities, and functions of the Board of Trustees. QPAC members shall be considered employees of the Agency and shall be reimbursed for all expenses incurred.

ISSUE 2 TEMPORARY SOCIAL WORKERS

Union's Position

See UPS (Union's Position Statement)

Evidence/Argument Summary

The Union argues that the Employer has abused the use of temporary employees. It points to the fact that it had to file a grievance this year because eight (8) Social Workers have been working well beyond the contractual limits.

Employer's Position

See EPS (Employer's Position Statement)

Evidence/Argument Summary

The Employer argues that it needs the flexibility to use temporary Social Workers in an economy that has made it increasingly difficult to attract and retain valued employees. The Employer contends that its hands are contractually tied by a ninety-day per annum limitation.

Discussion

The Employer's advocate made a strong argument for this change. However, the use (or misuse) of temporary employees has been an intense source of conflict between the parties. The Union's concerns appear sincere, and the grievance it has filed serves to underscore its perception of the Employer's actions. This Factfinder does not have enough information to make a judgment on the past use of temporary social workers. There is insufficient evidence to justify a change at this time.

RECOMMENDATION

Memorandum on Grievance

ISSUE 3 DICTATION

Union's Position

See UPS (Union's Position Statement)

Evidence/Argument Summary

The Union argues that the tentative agreement reached on 9/20/00 should be honored.

Employer's Position

See EPS (Employer's Position Statement)

Evidence/Argument Summary

The Employer is willing to increase the dictation time in accordance with the tentative agreement reached on 9/20/00, but argues it must be with the approval (and not merely notification to) of the employee's supervisor.

Discussion

The parties obviously agree that dictation time should be increased under this provision. They only disagree on the aspect of a supervisor granting approval for the use of such time. The Employer's position in this matter does not seem unreasonable. It has the right and duty to supervise employees and is ultimately responsible for the product of their work. It is important, however, for a supervisor to avoid being arbitrary in his/her administration of this important function.

RECOMMENDATION

Change current language to read:

Section 206.2 The Employer and the Union recognize the need to keep Social Service dictation current in accordance with the Employer's policy. The Employer shall allow each Social Service employee ~~thirty-two (32)~~ hours per month during which the employee shall dictate or accomplish other record keeping responsibilities and defer other caseload

responsibilities. Effective ninety (90) days from the date of ratification of the Collective Bargaining Agreement, up to twelve (12) hours or the thirty-two (32) hours per month may be worked at home. Time worked at home must be taken in increments of a minimum of two (2) hours. The Social Service employee may advise the Switchboard Operator that he/she is not available to accept telephone calls for up to thirty-two (32) hours per month, subject to the approval of the Supervisor. Emergency situations will be referred to the employee's Supervisor. The Supervisor may interrupt the Social Worker in emergency situations; however, time required for such interruptions shall not be included for the purpose of this Section in the thirty-two (32) hours per month provided. The scheduling of such uninterrupted time shall be the responsibility of the supervisor. However, if the employee wishes to perform this work at home, he/she must receive approval of his/her supervisor. Permission to schedule such time shall not be unreasonably denied.

ISSUE 4 WORK SCHEDULES

Union's Position

See UPS (Union's Position Statement)

Evidence/Argument Summary

The Union points out that this proposal does not allow Social Workers to change their schedule "willy-nilly." It will be based upon client need. The Union argues that top level managers, including the Director of Social Services, all agreed that this provision was mutually beneficial.

Employer's Position

See EPS (Employer's Position Statement)

Evidence/Argument Summary

The Employer argues that there is no evidence to indicate that the present provision is not working. Furthermore, there is a need for the Employer to continue to control the amount of overtime used, asserts the Employer.

Discussion

An employer has a right to control overtime usage. This principle is well established in both the private and public sectors. The current language already provides Caseworkers with the ability to waive prior approval if they judge there is a need to work overtime. If a Caseworker uses overtime under the current language they must rely on their professional judgement that such overtime was necessary. It is not unreasonable for an employee who has this freedom to be accountable for the use of overtime.

RECOMMENDATION

[REDACTED]

ISSUE 5 OVERTIME

Employer's Statement

See EPS

Evidence/Argument Summary

The Employer argues that the language should be changed only to the extent contained in the settlement of grievance 94-108. The grievance settlement led to the payment of cash at time and one-half (1½) the regular hourly rate for work time that exceeds eighty (80) banked hours of compensatory time.

Union's Position

See UPS

Evidence/Argument Summary

The Union argues that the Employer's position does not provide any rationale for deviating from the tentative agreement reached. The Union contends that the Agency will save money on paid overtime by allowing

employees covered by this provision a choice of banking a very limited number of hours rather than receiving cash.

Discussion

The criterion of past collective bargaining incorporates a variety of mutual agreements including grievance settlements that change the Collective Bargaining Agreement. Therefore, it is consistent with statute to incorporate the changes in language brought about by the settlement of grievance 94-108. However, there is no compelling evidence to substantiate a further change at this time.

RECOMMENDATION

[REDACTED]

ISSUE 6 TRANSFERS/PROMOTIONS

Employer's position

See EPS

Evidence/Argument Summary

The Employer asserts that the changes it is seeking in this article are only one of three changes it sought during negotiations. The Employer argues that its proposal represents "simple commonsense." It contends that it is desirable to have a much broader group of candidates to choose from in a promotional situation. Selection for promotion is unlike a lateral transfer where candidates have already proven they possess the necessary skills to do the job.

Union's position

See UPS

Evidence/Argument Summary

The Union argues that the Employer offers no compelling reason to change the T/A reached during negotiations.

Discussion

Common sense is one thing and evidence supporting a change in a labor agreement is another. While I agree that a promotion and a lateral transfer present very different situations, there was no evidence to suggest that what the parties have lived with for years needs to be fixed at this time. Seniority is a principle issue with unions and there needs to be a compelling reason for a factfinder to bring about a dismantling of what the parties have taken years to build.

RECOMMENDATION

Model and subject's language

ISSUE 7 TRANSITION

Union's position

See UPS

Evidence/Argument Summary

The Union's proposal in this area is the tentative agreement. The Union argues that the Employer's proposed language does not provide for exceptions in emergency situations. The employee cannot be expected to complete all tasks if he/she is given new assignments under the "emergency" exception proposed by the Employer.

Employer's position

See EPS

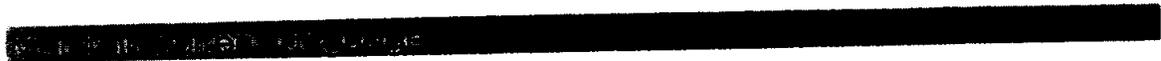
Evidence/Argument Summary

The Employer argues that its proposal enhances the existing Collective Bargaining Agreement. The Employer contends that the language simply provides clear direction on what must happen prior to a transition, offers protection from being assigned additional cases, and levies a penalty against those employees who neglect to keep up with the agreed-upon transition plans.

Discussion

Once again I find no compelling reason to undo a provision the parties have worked hard to develop. The parties provided conflicting information as to whether the Union's position is current language or the tentative agreement. Nevertheless, on the basis of the criteria contained in the law, I find more of a reason to maintain the current language than I do to change it.

RECOMMENDATION



ISSUE 8 CORRECTIVE ACTION

Union's position

See UPS

Evidence/Argument Summary

The Union is seeking to ensure more due process in this provision by adding the concept of a peer disciplinary panel.

Employer's position

See EPS

Evidence/Argument Summary

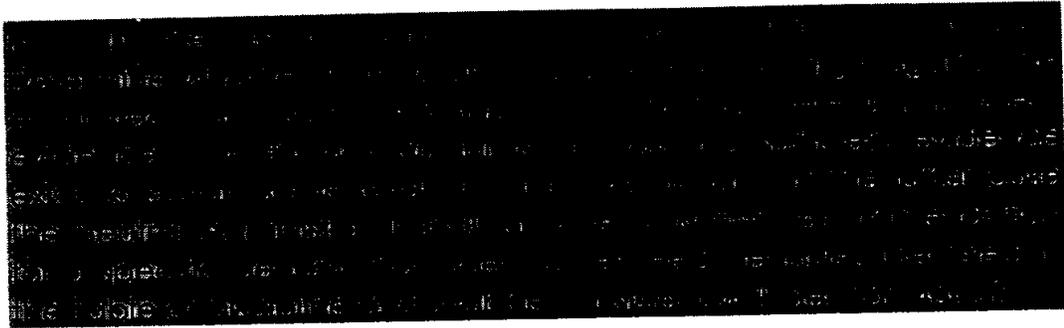
The Employer argues that even though its bargaining team agreed to such a concept that it makes very little sense for union members to be in a position to judge and punish other union members.

Discussion

Shifting from a traditional corrective action process to a panel of peers is a very significant change. It is also one that is fraught with danger. It takes arbitrators years of experience and training in order to properly determine if a finding of just cause for discipline exists. Putting peers in such a position is a difficult matter. Such a change also has the potential of pitting the Union against its own members. For example, what happens

against him/her, including the right to question witnesses for or against him/her.

C. A written explanation of the neutral Administrator's recommendation and the reasons for it shall be issued to the employee and the Executive Director within fourteen (14) days of said hearing.



E. In cases where the Supervisor's recommended suspension or dismissal is agreed upon by the Executive Director, or in his absence a designated representative, shall meet with the employee and his/her representative to issue the Corrective Action Order, in writing, within five (5) days of the receipt of the Hearing Officer's recommendation. Said Corrective Action Order shall include the specific time period for suspension or the effective date of dismissal, if applicable.

Section 404.07 Supervisor's Record of Instruction and Cautioning, written warnings and written reprimands are subject to appeal through the Grievance Procedure, including third party adjudication, as provided herein. All suspensions and removals are subject to appeal through Grievance Procedure, including third party adjudication, and such grievance shall be initiated at Step 3 of the Grievance Procedure.

ISSUE 9 GRIEVANCES

Union's position

See UPS

Evidence/Argument

The Union resents the Employer's implication that it has not pursued grievances. The Union vigorously asserts it has repeatedly attempted to work with the Agency to avoid or settle grievances. The Union is seeking a quid pro quo to its failure to process a grievance in a timely fashion. In such a case it loses the grievance and the Employer ought to face a similar penalty, argues the Union.

Employer's position

See EPS

Evidence/Argument

The Employer contends that placing a penalty of having to grant the relief requested places the Employer in a very vulnerable position. It first argues there is no comparable social service agency that has such a provision. Secondly, the Employer argues that with final and binding arbitration as a last step such a penalty is "completely unnecessary."

Discussion

The traditional quid pro quo for an Employer failing to timely process a grievance is for the Union to have automatic appeal rights. If a case is appealed to arbitration and the Employer attempts to raise arguments (e.g. timeliness) that were not raised because it chose not to answer a grievance, it risks being precluded from using this defense during the arbitration hearing. In addition, most arbitrators are not going to look favorably upon an employer who blatantly refuses to process grievances. The Union also has the outlet of filing a ULP if the Employer is ignoring its obligations under the grievance procedure.

This Factfinder, having known the parties for years, recognizes that there exists a large problem with backlogged grievances that may be better handled through an alternative procedure. Many employers including the entire state of Ohio, have utilized alternative dispute resolution procedures successfully. The undersigned Factfinder has been a part of these innovative approaches at the state and local level for some nine years. For example, Northwestern University Law School has gathered data for decades that demonstrate an 80% plus resolution rate when grievances are submitted to grievance mediation.

In addition to arbitration, the state of Ohio uses a combination of grievance mediation, expedited arbitration and non traditional arbitration (small claims court model) to resolve grievances. In these models the

employer and the union agree on which format best fits the content of the grievance in order to prevent a large backlog of grievances. Other nearby employers, such as Akron City Schools, Cuyahoga Falls, and the City of Canton regularly use the alternative dispute resolution processes. On a national level well-known companies such as United Airlines and American Airlines use grievance mediation to resolve grievances. The undersigned Factfinder has been involved frequently in the training of representatives from these and other large organizations that use alternative approaches to resolving disputes. Having viable alternatives to resolving disputes can help an organization and its union(s) learn how to resolve disputes more creatively.

RECOMMENDATION

Modify current language as follows:

Section 504.05 If the Employer fails to (a) meet with the Grievant within the timelines qualified in Section 504.07, or (b) to provide the Grievant with a response within the timelines specified in Section 504.07, then the Grievant may appeal to the next Step within seven (7) days. Any grievance not advanced from one Step to the next Step by the employee within the time limits of the Step shall be considered dropped by the employee at that Step. If, at any Step of the Procedure, the aggrieved employee, his/her representative, or the appropriate Employer representative should not be able to be present because of approved leave, time limits must be waived to allow the above parties to be present.

* * *

Formal Steps:

Step 1: An employee having a grievance shall submit the grievance in writing to the employee's Supervisor and his/her Supervisor. The grievance shall be signed by the employee and Steward. The appropriate Supervisor shall sign the grievance upon receipt. The supervisor and his/her Supervisor shall meet with the employee and Steward within five (5) days after the grievance is submitted in an attempt to resolve the grievance. The Supervisor's Supervisor shall submit an answer, in writing, to the employee and Steward within five (5) days after such meeting. A Union Steward having an individual grievance may ask any Steward or Union Officer to assist in adjusting the grievance with his/her Supervisor. No formal written grievance will be considered later than ten (10) days after the oral decision of the Supervisor. The Union shall

provide the Personnel Director with one (1) courtesy copy of each formal grievance filed.

Step 2: If the grievance is not satisfactorily settled at Step 1, the employee may file the grievance within seven (7) days after receipt by the employee of the Step 1 answer with the appropriate next level of supervision. The grievance shall be signed by the employee, Union Steward, and the next level of supervision upon receipt. The next level of supervision shall meet with the employee and Steward together with the employee's Supervisor and his/her Supervisor to review and attempt to settle the grievance within seven (7) days after the grievance has been filed. The next level of supervision and/or the Division Director shall provide a written answer to the employee, the Steward, and the Personnel Director within seven (7) days after the Step 2 Meeting. If the next level of supervision is the Executive Director, Step 2 shall be omitted and the grievance shall be filed at Step 3.

Step 3: If the grievance is not satisfactorily settled at Step 2, the Union may appeal to the Personnel Director in writing within seven (7) days after receipt of the Step 2 answer. Where Section 404.07 is used, the employee may file the grievance at Step 3 within ten (10) days after the last effective date of suspension, or in the case of dismissal, within ten (10) days of receipt of the Corrective Action Order. The Personnel Director and the Executive Director or designee shall, within fourteen (14) days of receipt of the appeal, meet with the aggrieved employee, Steward, and any witnesses necessary to arrive at a resolution. The Executive Director shall render his/her decision in writing within fourteen (14) days subsequent to such meeting. In addition to the employee-grievant and the Steward, the employee-grievant may choose a non-employee representative of the Union or the Chief Steward to attend this meeting under Step 3.

Section 404.07 (b) (1) (i) If the grievance is not satisfactorily settled at Step 2, the Union may appeal to the Personnel Director in writing within seven (7) days after receipt of the Step 2 answer. Where Section 404.07 is used, the employee may file the grievance at Step 3 within ten (10) days after the last effective date of suspension, or in the case of dismissal, within ten (10) days of receipt of the Corrective Action Order. The Personnel Director and the Executive Director or designee shall, within fourteen (14) days of receipt of the appeal, meet with the aggrieved employee, Steward, and any witnesses necessary to arrive at a resolution. The Executive Director shall render his/her decision in writing within fourteen (14) days subsequent to such meeting. In addition to the employee-grievant and the Steward, the employee-grievant may choose a non-employee representative of the Union or the Chief Steward to attend this meeting under Step 3.

settlements shall be in writing and shall be non-precedent setting, unless otherwise agreed to by the parties.

- C. The parties may also elect to have the mediator/arbitrator hear a grievance and render a bench award that would be non-precedent setting, yet binding upon the parties regarding a specific grievance. Disciplines and minor disputes over benefits are often appropriate for such a format.
- D. Grievances that are not mutually agreed upon to be submitted to ADR are considered automatically appealed step 4. Grievances that remain unresolved following Step 3B shall either be moved to step 4 within seven (7) days following the ADR day or withdrawn. If a grievance is not settled one of the duties of the mediator/arbitrator is to provide the parties with expert advice on how the grievance would fare in arbitration. Advice provided by an experienced arbitrator can be of great value in helping the parties assess the strength of their case and whether to proceed with an unresolved grievance.
- E. The parties shall mutually select a mediator/arbitrator to preside over an ADR day. The cost of the mediator/arbitrator, not to exceed \$800.00 dollars for a one day session, shall be shared equally by the parties.

Step 4: If the grievance is not satisfactorily resolved at Step 3, it may be submitted to Arbitration upon request of the Union or the Employer in accordance with Section 504.08 of this Article.

ISSUE 10 PERSONAL LEAVE

Union's position

See UPS

Evidence/Argument Summary

The Union points out that the true intent of the TA was for employees to provide notification to their supervisors and when possible such notification shall be in advance.

Employer's position

See EPS

Evidence/Argument Summary

The Employer states the Union is simply attempting to gain more control from management in this area. The Employer argues there is no proof or reason for a change in this language.

Discussion

It appears the parties have little disagreement over this issue. However, the wording of the TA needs to be adjusted to reflect the true intent of the parties as expressed in the evidence presented at the hearing.

RECOMMENDATION

Modify the current language as follows:

Section 601.01 Personal Leave

- A. All full-time Bargaining Unit employees who have completed their initial hire probationary period shall be credited with sixteen (16) hours of Personal Leave per year. Such leave shall be credited during the initial pay period of each calendar year. Newly hired employees completing their probationary period after June 30 of each year shall be credited with eight (8) hours of Personal Leave during the first pay period after completion of probation. Employees who are on probation during the initial pay period of each calendar year and [REDACTED] complete their probationary period before June 30 of each year shall be credited with sixteen (16) hours of Personal Leave during the first pay period after completion of probation.
- B. Personal Leave [REDACTED] are non-cumulative and must be taken during the calendar year credited upon advance [REDACTED] the immediate Supervisor.
- C. Personal Leave shall not be used to extend a date of resignation or retirement, nor for the purpose of extending an employee's active pay status or accruing overtime or compensatory time.

ISSUE 11 INTERMITTENT EMPLOYEE VACATION ACCRUAL

Union's position

See UPS

Evidence/Argument Summary

The Union argues it is not attempting to "cherry pick" over this issue. It also points out that the lower tier (from 25 to 22 years) was not negotiated in exchange for the resolution of a grievance. The Union does not appear to be in great opposition to the TA.

Employer's position

See EPS

Evidence/Argument

The Employer once again accuses the Union of "cherry picking." It argues the Union received a reduced tier for vacation eligibility in the tentative agreement and now wants to make gains on the intermittent issue. The Employer, who does not oppose the reduction of the tier, argues its new proposal makes sense because it protects existing staff through a grandfather clause.

Discussion

There is no compelling evidence to add to what the parties have accomplished in bargaining. They reached tentative agreement without the changes being proposed and there is no disagreement over the most significant change, the reduction of the tier from 25 to 22 years

RECOMMENDATION

[REDACTED]

ISSUE 12 BEREAVEMENT LEAVE

Union's position

See UPS

Evidence/Argument Summary

The Union contends the Agency's opposition to this issue is misplaced. During the past six (6) years an average of 30.5 employees out of a total of 423 used bereavement leave, contends the Union.

Employer's position

See EPS

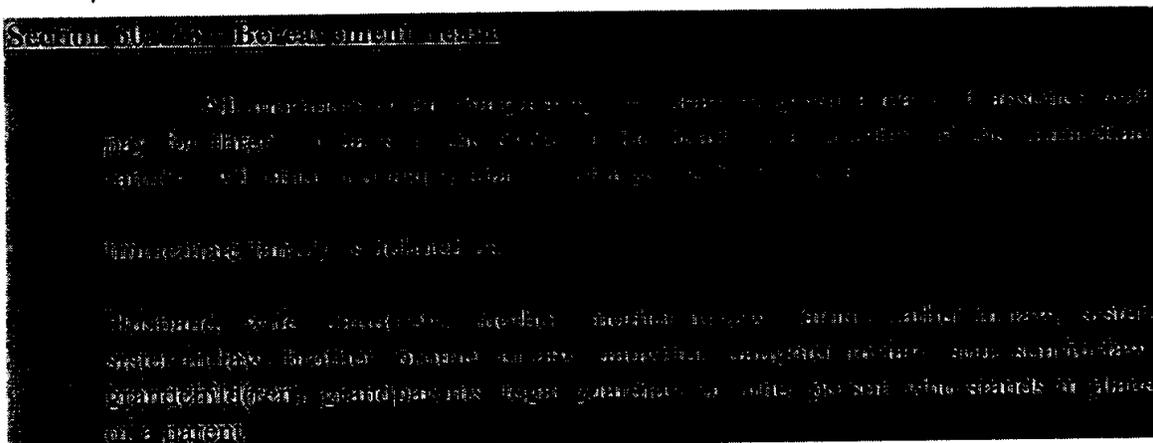
Evidence/Argument

The Employer disagrees with the Union's characterization that bereavement leave is a minor issue. It contends employees take off a significant amount of time each year. In addition, the Employer contends that there is no evidence that the current language is not adequate.

Discussion

The chance that an employee will have the unfortunate need to take bereavement leave twice in the same year is remote. However, it is conceivable that an individual employee may unfortunately have such a need. Most public employers provide for bereavement leave that mirrors what is contained in the Agreement and it normally does not place a limitation on how often it can be used.

RECOMMENDATION



ISSUE 13 CONTINUING EDUCATION FLEX-TIME

Union's position

See UPS

Evidence/Argument

The Union contends the TA was reached in this matter as a result of encouragement from the Agency. The Union points out that the Agency's argument is not supported by the requirements of the provision. It states that an employee is required to make up flextime the same day. In addition, there is a four (4) hour limit per week on the use of such time, asserts the Union.

Employer's position

See EPS

Evidence/Argument

The Employer argues that this proposal is not supported by comparable data. The Employer admits the benefit is unique to the Agency, but it asserts that it must maintain control over such a provision. The main concern expressed by the Employer is the ability to maintain adequate staffing, particularly in smaller units.

Discussion

Being familiar with the work and philosophy of the Agency, it is clear that it values continuing education of its workforce. This provision is evidence of the commitment of the parties to provide employees with the opportunity to advance themselves academically. This is particularly difficult to do when balancing the needs of a family with a job that demands a great deal of time, effort, and commitment.

However, the Employer's argument regarding staffing is well taken when the welfare of those the agency serves is put into the equation. Smaller units of employees may be impacted more severely by the absence of more than one employee at the same time. It also may be difficult for a relatively new employee to successfully manage in a situation where they may be the only employee who is left in the supervisory unit. However, the cap on the overall number of employees who can take advantage of

the program does not appear to be consistent with the purpose of this provision, particularly if the Employer maintains control on a unit by unit basis.

RECOMMENDATION

Modify current language as follows:

Section 601.15—Continuing Education FlexTime

Where operational needs permit, all full-time employees in the Bargaining Unit [REDACTED] shall be permitted up to four (4) hours per week (during the regularly scheduled work day) to take the university courses for academic credit.

Eligible employees requesting approval for Continuing Education FlexTime shall meet the following criteria:

1. The employee shall have [REDACTED] a satisfactory rating or been approved to receive a merit increase at his/her most recent salary review date.
2. The employee shall obtain approval that the desired class work is applicable to the employee's current job duties or in preparation for another position within the Agency.
3. The employee shall document that the class desired is not available at a time outside the regularly scheduled workday for the semester desired.
4. The employee shall make up hours missed from the regularly scheduled workday on the same workday any educational flextime is taken.
5. Educational flextime shall be separate and distinct from compensatory time, and will not directly or indirectly add to the accrual of compensatory time.
6. The employee shall submit a request for approval (on a form to be provided by Management) at least one (1) month prior to the registration deadline for the course work.
7. Selection of employees who have applied for Continuing Education FlexTime shall be based on Agency seniority.

[REDACTED]

9. In the event of an emergency, Continuing Education FlexTime changes may be canceled by the Supervisor for the duration of the emergency.

ISSUE 14 WAGES

Union's position

See UPS

Evidence/Argument Summary

The Union reasserts the validity of the TA. It argues that the Employer is simply seeking to get a better deal out of fact finding than it got from the bargaining process. It rejects the notion that clerical employees are grossly overcompensated. It argues that comparable data demonstrate that CSB clerical employees have average wages when compared to other public sector units in Ohio.

Employer's position

See EPS

Evidence/Argument

The Employer strongly asserts that there is a disparity in the overall compensation for clerical workers versus the pay rates for Caseworkers and Social Workers. The Employer points to SERB data that it interprets to demonstrate just how far ahead CSB clerical and technical employees are when compared to other like employees in Summit County. In its argument it cites several examples of differences in pay citing \$5,000 to \$7,000 differences in pay.

In contrast, the Employer points out that the field of social work represents a very different problem for the Agency. The Employer argues that there is a great amount of turnover in social service agencies and there is a general shortage of people who want to go into the field of social work.

Discussion

Wages are always difficult to deal with in the sense that few employees feel they are adequately compensated for what they do. Compounding

this situation is the undercurrent of the economy. A full employment economy has many blessings, but it also has some downsides. If college graduates in the high tech, accounting and engineering fields can command starting salaries in the \$40,000 to \$60,000 range, the reality is that fewer and fewer college students will be majoring in social work. At the same time the demand for social workers goes unabated and arguably increases in an ever-complex society.

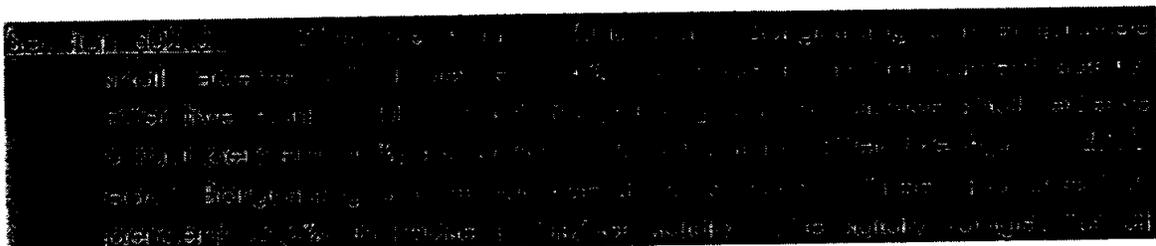
The data the Employer provides in this regard is convincing. The economic realities of supply and demand drive salaries and prices alike. I do not agree that clerical workers in the Agency are 'living on easy street' regarding compensation. It is one thing to say there is a need to place an emphasis on social worker positions and quite another to do it in a way that appears to demean or undervalue the work that "non social workers" perform. Two-tiered wage offers are extremely divisive in bargaining units with mixed classifications.

However, the Employer makes a convincing argument that the Agency must do more to recruit and retain social workers. Given the nature and conduct of the negotiations that led to the impasse, it seems imprudent at this point in time to introduce disparate wage offers, particularly when a foundation for such an unusual approach has not been properly laid. Nevertheless, if the Agency and the Union do not take dramatic (and unselfish) steps to recognize the economic realities of the market place the mission of the Agency will be seriously impacted. The parties must find a way to provide more attractive compensation for classifications of employees who are in short supply (See Issue 15 Recommendations).

According to the data presented to the Factfinder an across-the-board salary increase of 11.5% over three years accomplishes two things. It represents a competitive increase when compared to other public sector entities (See SERB data) and its affordable range when all other economic gains are taken into consideration(See Employer data).

RECOMMENDATION

Modify current language as follows:



Bargaining Unit positions have been increased by four percent (4%) effective April 1, 2000, and will be increased by four percent (4%) on April 1, 2001, and by three and one-half percent (3.5%) on April 1, 2002.

Recruitment and Retention Adjustment

If the Agency determines it must adjust compensation rates or make other structural wage adjustments for particular classifications based upon the need to recruit or retain employees, it may, at its initiative, reopen negotiations with the Union during the life of the Agreement. This is a provision that can only be triggered by the Employer. Therefore discussions of wage adjustments shall be limited to those classifications identified by the Employer.

ISSUE 15 STEP INCREASES/LONGEVITY

Union's position

See UPS

Evidence/Argument

The Union contends that the Employer in the TA agreed to reinstate step increases in order to address staff turnover, existing wage disparities, and to provide a mechanism to recognize experience with the Agency. The Union does not agree that in the 1994-97 negotiations it exchanged merit increases for a "better than average" salary increase. Merit increases have been either frozen or non-existent for years, argues the Union. The Union asserts that the loss of a mechanism to move through a pay range has resulted in chaotic salaries and significant wage disparities throughout the bargaining unit. It points out that employees with many years of experience are being paid the same or even less than new hires.

Employer's position

See EPS

Evidence/Argument

The Employer takes the position that step increases were mutually negotiated away some six (6) years ago and there is no compelling reason they should be reinstated. It contends that the Agency effectively

purchased in negotiations the right to move from steps to a non-step salary structure and paid for this change with an enhanced wage offer and an improved longevity structure.

Discussion

This is one of the most difficult issues for this Factfinder to evaluate. The Union continues to seek to reinstate salary steps, as a way to resolve what appears to be perceived inequities in pay. Too little is known from this fact-finding process to adequately assess whether the current compensation system is flawed. There is also insufficient information to properly determine whether a proposal to simply add steps to the current salary structure is the answer. I can understand how an employee who has been in a position for several years resents the fact that a relatively new employee, with little or no experience earns the same income.

When one examines the literature on decision making, two factors appear to correlate highly with sound decision making: experience and knowledge. Arguably, these two things come with working in a field for a number of years, providing an employee learns from his/her experience. Some employees benefit more from their experience than do others. It is the experience of this Factfinder that there are no perfect (or even near perfect) compensation systems. There are simply ones that are more adequate than others. Nevertheless, improvement is always an option and if a pay system (as the Union argues) undermines the mission of an organization it should be carefully examined.

Longevity

The evidence reveals that the current longevity system, which was improved during the last round of bargaining needs to be addressed. There is insufficient evidence to change the long-standing practice of paying it in a lump sum outside of wages. However, the relative value of the lump sum has been diminished by inflation. A \$225 payment in 1997 is worth less in today's dollars. The most reasonable benchmark for updating the value of the longevity payment is what the parties have agreed to in wages. Therefore, it appears rational to combine the wage rates increases for the past three years (10.5%) with the wage increases (11.5%) for the next three years. This is intended to be a straightforward method to update the value of the longevity payment (allowing for the application of progressive wage increases and rounding) for the life of the Agreement. In order to minimize administrative paperwork it is recommended that such a change be made only once.

RECOMMENDATION ON STEPS

However, the following Memorandum of Understanding shall be attached to the new Agreement. Unlike a health care committee, compensation committees more appropriately should remain under the jurisdiction of the Employer. The Employer is responsible for the compensation systems for all employees (union and non-union) and by providing input (as opposed to having control), the Union is better able to maintain its objectivity when it comes to future bargaining. It can maintain the ability to criticize as well as accept the Committee's findings. The Committee's force and effect shall expire at the end of the Agreement:

COMPENSATION REVIEW COMMITTEE

The Compensation Review Committee shall be composed of the Personnel Director and three representatives of the Bargaining Unit. The Personnel Director shall be the chairperson. The Committee shall have the following duties:

1. To review and recommend compensation levels for all employees of the Employer.

2. To review and recommend the Employer's compensation policy.

3. To review and recommend the Employer's compensation structure.

4. To review and recommend the Employer's compensation system.

5. To review and recommend the Employer's compensation plan.

6. To review and recommend the Employer's compensation program.

7. To review and recommend the Employer's compensation strategy.

8. To review and recommend the Employer's compensation approach.

9. To review and recommend the Employer's compensation philosophy.

10. To review and recommend the Employer's compensation objectives.

11. To review and recommend the Employer's compensation goals.

12. To review and recommend the Employer's compensation standards.

13. To review and recommend the Employer's compensation benchmarks.

14. To review and recommend the Employer's compensation comparators.

15. To review and recommend the Employer's compensation surveyors.

16. To review and recommend the Employer's compensation data.

17. To review and recommend the Employer's compensation analysis.

18. To review and recommend the Employer's compensation report.

19. To review and recommend the Employer's compensation presentation.

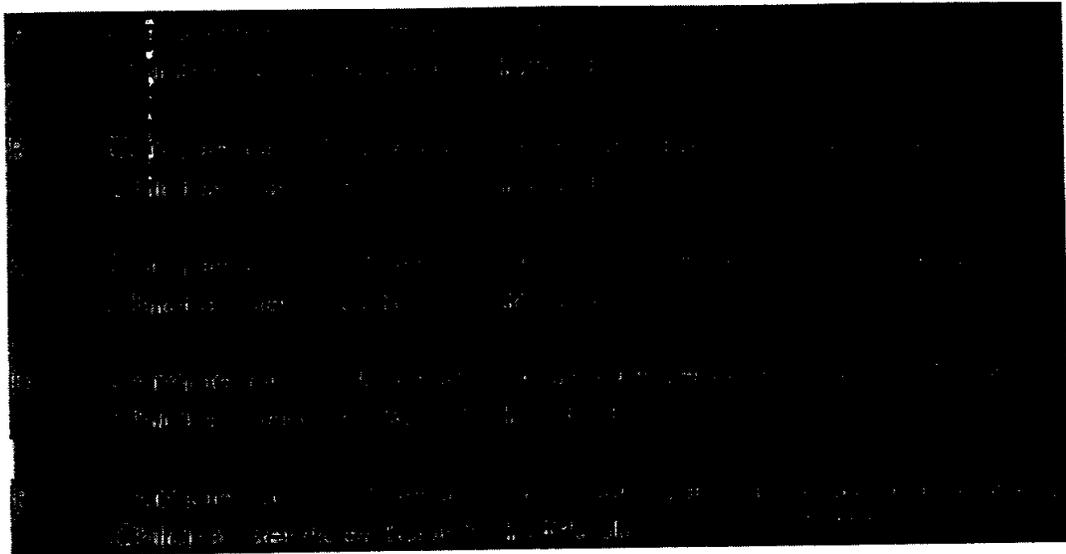
20. To review and recommend the Employer's compensation communication.

RECOMMENDATION ON LONGEVITY

The current longevity provision shall be modified as follows:

All part-time and full-time Bargaining Unit employees shall, on the appropriate anniversary date, receive a service bonus. The bonus

amount will not be included in the employees' base rates of pay. The bonus will be paid on a one-time basis according to the following schedule:



ISSUE HEALTHCARE

Union's position

See UPS

Evidence/Argument

The Union points to the TA and argues that a cap is necessary given the questionable decisions of the Employer regarding the provider of insurance.

Employer's position

See EPS

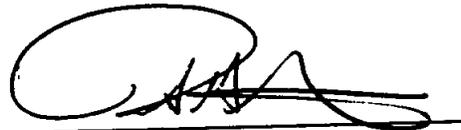
Evidence/Argument

The Employer argues that the rapidly rising cost of healthcare needs to be addressed and to cap the employee's contribution is moving in the wrong direction. The Employer contends that the comparable data among

TENTATIVE AGREEMENTS

All tentative agreements reached by the parties prior to and during the fact-finding hearing and not addressed above are incorporated in this Award.

Respectfully submitted to the parties this 31st day of October, 2000.

A handwritten signature in black ink, consisting of a large, stylized 'R' followed by several loops and a long horizontal stroke.

Robert G. Stein, Factfinder

BEFORE THE STATE EMPLOYMENT RELATIONS BOARD

**COMMUNICATIONS WORKERS
OF AMERICA, LOCAL #4546**

UNION

AND

**SUMMIT COUNTY CHILDREN
SERVICES BOARD**

EMPLOYER

CASE NO. 99-MED-12-1175

**ROBERT G. STEIN
FACT-FINDER**

UNION POSITION STATEMENT

I. INFORMATION REGARDING THE UNION AND ITS REPRESENTATIVES:

The name of the party and name, address, and telephone number of the principal representative of the party, to whom all communications should be directed, is as follows:

Communications Workers of America, Local #4546
Robin Schenault, President
1340 Hillcrest Drive, Apt. 103
Cuyahoga Falls, OH 44221
(330) 945-6922 - home
(330) 379-2072 - work

II. A DESCRIPTION OF THE BARGAINING UNIT INCLUDING THE APPROXIMATE NUMBER OF EMPLOYEES:

The Bargaining Unit includes child welfare caseworkers, service and support workers (skilled and semi-skilled) and nurses.

There are approximately 315 employees in the Bargaining Unit, of which approximately 286 are full-time and 29 are part-time or intermittent employees.

III. THE DATE OF CERTIFICATION OR RECOGNITION OF THE EMPLOYEE ORGANIZATION:

On December 9, 1977, the Summit County Children Services Board granted recognition to the Ohio Civil Service Employees Association as the certified representative of employees in the Bargaining Unit. The Communications Workers of America was granted successorship as the sole and exclusive bargaining representative through an arbitration decision on May 11, 1983. The Communications Workers of America was certified by the State Employment Relations Board on April 1, 1984, pursuant to the Collective Bargaining Law. This is the parties' eighth collective bargaining agreement.

IV. A COPY OF THE CURRENT COLLECTIVE BARGAINING AGREEMENT WAS PROVIDED ON 8/23/00.

V. A GENERAL DESCRIPTION OF THE FUNCTION OF THE EMPLOYER AND A GENERAL DESCRIPTION OF THE EMPLOYEES IN THE UNIT:

Summit County Children Services Board, located at 264 South Arlington Street, Akron, Ohio, 44306, provides services to abused, neglected and dependent children within the County.

The employees of the unit include child welfare caseworkers who investigate referrals of abuse/neglect, offer necessary protective services to children in their own homes, and place, monitor, and provide services to children who have been removed from their families. Case aides assist caseworkers in providing direct services to children and families. Clerical workers within the unit process the necessary paperwork, perform record keeping responsibilities, and type correspondence and dictation. Child care workers supervise and interact with children within the residential units. Service workers maintain the agency's 14-acre complex of offices, residential units, and campus. Nurses provide nursing care to children in the residential units and children in foster care at our on-site clinic.

VI. A LIST OF DATES ON WHICH THE PARTIES HAVE MET TO ENGAGE IN COLLECTIVE BARGAINING PURSUANT TO CURRENT EFFORTS TO NEGOTIATE A COLLECTIVE BARGAINING AGREEMENT:

The parties have met and/or conferred on the following dates (dates do not include sub-committee meetings):

January 11, 2000 - IBB Orientation; January 26, 2000 - IBB Training;
January 27, 2000 - IBB Training/Protocols; February 7, February 10, February 15, February 17, February 24, February 25 and February 29; March 3, March 7, March 9, March 14, March 16, March 21, March 23, March 24, March 27, March 29 and March 30; April 17, April 18, April 19, April 27, and April 28; May 1, May 3, May 11, May 12, May 17, and May 31; June 2, June 12, June 16, June 19, June 20, June 28, and June 29, 2000.

VII. UNRESOLVED ISSUES:

Pursuant to the direction of the Fact-Finder, and in light of the parties involvement in Interest Based Bargaining, the Union attaches hereto a document representing its position that a tentative agreement had been reached between the parties regarding all issues (economic and non-economic) contained therein. Due to the failure of the

Employer to ratify the Agreement, these issues are therefore unresolved and subject to final recommendations of the Fact-Finder.

Without waiving its rights in any regard and with reference to these outstanding issues, the Union will address, at hearing, any claimed unresolved issues of the Employer, and will focus the weight of its presentation, argument, and evidence on those areas (and directly related areas) presented by the Employer as unresolved.

The Union also reserves its right to present a position different from the tentative agreement on any issue which the Employer presents inconsistent with the tentative agreement previously reached.

INTRODUCTION:

The parties in the instant case reached a tentative agreement (T/A) on 5/31/00 after utilizing the Interest Based Bargaining process. There were a total of 39 bargaining sessions and over 20 subcommittee meetings. The IBB bargaining was part and parcel to a settlement of an unfair labor practice charge filed regarding the Employer's pattern of repeated failures to process grievances (SERB Case #99-ULP-04-0246). At that time, there were 113 total pending grievances, 98 of those pending arbitration. Of the grievances pending arbitration, 57 grievances were forced to arbitration as a result of either not being heard or not answered at Step 3 (the Executive Director's level) of the grievance procedure. There were no Step 3 meetings on 27 grievances and no Step 3 answers on 30 grievances. (Please see Attachment A). The T/A was ratified by the Union membership, and rejected by the agency's Board of Trustees.

After much hard work on the part of both negotiating teams, the T/A was ratified by the Union membership. However, the Union believes the Executive Director manipulated the Board of Trustees into rejecting the T/A. Prior to their ratification vote, the Board was given only a one-page cost-out (Attachment B). No other information was provided to the Board and the Director led the Board to believe that the Union membership voted without a tentative agreement. The events that occurred after the T/A was rejected further demonstrate manipulation. These events are outlined in Attachment C and Attachment D. The Director then authored a document, without knowledge of management negotiating team (Attachment E) and presented it to the Board. The Board then requested that the combined management and Union negotiating team present a rebuttal document to the Board (Attachment F).

The Employer now approaches the Fact-Finder hoping to erode and cherry-pick the tentative agreement. Throughout the IBB process, the Union bargained in good faith and stands behind the agreement reached. The Employer's position that the Union made "significant gains" in the T/A is self-serving. The tentative agreements were arrived at through a collaborative process and management's failure to support the agreements and pursuit of fact-finding is an attempt to get a

second bite at the apple. The Union must participate in the fact-finding procedure as it is statutorily required, however, we do believe that any deviation from the tentative agreement punishes the Union for earlier cooperation.

The Employer brings the following issues:

Caseaides/Part-Time Information Referral Specialist positions:

Union Position -- Preserve T/A

T/A provides additional shift selections for Visitation Center Case Aides and provides for expanded Visitation Center business hours. Because there is a possibility that the Center may start remaining open until 8:00 p.m. the shift selections available in Sec. 302.01 were expanded. The T/A requires the agency to hire additional staff to man the new shifts if current staff do not volunteer to work them. The necessity for additional staff at the Visitation Center has been a concern for some time. More flexible visitation hours for client families contributes to better service delivery. Whether any change in the Visitation Center's hours occurs remains at the agency's discretion. This resolve was to outline how the change could be accommodated should the change occur. Without the language requiring the hiring of the staff, the resolve is not acceptable to the Union.

Additionally, a part-time information referral specialist is to be hired to provide phone room coverage for weekends and holidays. The change to the T/A that the Employer is proposing will keep the changes we made without the mandatory hiring language. Part of the agreement included an allowance for mandatory overtime language for the phone room, but that language was acceptable to the Union only in conjunction with hiring of adequate staff.

Sec. 103.01(J)(6) Temporary Social Work positions: Union Position -- Preserve T/A

The Employer proposes increasing ninety (90) days per calendar year to one-hundred eighty (180) days per year. The Employer's proposal is a new proposal and was not proposed during bargaining or mediation.

Current contract defines the purpose of these employees as "temporarily supplementing Social Services staff in unforeseen situations". The intent of the language, as well as the practice, is for temporary social workers to service families as a method of assisting full-time staff during peak periods, so that the agency does not have to hire additional permanent staff they may not need. This helps ensure that families and children are seen in a timely manner and that referrals of abuse and neglect are investigated in adherence with ODHS standards.

Allowing 180 days per calendar year will enable the Employer to have temporary social workers throughout the entire year simply by using two different groups of individuals, each for six (6) months, which gives the Employer incentive not to hire badly needed permanent full-time caseworkers. Full-time workers are better for service delivery as they provide more consistency for families and children (rather than having a new worker every other month). These temporary social workers also do not receive any benefits, such as health care, etc., therefore, increasing the incentive to staff the agency with temporary social workers, rather than effectively addressing the caseload size problems by hiring more permanent full-time caseworkers.

Sec. 206.02 Dictation: Union Position -- Preserve T/A

Section 206.02 of the current contract provides caseworkers with uninterrupted time to dictate and perform other record-keeping responsibilities. The Employer proposes to change the T/A language which deals with caseworkers electing to utilize 12 hours of that time at home (in a minimum of two hour increments).

The current contract under this Section states, "The scheduling of such time shall be the responsibility of the Supervisor". The new provisions do not change this language; however, it further requires caseworkers to notify their supervisor at the time of scheduling if the caseworker intends to perform this work at home. Thus, the T/A continues to allow for supervisory approval for the use of the dictation time while also allowing for advance planning around where the work will be performed.,

The Employer's proposal expands the role of the supervisor from approval of the use of the dictation time to approval of whether or not such time may be utilized at home. Thus, the Employer's proposal permits different supervisors to handle the work-at-home provisions differently. To permit deviations in the application of the work-at-home provision, either by supervisory unit or by individual, runs the risk of the provision being used as a retaliation tool.

This provision for limited at-home work will serve as a useful tool for future planning at the agency as we move into the 21st century. Additionally, this provision contributes to better service delivery in that it gives the caseworkers another tool to better manage their record-keeping responsibilities, because caseworkers are not interrupted by telephone calls, pages, co-workers, etc., as they may be in the office. Therefore, this provision allows them more time for direct client contact.

In recognition that this new provision is an innovative measure, a letter of understanding was incorporated, in which the parties will meet to identify and agree upon specific procedures and expectations regarding working at home.

Sec. 302.01 Work Schedules & Sec. 303.02 Overtime:

Union Position -- Preserve T/A

The premise for the T/A is to treat caseworkers as professionals and to allow them to effectively manage their workloads. The T/A would allow the caseworkers to accommodate their client and workload demands, and to be compensated for all worked preformed. In addition, the T/A meets the needs of the agency by assigning the caseworkers their workload and simply affording them the flexibility to service their clients and complete their documentation.

Under these new provisions, caseworkers would still be required to submit a tentative weekly schedule to their supervisor and notify their supervisor of any deviation from their tentative work schedule as early as possible (the current practice). Thus, supervisors are aware of the activities each caseworker is performing on each case. Each caseworker will be responsible for his/her own cases and be free to make the decisions necessary to meet the demands of their workload, while keeping their supervisor constantly informed and seeking approval and/or guidance regarding the specific services needed to be performed/offered to each family.

Current contract restricts the caseworkers' ability to effectively manage their workloads. Caseworkers are faced with the dilemma of completing the necessary documentation/paperwork and data entry or servicing their families. Caseworkers must obtain prior approval from supervisors in order to service families outside of their normal work schedule. Frequently parents work and caseworkers must make attempts to interview the children at schools, daycare providers or sitters' homes, while attempts are made to interview parents at their place of employment or during their break from work. Not only is this time-consuming and intrusive, but does not conform to "best practice". Caseworkers must utilize a holistic view of families and observing how the family functions, interacts and copes, are essential to this. Approval to work overtime is granted on a case-by-case basis; however, approval is generally not granted for necessary case management requirements (e.g., paperwork/documentation). Therefore, caseworkers are being forced to complete these requirements during the day while contacting families in the evening. Although it is recognized that some contacts outside agency business hours are necessary, it is important to keep such contact to a minimum due to safety concerns. By preserving the T/A, the caseworkers will be able to effectively cover their caseload and provide better service their clients.

It should be noted that the parties recognized that these new provisions are an innovative measure. Therefore, a "safety net" was built in with a provision to revisit in one year and review how well it is working, both for the clients and the agency. Should these provisions not be working, or if the agency feels the caseworkers have abused this flexibility and discretion, the parties will revert to current contract.

The Union strongly believes these provisions will improve service delivery, and by recognizing caseworker professionalism, will also contribute to retention and recruitment of staff

Sec. 403.07 & 403.08 Transfers & Promotions: Union Position -- Preserve T/A

The T/A on this issue is current contract. The proposed change to the T/A is one that was extensively discussed during the negotiations. Management wanted this change, but was unwilling to consider a concomittent change in the language which the Union needed in order to make this change acceptable. Therefore, the parties agreed that current contract was the best resolution to this issue. This proposal simply resurrects management's attempt to get a change in the contract without the give and take of negotiations. Once again, management is merely attempting to get a bigger bite of the apple.

Sec. 403.14 Transition Plan: Union Position -- Preserve T/A

This revision was done in an attempt to remedy a problem surrounding delays for employees who have bid on and been awarded a vacancy moving into their new positions. Current language calls for the employee to move to their new position within 60 days, when feasible, and no later than 90 days after accepting the new position and that did not change. However, our experience over the last three years has been that the major reason it is "not feasible" to move an employee within 60 days is the fact that some employees continue to receive new assignments, even though their supervisor is aware they need to clean up to move to another unit. The T/A places a bar on new assignments which the Employer now proposes to remove. Continuing to assign the person new cases from their old unit is contrary to the goal of getting replacements as quickly as possible so that there is little or no interruption in service to clients. The fact-finder should note that the unit experiencing the vacancy is waiting this length of time (60-90 days) *after* the amount of time it takes for posting, interviewing and selection of a candidate. Vacancies which are considered filled, yet still have no one moved into the unit have the same result as an unfilled vacancy. Unfilled vacancies impact caseload sizes for the rest of the unit. The T/A will result in improved service delivery.

The Employer's proposal to award the job to someone else should the employee not complete all tasks within 60 days is a new proposal, i.e., one that was never suggested during bargaining, nor during mediation. This additional language is proposed as a ploy to circumvent the Job Posting & Bidding provisions of the CBA. If the Employer does not like the person to whom the CBA requires the vacancy to be awarded, they simply load up the employee with new assignments and other tasks, making it impossible for the employee to complete them within the 60-day timeframe, and the job can be legitimately awarded to another applicant.

The agency provided information regarding the 23 caseworkers who accepted new positions since 10/15/99. Out of those 23, 12 took longer than 60 days to move to the new position, and 5 of those 12 took longer than 90 days. Of the 11 who moved in less than 60 days, 5 were moving within their department and therefore could carry their caseload with them, and new assignments

would not effect their move. One of the 11 was returning from maternity leave and therefore had no caseload. Under the Employer's proposal, just in the last six months, 12 employees (over 50 percent of the successful bidders) would have lost the position they were awarded under the contract. The proposal is punitive in nature, and the Union strongly objects to it.

Sec. 404.06 Corrective Action: Union Position -- Preserve T/A

The practice that was established when current contract language was originally put into the contract was that the neutral administrator made a recommendation regarding just cause for discipline, as well as the level of discipline to be imposed, taking any mitigating circumstances into consideration. The role of the neutral administrator was unilaterally changed in that he/she has been instructed by management to limit the scope of his/her decision to whether or not an infraction occurred, with no latitude to consider the severity of the penalty or mitigating circumstances. The change in practice has resulted in numerous grievances in an attempt to protect the employee's right to due process. The T/A assures that the hearing will be conducted in a truly neutral manner. This is extremely important as both the loss of wages incurred during suspensions, or the loss of livelihood incurred as a result of dismissal, result in financial hardship for the employee; therefore, it seems only fair to provide the employee with an impartial hearing prior to suffering the loss.

Sec. 601.01 Personal Leave: Union Position -- Preserve T/A

Personal Leave Time is used most often in an emergent situation. The supervisor would handle this time off as they do in any other unforeseen situation, i.e., sudden illness, etc. The Employer's attempt to change the T/A is solely for purposes of control. Most employees receive 16 hours personal leave time per year (some receive less), therefore, the T/A should not be a hardship for the Employer.

Sec. 601.13 Bereavement Leave: Union Position -- Preserve T/A

The T/A eliminated current contract language limiting usage to one time per calendar year. Because we work at an agency which provides family-oriented services, employees should be afforded the benefit of Bereavement Leave if they should face the loss of more than one immediate family member in a calendar year. Due to the extreme distress caused by such a rare and unfortunate circumstance, employees should be afforded every consideration, so that when the employee returns to their job, they will be better able to function in an effective manner.

Information provided by the agency (see below) reflects utilization of Bereavement Leave to be minimal. (Note: information provided was for *all* agency employees.) This information also demonstrates that this benefit has not been abused.

Employer's proposal to return to current contract is an attempt to cherry-pick.

BEREAVEMENT LEAVE USAGE (As of 9/14/00) Current total number of employees: 423			
YEAR	HOURS USED*	# OF DAYS	# OF EMPLOYEES⁺
1997	1002.75	125	42
1998	627	78	26
1999	852	106	35
2000	357	45	15

* Per information provided by CSB, who states they are unable to separate Bargaining Unit and Management usage of this benefit.

+ Assumes each employee used maximum allowance of three (3) days Bereavement Leave.

Sec. 601.15 Continuing Education Flex-Time: Union Position -- Preserve T/A

This benefit allows employees up to four (4) hours per week (during the course of the regularly scheduled work day) to take university courses for academic credit. However, any hours taken must be made up the same work day. The current contract limits the benefit to one (1) employee per unit. The T/A increases that to two (2) employees per unit. This change was rated to be workable and mutually beneficial during IBB. Because employees make up the time the same

day it is taken, there are no coverage or budgetary implications. The agency reports that to their knowledge, only two staff are currently utilizing this benefit. The Employer's proposed change to the T/A is another attempt to cherry-pick.

(Additional Subject) Attendance at Workshops/Seminars: Union Position -- Preserve T/A

Union objects to the T/A language being changed to eliminate the provision which bars the supervisor from rescinding approval to attend workshops within two (2) weeks of the scheduled workshops. This provision was included due to a problem with permission to attend workshops being used as a tool to control employees. Certain employees who may have filed a grievance or spoke up at an Agency Board meeting would be told just days prior to the scheduled workshop that they were no longer permitted to attend. Completion of workshop hours is important for accumulating the continuing education units required for renewal of professional licenses. It is also important for those who do not possess a professional license, as completion of workshops is an objective placed in their performance evaluations.

Workshops are scheduled and planned on a quarterly basis. Therefore, there is ample opportunity for supervisors to ensure staff coverage adequate to provide timely effective service to the community. Employer's proposal to change the T/A amounts to control issues.

QPAC (Caseload Committee): Union Position -- Preserve T/A

The Union is adamant that the existence of a caseload committee be contractual. In the 1997-2000 contract negotiations, the Union proposed a new Article: case load sizes. This proposal was in response to management's failure to adequately respond to a significant increase in caseload sizes and the additional workload caused in part by the new Kids 2100 operating system. The Union cited Child Welfare League of America (CWLA) and Public Children Services Agencies of Ohio (PCSAO) standards for caseload sizes (see attachments to original QPAC report) and the agency's position that it is committed to "keeping caseload sizes" within the "standards promulgated by CWLA and PCSAO".

Management "adamantly opposed" the Union's position and cited: 1) that the Union's reliance upon "standards for service for abused or neglected children and their families" established in 1989 by the Child Welfare League of America, inferring that such standards were out of date; 2) The agency was accredited by the Council On Accreditation of Services for Families and Children, Inc.; 3) That it "could not fulfill its mandate to protect the children of Summit County if it were forced to operate with such caseload limits"; 4) "CSB recognizes that due to unexpected absenteeism and leaves of absence in its workforce that recent case load assignments were heavier than usual" and that "CSB addressed the matter and instituted policy changes that have eliminated the problem"; 5) and cited Child Welfare League of America guidelines for development of agency standards for work loads.

The fact-finder's recommendation (see SERB Case #96-MED-12-1163) regarding this new issue was that "this issue shall not be included in the agreement but shall receive a focused examination by a special committee of social workers and supervisors jointly appointed by the Executive Director and the Union President". "Said committee shall have a short, but focused life span and shall provide its recommendations for more effective caseload management, process improvement, and manageable case load size to the Executive Director and to the Union President by December 31, 1997". The fact finders report further stated that the parties could mutually agree to use the QPAC.

Management and the Union did agree to utilize QPAC. However, recommendations were not completed by December 31, 1997 and, in fact, the committee was not even formed until February, 1998 as management continually delayed it's formation, citing the move to the new building, completion of the agency's Five-Year Plan, and being occupied dealing with Labor/Mgmt. issues placed on hold during contract negotiations.

QPAC first met on March 17, 1998. Group consensus was utilized in all decision making. Focus groups were established within the agency to gain staff input and held throughout the month of November 1999 (see attached QPAC reports and resources for specific information). Focus groups resulted as a compromise after the agency would not concede to allowing staff to complete surveys.

On April 20, 1999, at the agency's monthly Program & Policy Committee of the Board of Trustees, the resultant recommendations were presented (see attached QPAC reports and resources). At this meeting, the Executive Director acknowledged that Executive Council accepted the recommendations from QPAC and then proceeded to prioritize them. QPAC members expressed concern over the Executive Director prioritizing the recommendations without the knowledge of QPAC members, given the time-consuming work put forth over the past year. Once the original QPAC report was submitted, the Executive Director insisted that the committee cease to exist. When concerns were raised regarding the importance of this committee to service delivery, the Director responded that he may do a different committee in the future, if he determined it to be necessary, but it would not be QPAC. (The Union believes this was an attempt to control the composition of any such committee.) Ultimately, it took a Board of Trustee resolution to preserve the future of QPAC at the agency. Board Resolution #05-99-25/F (attached) requires that QPAC formally meet to develop priorities for its recommendations and that it provide quarterly reports to the Board of Trustees. The Board cited that "the subject matter of the QPAC committee report is of critical importance to the mandates responsibilities/ obligations of this agency". Even with this resolution, the Executive Director continues to undermine it's efforts.

On 6/15/99 QPAC presented recommendation priorities (see attached) to the Board's Program & Policy Committee incorporating the Executive Council's priorities. QPAC was further requested to provide future reports on the agency's progress in implementing the recommendations to the Program & Policy Committee on a quarterly basis.

In the 9/20/99 program policy committee mtg. The Board requested that the quarterly QPAC report address in a global summary the agency's progress in the implementation of the agency's Five-Year Plan, which was to include QPAC recommendations, as well as the agency's implementation of House Bill 484 (a far reaching law resulting in increased casework for social workers due to additional services and documentation requirements).

Quarterly reports were also provided on October 26, 1999, February 15, 2000 and June 20, 2000. See Attachment 9.

In April 2000 administrative staff responsible for the five year plan were invited to QPAC to discuss why 31 recommendations were not included in the agency's Master Plan. They refused to attend the QPAC meeting and failed to provide information or justification for the omission.

QPAC expected to provide a report at the June, 2000 program policy committee, however, it was canceled. At the July, 2000, meeting, the QPAC chair was on a scheduled vacation, and designated the director of social service to provide the quarterly QPAC report. However, the administration removed the item from the agenda. Therefore, the Chair of the Program & Policy Committee then specifically instructed the administration that he expected the QPAC report to be done at the August meeting. At the 8/15/2000 meeting, an original agenda posted by the Executive Director listed "future of QPAC" as an item. A revised agenda put out by the Program and Policy Committee listed "quarterly QPAC report" as an agenda item. The Executive Director does not want QPAC to exist any longer. The Program and Policy committee chair reported that QPAC exists until a resolution of the Board disbands it and requested QPAC's report. The administrative representative, who also serves on QPAC (Director of Social Services), stated she was not prepared to report. Thus, Union committee members made the report and cited a lack of progress in implementation of QPAC recommendations; specifically, of the initial 117 recommendations, both the Executive Council and QPAC identified 35 as being short-term, that is able to be accomplished within three months. However, of those 35, only six were implemented, none of which were accomplished within three months. To date, only 13 of the 117 recommendations presented to the Board in April of 1999 have been achieved (17 months later). One of the recommendations only required a memo be sent to all staff for it to be implemented, as its content had been approved. The Program and Policy committee Chair directed the Executive Director to report on the status of 31 short term recommendations that were to have been completed in 90 days from the original QPAC report dated 4/20/99, as well as provide an explanation as to why all QPAC recommendations were not included in the Five-Year Plan. This is to be done by the October 2000 Program and Policy committee meeting.

QPAC has met regularly as a committee since its inception to assess and report progress at quarterly intervals (already listed on page 2), as instructed by the agency's Board as to the agency's progress on implementation of the QPAC recommendations, the five year plan and HB484.

QPAC as a committee was successful in its mission of addressing systematic influences on case

load size, resulting in the agency's administration accepting committee recommendations. However, administrative reluctance to implement the recommendations resulted in agency board intervention as cited earlier. The reluctance of the administration to implement the recommendations was also evident in that the chair (the deputy director and member of executive council) stated in meetings that issues were brought to the attention of the executive council, but council and the social service director (also a member of QPAC and an executive council member) needed to make decisions on the recommendations. However, the director of social services failed to show up for over half of the QPAC meetings since October, 1999, and when present, refused to report progress. As a result, very little progress has been made on QPAC recommendations as cited earlier.

Caseload sizes (see attached) and workload expectations (see documentation) have continued to remain high and are presently at a "crisis level" as acknowledged by both Union and administrative QPAC members, as well as agency Board members. Despite management's assertion that "CSB had addressed the matter and instituted policy changes that have eliminated the problem", it is clear, since service levels are at "crisis level", that any policy changes have not "eliminated the problem". Management further cited its accreditation by the Council on Families and Children, Inc. (COA), as evidence that it is a "provider of services of high quality". In fact, the Council on Accreditation (COA) is only a reviewer of policies and does not measure quality of service nor does it set standards as to caseload expectations (see attached COA mission statement). It also reported it would be unable to fulfill its mandate to protect the children of Summit County if it were forced to operate with caseload limits. In fact, caseload limits would enhance the agency's ability to fulfill its mandate, as children would receive more prompt and thorough service. The high turnover and vacancies are due to unrealistic workload expectations, poor morale, and inequity in compensation. Mediocrity becomes the norm as workers must not only handle their own responsibilities, but those of departing employees and unfilled positions as well.

Finally, "The Standards for Service for Abused or Neglected Children and their Families" established in 1989 by the Child Welfare League of America was the current standard despite its being dated 1989 and in fact was utilized by QPAC, four of whose members were management and one of whom was on the 1997-2000 management negotiating team. Ironically, the agency cited factors from the Child Welfare League of America to address caseload size in their report to the fact finder during the 1997 -2000 contract negotiations. QPAC utilized those very factors and was able to identify strategies for "the development of agency standards or work loads" as management suggested in that report. However, administration has demonstrated they were not committed to addressing workload issues as evidenced by a lack of follow through on recommendations. This has resulted in the continuing escalation of caseload sizes and workload expectations.

Considering the QPAC process as well as the success of the IBB process in obtaining a tentative agreement on a contract and specifically QPAC language, management and Union have demonstrated they can work together to reduce caseload sizes and make workloads more

manageable if only administration were held accountable for its actions or lack thereof. Workload and caseload sizes therefore need to be addressed in the contract through QPAC provisions in the T/A.

Caseload sizes is an issue that *must* be contractually addressed. The provisions of this T/A considers *first and foremost* the interests for the safety of the children we serve. Caseload size impacts the level of service caseworkers are able to provide. QPAC by its very composition brings together those who do the job every day and those who must oversee the administrative aspect of the agency. The committee engages in meaningful discussions surrounding issues and decisions which greatly impact caseworkers ability to serve their clients. QPAC is a proactive approach to addressing complex issues.

The T/A provides for QPAC to develop caseload size ranges, measurable workload standards, and a caseload weighting system. The committee will also develop an incentive system for staff handling caseloads above recommended limits.

QPAC is the best alternative to caseload caps, and the T/A must be preserved, as it benefits the agency, the employees, and the community.

Wages: Union Position -- Preserve T/A

The Employer's proposal is that the cost of the overall wage and fringe benefit package not exceed 15 percent. After tentative agreement had been reached, the Employer introduced 15 percent as the parameter which could not be exceeded. However, no one on the negotiating team could explain what the 15 percent was to be based upon.

When doing the cost-out of the package, the agency's chief financial officer, Gary Binns, made some assumptions which the Union does not agree with.

1. The cost-out over three years is based on full staffing. As demonstrated by the 1999 budget, the 2000 Year-To-Date budget, and a document produced by the Personnel Department outlining the number of vacancies in 1999, an assumption of full staffing is not valid. In order to represent the actual cost, Mr. Binns' cost-out should contain a correction for vacancies which is in line with expectations for vacancy rates.
2. The method for calculation of the total amount allowed for the package should be the same as the method used for calculating percentage increases if percentage comparisons are going to be made.
3. Mr. Binns neither used the same percentages, nor did he use the same figures management presented to the Agency Board for the five-year budget projection. The percentage increases in wages and benefits were based on the **2000 budget amounts** in

these areas, not on the 1999 actual figures. The actual percentage increases that were presented to the board reflect an expected 5% increase in wages each year, a 10% increase in hospitalization each year, and a 5% increase in other benefits each year. A cost-out of the package based on the same amounts and percentages the budget projection was based on does fall within the parameters of the budget projections.

4. The cost of the wage and benefit package falls within the amounts budgeted for the next three years. Even allowing for a 5% increase for management and confidential staff and using the cost-out based on full staffing, there are still additional budgeted funds available to the Agency in both the wage and benefit budgets as demonstrated by the cost projections received 5/31/00 done by Mr. Binns. This projection shows that implementation of this package will in no way disrupt or interfere with any future budget projection, nor will it affect the amount of the carryover.
5. The agency currently has over \$30 million in unencumbered funds.
6. For the first seven months of 2000, the Agency has spent less than budgeted amounts in the areas of wages and benefits. The agency is currently underspent by \$541,760.00 so far this year. This demonstrates that the cost of the package is within the budgetary parameters as the total cost per year for all increases is projected by Mr. Binns to be \$784,234.00. Had the package been implemented at the beginning of the contract year, the cost to date would have been \$261,411.00 and the Agency would still be underspent by \$280,349.00.

Step Increases: Union Position -- Preserve T/A

Currently, workers with several years experience at the agency make the same, or less than new hires. Compounding the problem is the fact that all new hires do not start at the bottom of the salary scale. The result is that new hires with previous work experience hire in at a higher point on the salary scale, while employees who have the same number of years experience, but gained that experience here, remain at the bottom of the scale. This has resulted in significant wage disparity. Salary inequities can never be addressed without a step system. With the step system, those experiencing inequity will ultimately be able to "catch up" as step increases provide a mechanism for employees to move from the bottom to the top of a salary scale.

Wage disparity is a major factor contributing to staff turnover, as there is actually incentive for employees to go elsewhere after they have gained experience here, particularly when similar agencies do have a means to reach the top of a pay scale. To our knowledge, our agency is the only public employer without a mechanism to move through the scales. Also, all SERB-determined comparables (Lucas, Montgomery, and Franklin counties) have step systems in place, as does the Summit County Department of Human Services.

Not all Bargaining Unit employees will be eligible to receive the step increases. Those employees at the top of their pay ranges will not receive step increases at all (approximately one-third of the Bargaining Unit), and those employees who are somewhere in the middle of their range will receive only the number of step increases it takes to reach the top (not exceeding their top). Therefore, some employees will only receive some steps (not necessarily all three years). Also, ability to pay is not an issue for the agency.

In the T/A, steps were part of an overall wage **package**. The Union's agreement regarding the amounts of the general increases was directly tied to the amounts of the steps and who would be receiving them. There would have been no tentative agreement to the proposal currently being put forth by the Employer, and the change to the T/A proposed makes the package unacceptable to the Union. In fact, the Employer's proposal to limit the step system to caseworkers is a blatant attempt to take another bite of the apple, after reaching an agreement acceptable to both teams.

Sec. 601.06 Health Care: Union Position -- Preserve T/A

The Employer proposes to eliminate the cap in the T/A language. The Union is adamant that this cap is necessary, due to questionable decisions made by the Employer regarding the provider of the insurance and the fact that the Employer does not shop around for a better deal. As charted below, the Employer left a company which had given them fairly low increases, as well as an actual decrease in premiums of four (4) percent (effective in April, 1997) in order to enroll in the County's self-insured plan for 1998. The County guaranteed they would leave the rates the same for one year if the agency joined their plan, therefore, there was no rate increase in 1998. However, the premiums then increased by 8.27 percent effective May, 1999, and by 16.2 percent effective in May, 2000. Information provided to the Board of Trustees in preparation for the 2001 budget projects an increase in premiums of 14 percent effective April 1, 2001, and 10 percent in subsequent years.

Premium changes under Anthem:

1994 - 0% increase
1995 - 2% increase
1996 - 6% increase
1997 - 4% **decrease**

Premium changes under Medical Mutual of Ohio:

1998 - 0% increase (as promised)
1999 - 8.27% increase
2000 - 16.2% increase
2001 - 14% increase projected
2002 - 10% increase projected
2003 - 10% increase projected

The difference in the cost of the Employer's proposal and the T/A amounts to \$52,041.00 over three years. This breaks down to \$17,347.00 per year in a budget of \$36,000,000.00! Once again, this amounts to cherry-picking.

In addition, the cost of the cap to the agency will be offset by the new provision for staff to opt out, which will result in significant savings to the agency. Specifically, for each employee who has a full coverage family plan and opts out, the agency will save \$5,914.13 per year. For each employee who has a full coverage single plan and opts out, the agency will save \$2,009.93 per year. (These figures are based on current insurance premium costs.) Ability to pay is not an issue for the agency.

According to the State Employment Relations Board (SERB), two of the three SERB-determined comparables counties pay no employee contribution. In fact, one-third of public employees statewide pay no employee contribution, while 70 percent of public employees statewide pay less than Summit County Children Services employees. Employees in Summit County who do pay 10% of their premiums pay that towards only their medical and prescription coverage. They make no employee contribution to dental and optical insurance, while our employees do. In addition, these employees also receive other benefits which are fully paid by their Employer, such as hearing benefits, additional life insurance, and legal benefits. Therefore, relying on the fact that some other Summit County employees pay 10% of their premium as support for forcing that standard on SCCS employees is not only unfair, but also misleading.

The Union is adamant that **any** deviation from the T/A affects the entire package. It is the Union's position that the IBB process is one of cooperation and collaboration, and the Fact-Finder should support that process. The Union feels strongly that the Employer is making an effort to go beyond the T/A simply in order to reach an outcome which is more favorable to them than the T/A. We feel this totally undermines the IBB process and indeed any other cooperative, collaborative efforts made by the Union. We feel that any attempts made to reach middle ground between the T/A and the Employer's proposal will simply punish the Union for our willingness to be cooperative.

The Union feels that we have been forced to offer some alternatives to the T/A in order to give the Fact-finder some avenues for resolution, as is reflected in the Aug. 30th letter to you. Although it is the Union's position that no deviation from the T/A should be permitted, the Union has briefly outlined several areas in which we would like some consideration should the Fact-finder decide to allow such deviation.

The Union's list is as follows:

ISSUE	UNION PROPOSAL
Step Increases	Step system with 3% between steps for all Bargaining Unit employees.

Disparity in Wages	Bargaining Unit employees shall be brought up to the step in the pay range which coincides with their number of years of service, not to exceed the top of the scale. (This is a one-time adjustment.)
Academic Incentives	T/A or delete and put money toward rest of economic package.
Longevity	Longevity benefit is added to base rate of pay instead of being a bonus. In addition, raise amounts at each level by \$300.00.
Caseload Sizes/QPAC	Caseload caps and QPAC committee.
Grievance Procedure	Current contract except add: "Should the Employer fail to meet/answer at Step 3 within the timelines (or obtain a waiver) the relief sought by the Union for that particular grievance will be automatically granted."
Intermittent service time for vacation accrual	Change T/A to current contract

For any issues not specifically addressed in this position statement, the Union's position is T/A. The Union reserves the right to present evidence in support of its positions at hearing.

In closing, the Union feels the Employer used a dishonest approach to bargaining, did not give the Management Negotiating Team authority to bargain, and has demonstrated bad faith.

In a recent fact-finding report (SERB Case Nos. 99-MED-10-0876; 0877; 0878), Fact Finder Michael Paolucci wrote that "a tentative agreement reached at the bargaining table after exhaustive "give-and-take" negotiations have occurred is the best indication of the Parties' intent of the rights and obligations each has agreed upon. Obviously, it goes without saying that often times those individuals charged with the responsibility to "put the best position forward" relative to that which they are seeking at the bargaining table do not always receive the utmost confidence in that which they have brought back to the members and/or to the individuals whom ultimately ratify or approve that which has been tentatively agreed.

Nonetheless, the Statutory Process is not a mechanism by which Parties can in good faith reach a tentative agreement and then hope to reap additional improvements on that agreed to by rejecting that which their Committee and/or Commissioners might have deemed an "acceptable package." Such a tactic would run counter to the very nature of the Statutory Process. To allow Parties to continue to bite at the "proverbial apple" until a larger bite is obtained after the first bite was deemed acceptable, simply does not represent "good faith" bargaining. The Fact Finder has long been a supporter of the Statutory Process when the Parties are engaged in such good faith negotiations and have exhibited the necessary degree of trust to their opposition in "hammering

out" an Agreement. The best interests of a Union's membership and/or governmental entity is obtained by reaching the tentative agreement without intervention. Given this consideration this Fact Finder affords compelling weight to those items that have been tentatively agreed to based on the Parties' good faith negotiations. Absent compelling evidence that those tentatively agreed to Articles should not be recommended herein, those will be precisely that which will be recognized as compelling by this Fact Finder." This report is included as Attachment H.

It is the Union's opinion that if the Fact Finder does not support the tentative agreement, he will be legitimizing bad faith bargaining.

September 19, 2000

Harley M. Kastner

Dean E. Westman

James P. Wilkins

Kenneth M. Haneline

Keith L. Pryatel

Lisa A. Kainec

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Linda S. Wilkins

Mr. Robert G. Stein
Suite 105
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Akron, OH 44333

**RE: SERB Case No. 99-Med-12-1175
Summit County Children Services Board and
Communication Workers of America, Local 4546**

Dear Mr. Stein:

Pursuant to relevant administrative and Ohio Revised Code provisions, the following is offered as the pre-hearing position statement on behalf of the Summit County Children Services Board (hereinafter "CSB" or "the Agency") in the above-captioned matter. The Children Services Board's legal representative and chief fact-finding spokesperson is Mr. Keith L. Pryatel of the law offices of Kastner Westman & Wilkins, 3480 West Market Street, Suite 300, Akron, Ohio 44333. Mr. Pryatel's telephone number is (330) 867-9998. The facsimile number is (330) 867-3786, and E-mail address is kpryatel@kwwlaborlaw.com.

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INTRODUCTION.

On December 9, 1977, CSB granted recognition to the Ohio Civil Service Employee's Association as the certified representative of those employees in the bargaining unit. The Communications Workers of America, Local 4546 ("the CWA" or "the Union"), was granted successorship as the sole and exclusive bargaining representative of the unit through an arbitration decision rendered on May 11, 1983. The Communications Workers of America was certified by the State Employment Relations Board on April 1, 1984, pursuant to the Ohio collective bargaining statute. This is the eighth collective bargaining agreement.

The bargaining unit is a "deemed certified" unit under Ohio Revised Code §§4117. Recognition has been accorded to probationary and non-probationary full-time, part-time, intermittent, absentee replacement, temporary, and grant-funded employees, excluding "confidential employees", "supervisors", and "management level employees", in the following classifications:

Account Clerk I
Account Clerk II
Account Automation Specialist
Accounts Payable Clerk
Account Specialist I
Adoption Subsidy Specialist
Auto Mechanic/Maintenance Worker II
Billing Analyst
Carpenter I
Carpenter II
Child Care Worker II
Child Support Specialist
Child Welfare Caseworker I
Child Welfare Caseworker I-A
Child Welfare Caseworker I-B
Child Welfare Caseworker II
Child Welfare Caseworker II Specialist
Clerical Specialist
Clerk I
Clerk II
Communication Relations Specialist
Computer Operator
Computer Programmer
Computer Programmer Analyst
Computer Programmer Assistant
Cook I
Cook II
Coordinator of Eligibility Determination
Data Entry Operator I
Data Processing Assistant
Day Care Worker
Dental Assistant
Dental Secretary
Food Service Worker I
Forms Specialist
Groundskeeper I
Help Desk Coordinator
Help Desk Operator
Homefinding Recruiter

Information Referral Specialist
Kids 2100 Training Coordinator
Librarian I
Maintenance Repair Worker II
Medical Payments Clerk
Network Support Coordinator
Nurse I
Painter I
Painter II
Paralegal
PC Network Technician
PC Training Instructor
Processor of Eligibility Determination
Quality Assurance Review Scheduler
Quality Review Specialist
Records Clerk – Closed Records
Records Specialist – Document Imaging
Records Specialist – Open Records
Records Audit Specialist
Recreation Aide
Recreation Coordinator
Research Analyst
Senior Day Care Worker
Social Service Aide II
Stenographer I
Stenographer II
Storekeeper I
Tutor
Typist II
Visitation Scheduler/Receptionist
Volunteer Program Assistant

There are approximately 316 employees in the bargaining unit, of which 286 are full-time and 29 are part-time or intermittent employees. One hundred forty-five (145) members of the unit are professional Social Workers (“Caseworkers”).

Summit County Children Services Board, located at 264 South Arlington Street, Akron, Ohio 44306, provides services to abused, neglected and dependent children within the county. Employees within the bargaining unit include child welfare Case Workers who investigate referrals of abuse/neglect, offer protective services to children in their own homes and provide services to children who have been removed from their families. Case Aides assist these Case Workers in providing direct services to children and families. Clerical staff workers process paperwork, perform record keeping responsibilities, and type correspondence and dictation. Child Workers supervise and interact with children within the residential units. Service workers maintain the agency’s

complex of offices, residential units, and campus. Finally, Nurses provide nursing care to children in the residential units and children in foster care at an on-site clinic.

THE ANALYTICAL TOOLS.

The Ohio Administrative Code essentially outlines the factors that must be considered by a neutral when assisting the parties amidst negotiations. These factors include:

1. Past collective bargaining agreements, if any, between the parties;
2. A comparison of 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, and 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 issues submitted to mutually-agreed upon dispute settlement procedures in the public service or in private employment.

Ohio Admin. Code §4117-9-05(K).

Additionally, in June, 1997, this Fact-Finder issued a comprehensive decision and report wherein Chapter 4117's defining criteria were further elaborated upon. Ultimately, the rationale and reasoning employed by this Fact-Finder led to a brokered settlement as both parties accepted the 1997 report. The Fact-Finder's articulated rationale was used equally against CSB and the CWA to reject certain proposals made during the 1997 Fact-Finding session. These previously expressed, personal factors include the following:

- Where a party desires to change current contract language, they must be able to substantiate "widespread acceptance" within the "mainstream of thinking". *In the Matter of Fact-Finding Between CWA Local 4546 and Summit County Children Board, Case No. 96-MED-12-1163, p. 7 (Stein, 1997).*

- Where one of the parties desires to change the contract, they must demonstrate through objective facts that the current, existing provision is "inadequate". *Id.* at p.15. Indeed, the party desiring change must prove "...the extent and frequency of the problem" before obtaining such a result. *Id.* at p. 20.
- "Recent bargaining history plays a *major role* in any determination to reinstate something that was deleted by mutual agreement of the parties [in the past]". *Id.* at p. 32.
- "The fact is if you want to either gain or take back an economic benefit, you must pay for such a change". *Id.*
- "The importance of maintaining relative consistency in the county does play a significant role in ... negotiations". "The comparables in Summit County are particularly important at this time in the [Children Services] Board's *history and may be of even more importance in the future*". *Id.* at p. 53.

THE UNDISPUTED FINANCIAL GAINS ALREADY SURRENDERED.

In order to properly assess and fairly determine the issues which continue to divide the parties through this fact-finding process, it is important for the Fact-Finder to first understand exactly what has already been surrendered by CSB during the interest based bargaining process. This is important for two reasons. First, it is the Agency's announced position that the aggregate financial package resulting from fact-finding not exceed 15% across the three-year term of any new collective bargaining agreement. This necessarily includes the demonstrable costs of those financial improvements already surrendered to the CWA during interest based bargaining. Second, given the somewhat unique aspects of this particular fact-finding, the Agency legitimately feels that what it has already surrendered to the CWA in an effort to reach an amicable, acceptable agreement has been rendered somewhat valueless at the same time that the CWA is putting its best foot forward to make other improvements for its members during this statutory process. In a word, the fact-finding in this case proceeds with the assumption that negotiating via "cherry-picking" is acceptable. So that this Fact-Finder can make intelligent recommendations with respect to the wage, healthcare, and other proposals that will be debated at the September 20, 2000 hearing, CSB would note the following areas where agreement has already been reached, each of which is a bargaining proposal for improvement for the CWA.

- Bargaining unit employees who "opt-out" of the Agency's healthcare insurance plan are now going to be compensated \$50.00 a month for doing so under revised §601.06. In the past, bargaining unit employees have enjoyed the opt-out option where they have secured other insurance benefits from alternative sources such as spousal coverages. Historically, such a "opt-out" proviso has worked to the benefit of both the Agency and employee by eliminating the

remittance of premiums for both. The predicted cost of this health insurance "opt-out" purchase is \$39,600.00 over the life of a three-year contract (Attach. "1").

- For the first time ever, part-time Social Workers will receive health insurance coverage at the Agency under newly negotiated §601.06. This expansion of those eligible for health insurance coverage at the Agency carry's a \$135,765.00 price tag (Attach. "1"). This anticipated cost is quite conservative, as the Agency believes that more employees will be attracted to part-time employment with the offering of this benefit.
- Dental and optical insurance benefits will now be available to all eligible employees after a mere ninety (90) days of hire, whereas in the past these significant benefits were not available to bargaining unit employees until they reached a two-year service plateau. The Agency's historical rationale for the two-year waiting period was that it would serve as a "carrot" to retain valued employees who might otherwise seek to leave. With this change, CSB can expect to experience a \$55,360.00 increase in its three-year budget (Attach. "1").
- Group life insurance coverages have been increased from \$30,000.00 per employee to \$50,000.00 per employee at the contract's expiration date of March 31, 2003 under §601.03. While the overall financial impact of this increase in-group life insurance benefits is not extraordinary (\$27,302.00), it is nonetheless an enhancement worth noting.
- Under §601.19, Social Workers' license renewal fees will now be split equally between the employee and the Agency. At all times in the past, license renewal fees were the responsibility of the employee, and the Agency absorbed only the initial license application fee and initial test fee. One hundred forty-five Social Worker staff members who have to renew their licenses every other year at \$60.00 per renewal stand to benefit from this truly benevolent change in Agency fringes.
- Through the interest-based bargaining process, an altogether new tier of vacation scheduling was added to the contract so as to reduce the final tier of graduated vacation scheduling under §601.09 from 25 years of service to 22 years of service. Under this proviso, there will be a \$37,000.00 accelerated payout by the Agency over the life of the contract (Attach. "1").
- Under newly-negotiated §602.02, the shift differential for working the hours 3:00 p.m.—7:00 a.m. has been increased from \$.30 per hour to \$.75 per hour for Case Workers and Nurses, and from \$.30 per hour to \$.40 per hour for all other bargaining unit employees. This change comes at a \$16,388.00 cost to the Agency (Attach. "1"). Once again, CSB's cost estimate here is conservative, as

it is believed that an enhanced shift differential rate will attract more workers on this shift.

- The contractual parameters for promotion to the Case Worker II work classification have been unburdened to give recognition to those possessing a Master's degree in fields other than social work. Now, degrees deemed "related to social work" will be recognized as meeting the fundamental qualification for Case Worker II promotions. Also, the Agency has agreed to recognize five (5) new tiers of pay classifications, including Caseworker II-A (Rel. Mstrs), Caseworker II-B (Rel. Mstrs + 3 years), Caseworker III-B (MSW + 3 years), Caseworker II-C (Rel. Mstrs + 7 years), and Caseworker I-C (BSW +7 years). These particular anticipated promotions are expected to add \$83,616.00 to the Agency's budget over the contract's life (Attach. "1").
- Academic incentives for Case Workers have been added to the contract under a new section in Article 602. Case Workers pursuing a Master's degree in social work or a social work-related field from an accredited university will have \$.30 per hour added to their base rates of pay after accruing 12 hours of credit; \$.60 per hour added to their base rate after accruing 24 hours of credit; \$.90 per hour added to their base rate after accruing 36 hours of credit; \$1.20 per hour added to their base rate of pay after accruing 48 hours of credit; and \$1.50 per hour added to their base rate of pay after accruing 60 hours of credit towards their degrees. It is expected that this enhancement in Case Worker pay will cost the Agency \$32,775.00 over the life of the contract (Attach. "1").
- Under §601.04, the mileage reimbursement rate has been enhanced from \$.29 per mile to the current IRS non-taxable mileage reimbursement rate of \$.31 per mile. The enhanced rate will saddle the Agency with another \$35,700.00 in expenses over the life of the contract (Attach. "1").

Each of the above-mentioned economic improvements inure to the benefit of the CWA. They all represent economic gains. They all impact the Agency's budget. And, they all play a background role in this fact-finding endeavor. They cannot, and should not be ignored.

THE FACT-FINDING ISSUES.

QPAC

OLD—1997 Fact-Finding:

Agreed upon changes by the parties prior to [1997] fact-finding shall form the basis of discussions to take place over the next 6 to 8 months. Said discussions shall be held by a Quality and Professional Advancement Committee (QPAC). QPAC shall be comprised of four (4) caseworkers chosen by the Union,

and approved by the Employer, and three (3) supervisors/managers chosen by the Employer, and approved by the Union. The committee members must be jointly approved by both parties in order to serve on the Committee.

The chair of the QPAC shall be the Director of Social Services and he shall represent the 8th committee member. The Committee shall be chosen and shall meet within sixty (60) days from the date the Agreement is ratified. The QPAC is responsible for reaching consensus on agreed upon changes to Article 601.15. All committee members must agree to changes in order for a change in language to be subject to ratification. Said changes shall be in writing, shall be signed by each committee member and shall be submitted to the Executive Director and to the Union President no later than February 27, 1998. In order for the language of Article 601.15 to be modified from current language, it must be ratified by a vote of each of the parties. All changes approved by the parties, shall be reduced to a Memorandum of Understanding, shall represent the new Article 601.15 and shall go into effect on April 1, 1998.

* * *

This issue shall not be included in the Agreement, but shall receive a focused examination by a special committee of caseworkers and supervisors jointly appointed by the Executive Director and the Union President. Said Committee shall have a short, but focused life span and shall provide its recommendations for more effective caseload management, process improvement, and manageable case load size to the Executive Director and to the Union President by December 31, 1997.

All recommendations and implementation of same shall be subject to approval by the Executive Director, but shall be shared with the Union President. The parties may mutually agree to use the QPAC (see ISSUE 18 CASE WORKER PROMOTIONS) to provide said recommendations in order to avoid the necessity of forming another committee. It is strongly advised that the Committee receive formal training in Quality Improvement Problem Solving in preparation for their work.

NEW UNION PROPOSAL:

There will be a Quality and Professional Advancement Committee (QPAC) comprised of at least four (4) case workers chosen by the Union and approved by the Executive Director and three (3) supervisors/managers chosen by the Executive Director and approved by the Union President, as well as a Chairperson. The Chair of the QPAC Committee shall be a Division Director or higher management position who will be mutually agreed upon by the Executive Director and Union President. The present QPAC Committee members shall remain on the committee. Any expansion of the Committee will be done in equal

numbers. The addition or replacement of QPAC members will be done as noted earlier in this paragraph.

The QPAC Committee is responsible for examination of methods for effective caseload management, process improvement and a manageable caseload size. QPAC will also continue to monitor its original recommendations (04/20/99) and report to the Agency's Board of Trustees and Executive Council, as well as the Labor/Management Committee. The QPAC Committee will utilize a consensus-based decision making process.

Within six (6) months of ratification of this Agreement the QPAC Committee will research the development of caseload size ranges and report its findings to the parties noted in the previous paragraph.

Within eighteen (18) months of ratification of this Agreement the QPAC Committee will research and develop measurable workload standards and a weighting system to assist in caseload management. Additionally, an incentive system will be explored that recognizes those staff that:

1. Are assigned a caseload that is beyond the established caseload size range.
2. Manage their caseload size within established caseload size ranges for "x" months.
3. And, those that voluntarily accept additional work related to a caseload other than their own.

: Employees involved in QPAC activities shall be given sufficient time during duty hours without loss of pay or other benefits to perform these functions.

AGENCY PROPOSAL: Current "contract."

RATIONALE: The Union's proposal to alter QPAC is one of the more disturbing fact-finding issues because it is inextricably linked to the CWA's announced intention to introduce intractable caseload sizes upon CSB management. It is equally disturbing because CSB has unequivocal proof that the existing QPAC works; that it has gained wholesale acceptance at the Agency; and that, if given time, it will produce the results deemed needed in this area.

During the 1997 fact-finding and underlying negotiations, the Union sought to introduce Case Worker caseload limitations into the bargaining agreement. These limits would, as proposed, take the form of no more than an aggregate of twenty-four (24) cases per intake Case Worker, and no more than twelve (12) new cases for intake Case Workers during a five-week rotational period. Year-

after-year such an artificial caseload barrier has been sought by the CWA in contract negotiations. In his 1991 fact-finding report,¹ Joseph W. Gardner had this to say about the Union's proposed artificial barriers:

Section 206.08. Should the caseload sizes be limited by contract?
It is undisputed that there are not enough Social Workers to take on all the cases that need to be taken on. However, not all cases take the same amount of time. The cases are all different. To place an arbitrary limit on the number of cases that a Case Worker may handle would restrict management's ability to efficiently use scarce resources. It is recommended that the caseload size be determined by management and not by contract.

(1991 Fact-Finding Report at p. 3).

In 1997, the CWA went to the caseload well again, and this Fact-Finder, drawing upon the teachings of W. Edwards Deming and his philosophy for quality improvement, recommended that a joint labor/management committee be established to make *recommendations* to the CSB Executive Director for his studied consideration. The meat and bones of the Fact-Finder's accepted recommendation in this area was: "Said Committee shall have a short, but focused life span and shall provide *its recommendations* for more effective caseload management, process improvement, and manageable caseload size to the Executive Director and to the Union President by December 31, 1997." (1997 Fact-Finding at p. 14).

It is important to note that CSB Executive Director Joseph W. White, Jr. and the CSB Board of Trustees went much further in terms of their support and advancement of QPAC than even this Fact-Finder recommended. Thus, QPAC's quarterly recommendations (Attach. "2") were not only eyeballed by Executive Director White, but he, in turn, passed those quality improvement recommendations along to the Board's Programs and Services Committee comprised of individual Board Members Brian J. Williams, Rebecca S. Susany, Wilton Workman, and Rhonda Gail Davis (*Id.*). Before doing so, CSB's Executive Council took the time to prioritize QPAC's recommendations so that the most important ones could be implemented quicker and those with lower priorities addressed later (*Id.*).

It is also worth noting at this point that particular QPAC recommendations have already been implemented at CSB. Thus, to reduce the number of inappropriate referrals being assigned to intake Social Workers, the Referral Specialist job description was re-drafted (at the behest of QPAC) in November

¹ The parties went to fact-finding in 1994, but no report issued by the Fact-Finder owing to a mediated settlement.

1999, and extensive training of staff for screening referrals took place on February 4, 2000.

In October 1999, a Family Resource Unit was created with the QPAC-identified goal of reducing Intake Social Worker referrals and augmented efforts to keep children at their homes. Again, training and orientation took place and the unit was fully operational by January 2000. In order to reduce the number of assignment of cases to both Intake Services and Protective Services, the former Home-Based Services Unit was reconfigured and moved with Intake to offer assessment, service, and case closure within a 30-day model. Case Plan and Risk Assessment forms have been placed on computers at QPAC's recommendation. An on-line Policies and Procedures Manual was begun in January 2000. This too was a QPAC recommendation. There are many other QPAC successes to champion, but the point is today's QPAC works.

Another way the Agency carried forward QPAC well beyond this Fact-Finder's recommendation is that the CSB Board of Trustees expanded the limited reporting, chain-of-command role of QPAC by having that Committee report directly to the Board's Program and Policy Committee via Resolution No. 05-99-25(F) (1999) (Attach. "3").

However, the current proposal by the CWA would take QPAC far beyond anything this Fact-Finder ever intended. Although the Fact-Finder ordered in 1997 that: "This issue shall not be included in the Agreement . . .," the CWA's proposal would do just that. The CWA makes provisions for even expanding the Committee from its currently constituted eight members, something that was not provided for by this Fact-Finder back in 1997. The Union's proposal would make QPAC the final arbiter in terms of caseload sizes, as well as a police force over that body's original *recommendations* made back in April of 1999. In other words, using the body to develop ideas and criteria for recommendation would be excised in favor of using the body as a decision-making force unto its own. Further, the Union proposes to develop a direct reporting relationship between QPAC and the full Board of Trustees, as opposed to the Board of Trustees' Programs and Services Committee. All of this would occur at a point in time when we know that the current QPAC recommended by this Fact-Finder back in 1997 is still in place; is still working; is progressing towards improvement and has blossomed into a body that is likely to remain even though this Fact-Finder recommended a much, much, much more limited role. W. Edwards Deming would be disappointed indeed.

And, the Agency's arguments *contra* artificial caseload barriers as expressed in 1997 (1997 Fact-Finding Report at pp. 12-13) have continued validity to this very day. Established child welfare guidelines recognize that the much better approach is to account for individual abilities rather than establishing some artificial mean average as a benchmark for achievement. *Id.* Just recently,

the Agency received across-the-board "outstanding" scores of achievement from the Council on Accreditation without the Union's proposed caseload limitations (Attach. "15"). While CSB likes the idea of continuing to work with QPAC and continuing to entertain their proposals for improvement, it logically cannot surrender its fundamental, basic right of management. Ultimately, it is the Board of Trustees and the Executive Director that are accountable to the public for performance at the Agency, and while QPAC is welcome to make recommendations relating to artificial caseload maximums, the Board of Trustees must have just as much freedom to challenge, reject, revise, or re-engineer any such recommendations.

The long and short of CSB's rationale for maintaining current contract in this area is a simple one. If it isn't broken, don't fix it.

Temporary Social Workers. §103.01(J)(6); p. 5.

OLD: 6. Temporary Employee: An employee who is hired for a specific period of time not to exceed ninety (90) days for the purpose of temporarily supplementing Social Services staff in unforeseen situations.

NEW AGENCY PROPOSAL:

6. Temporary Employee: An employee who is hired for a specific period of time not to exceed ~~one hundred eighty (180)~~ days for the purpose of temporarily supplementing Social Services staff in unforeseen situations.

UNION PROPOSAL: Current Contract.

RATIONALE:

This is only one of three proposals made by CSB amidst this fact-finding process to alter the current collective bargaining agreement. Social service agencies are not unlike many modern-era employers in this booming economy; they face the dilemma of attracting and keeping valued employees. This problem is not unique at all to Summit County CSB. Recently, Cuyahoga County, Ohio, reported a turnover rate of 27% among social workers (Attach. "4"). Nationwide, protective services social workers experience a 22% turnover rate (*Id.* at p. 3). Currently, CSB has some twenty (20) vacancies in its Case Worker bargaining unit classification.

Prior to year 2000, CSB very rarely used Social Workers on a "temporary" basis. Recently, however, owing to continued lagging recruiting efforts, attrition, and increased demands placed upon Case Workers via changed state law, the

Agency has been forced to employ "temporary" basis Social Workers in order to supplement its bargaining unit staff. Appended as Attachment "5" are business records establishing the amount of time worked on a "temporary" basis by Social Workers during year 2000. What these records demonstrate is that even during its somewhat dire staffing predicament, CSB has not abused at all its "temporary" employment levels.

Furthermore, at the same time the Agency's hands are contractually tied by a ninety-day per annum "temporary" employee limitation, the Union is vigilantly protecting its bargaining unit turf. Multiple grievances have been filed and pursued by the CWA claiming that others are pitching in and performing "bargaining unit" work (Attach. "6"). At least one of these grievances pertains directly to Social Workers (*Id.*). So we have the CWA diligently protecting what it believes to be "bargaining unit work" at a point in time that the Agency is plagued by excessive vacancies and a labor agreement that hamstring supplemental relief in the form of "temporary employees." Increasing the annual period of temporary employee usage from 90 to 180 days only begins to address the problem, but at least it's a beginning. Indeed, this Fact-Finder can adopt CSB's proposal in this regard subject only to those times that the Agency experiences a significant shortfall in casework staffing levels (say, ten (10) or more vacancies). This will serve to further protect the CWA from its misperception of abuse in this area.

Dictation. §206.02; p. 15

OLD: Section 206.02 The Employer and the Union recognize the need to keep Social Service dictation current in accordance with the Employer's policy. The Employer shall allow each Social Service employee twenty (20) hours per month during which the employee shall dictate or accomplish other record keeping responsibilities and defer other caseload responsibilities. The scheduling of such time shall be the responsibility of the Supervisor. The Social Service employee may, up to twenty (20)-hours per month and subject to the approval of the Supervisor, advise the Switchboard Operator that he/she is not available to accept telephone calls. Emergency situations will be referred to the employee's Supervisor. The Supervisor may interrupt the Social Worker in emergency situations; however, time required for such interruptions shall not be included for the purpose of this Section in the twenty (20) hours per month provided.

NEW UNION PROPOSAL:

Section 206.02 The Employer and the Union recognize the need to keep Social Service dictation current in accordance with the Employer's policy. The Employer shall allow each Social Service employee ~~thirty (30)~~ **(32)** hours per

month during which the employee shall dictate or accomplish other record keeping responsibilities and defer other caseload responsibilities. ~~For the~~ ninety (90) days from the date of ratification of the Collective Bargaining Agreement, up to twelve (12) hours or the thirty-two (32) hours per month may be worked at home. Time worked at home must be taken in increments of a minimum of two (2) hours. The Social Service employee may, up to ~~thirty-two~~ (32) hours per month and subject to the approval of the Supervisor, advise the Switchboard Operator that he/she is not available to accept telephone calls. Emergency situations will be referred to the employee's Supervisor. The Supervisor may interrupt the Social Worker in emergency situations; however, time required for such interruptions shall not be included for the purpose of this Section in the ~~thirty-two (32)~~ hours per month provided. ~~The scheduling of such~~ uninterrupted time shall be the responsibility of the Supervisor. However, if the employee wishes to perform this work at home, he/she must notify the supervisor of such.

AGENCY PROPOSAL: Current contract with the agreement to increase contractually preserved dictation time from twenty (20) to thirty-two (32) hours per month; may work at home " . . . subject to the approval of the supervisor;" and assurances that those who work at home are able to respond in "emergency" situations.

RATIONALE: If relegated merely to the statutory fact-finding parameters set forth in the Administrative Code, this proposal is a dead-bang loser for the CWA. No other "comparable" social services agency makes provision for an employee to perform part of their work hours at home (See, SERB Comparables attached hereto). No past collective bargaining agreement between these parties ever once provided for such. At the same time, the Agency has stepped to the plate and recognized that contractually preserved dictation-only time needs to be increased from its present level of twenty (20) hours per month to a new level of thirty-two (32) hours per month. This increase is largely the byproduct of increased social services legislation in the form of House Bill 484.

What is particularly objectionable about the Union's current proposal is that it gives the employee *carte blanche* authority to demand work at home notwithstanding supervisory approval or the like. Throughout negotiations to date, the Union has touted this proposal as one of "trust." That Social Workers, as professionals, needed to be trusted to carry out their duties, and allowing them to choose to work at home whenever they so desired would be a good sign of that trust. However, "trust" is a two-way street. At bare minimum, the Union's proposal needs to be revised so that any and all proposed work at home is " . . . subject to the approval of the supervisor." The Union must be willing to trust that supervisors will not arbitrarily or capriciously deny the potential of their performing work at home on infrequent occasion. And, it is well rooted in the annals of labor arbitration that rights of employees preserved in a contract may

not arbitrarily be denied. So, if a simple clause “. . . subject to the approval of the supervisor” is linked to the Union’s proposal authorizing a maximum of twelve (12) hours of dictation-preserved time to be performed at home, it will serve to balance a benefit that no other public agency in the “comparable” setting even has.

Moreover, to make the Union’s provision workable (seeing that even it preserves a “emergency situation” exception to the dictation-only preserved time) language needs to be introduced that will allow the homework employee to respond appropriately. Otherwise, the language that the Union has preserved from the expired 1997-2000 collective bargaining agreement speaking to interruptions in the event of “emergency situations” is left but a dead letter. A Social Worker who is at home based on their supervisor’s approval, performing dictation work, but who is simultaneously babysitting their or someone else’s children will obviously not be able to respond in the event of an “emergency situation.” Those who, with supervisory approval, opt to perform some of their dictation hours at home need to do so with the caveat that in those rare “emergency situations,” they will be expected to respond to the Agency as if they were at work on premises at 264 South Arlington Street.

Work Schedules §302.01; p. 18

OLD: ARTICLE 302 WORK SCHEDULES

Section 302.01 The basic work week shall be forty (40) hours, and the normal work day shall be eight (8) hours for full-time employees. Employees who are not full-time shall be assigned eight (8) hour shifts whenever feasible. Prior administrative approval is required for all hours worked beyond their normal work week or day. Prior approval will be waived for Caseworkers if, in their professional judgment, such work is deemed necessary. Caseworkers will inform their Supervisors at the earliest possible time thereafter.

NEW UNION PROPOSAL:

Section 301.02 The basic work week shall be forty (40) hours, and the normal work day shall be eight (8) hours for full-time employees. Employees who are not full-time shall be assigned eight (8) hour shifts whenever feasible. Prior administrative approval is required for all hours worked beyond their normal work week or day, except for caseworkers. Caseworkers are not required to seek approval for working overtime. Caseworkers will elect their hours of service in accordance with Section 302.12, and caseworkers shall make the determination regarding necessity for working overtime based upon their need to manage their individual caseload, except that caseworkers shall not schedule

themselves to work on a holiday without prior supervisory approval. Caseworkers shall submit a tentative schedule of work to be completed to their supervisor weekly. If, in their professional judgment, a caseworker deems it necessary to deviate from their submitted tentative schedule, they shall inform their supervisor at the earliest time possible thereafter.

AGENCY PROPOSAL: Current Contract.

RATIONALE: Like the preceding Union proposal, this proposal, if assessed solely against the Administrative Code provisions, cannot prevail. No other social services agency allows its Case Workers to choose to work overtime whenever they feel the need to do so, and no other social services agency permits its Case Workers to willy-nilly change their tendered work schedules. The CWA, no doubt, will champion the emotional "trust" appeal on this provision, and couch it as nothing more than the Agency having the integrity to trust that its workers will not abuse overtime or self-scheduling. Again, CSB submits that "trust" is a two-way street. There is no rational reason why the simply clause "... subject to the approval of the supervisor" cannot be introduced to the Union's proposal both in terms of the use of overtime and the deviation from a submitted schedule. Again, since CSB's disapproval in this regard cannot be arbitrary or capricious in any event, the Agency's Solomon-like counter makes infinite sense.

Moreover, there will be no showing by this Union at the fact-finding hearing that the present, existing provision is "inadequate" in terms of work scheduling. *In the Matter of Fact-Finding Between CWA Local 4546 and Summit Children Services Board*, Case No. 96-MED-12-1163, p. 15 (Stein, 1997). In short, the Union cannot meet either of its dual burdens to prove "wide-spread acceptance" of its proposal at a point in time that the current proviso is "inadequate" and poses a "problem." *Id.*

The contract should not be changed in this area.

NEW: §302.12; pp. 20-21

OLD: None.

NEW UNION PROPOSAL:

It is understood that the following positions/shifts for Case Aides working in the Visitation Center are exempted from Section 302.12:

1. One (1) staff whose shift includes Saturdays, 10:00 a.m. to 6:00 p.m.;
and

2. Effective January 1, 2001, two (2) staff whose shift will be Monday through Friday, 12:00 p.m. to 8:00 p.m.

It is further understood that, effective January 1, 2001, if there are no volunteers (or not enough volunteers) among the current case aides to provide coverage for two (2) positions on the Monday through Friday, 12:00 p.m. to 8:00 p.m. shift, the Agency will hire up to two (2) additional case aides to fill the shift. No current case aide staff will be required to work Monday through Friday, 12:00 p.m. to 8:00 p.m.

It is also understood that the shifts noted in #1 and #2 above will continue to be staffed by the person with the least amount of seniority as a case aide absent volunteers for those shifts.

AGENCY PROPOSAL: Current contract.

RATIONALE: For the first time in CSB's storied history, the CWA wishes to introduce minimum staffing level language into the labor contract in relation to Case Aides and Information Referral Specialists. Much like General Motors' contract with the UAW, the CWA would foist minimum staffing levels on CSB in the form of four (4) new Case Aides and at least one Information Referral Specialist. Rest assured, there are no "comparables" supporting the Union's proposal here. No other social services agency in Ohio has delegated to its union the decision concerning how many employees to employ in a particular job classification for a particular area of work. No truly acceptable labor agreement can tie the Agency's hands in this regard. While CSB will endeavor to increase staffing where there is a demonstrable need and a pool of acceptable candidates, it will not commit to black and white staffing assurances within the framework of a labor/management agreement. No responsible employer would.

Overtime. §303.02; p. 22

OLD: **ARTICLE 303 OVERTIME**

Section 303.01 All Bargaining Unit employees of the Summit County Children Services Board, except those in positions listed in Section 303.02, must be paid time and one-half for all hours worked in excess of forty (40) hours per week. Paid vacations and sick leave are not hours worked within the meaning of the overtime provisions of Article 303 and, therefore, do not count in tabulating total hours per week. If an employee has worked more than forty (40) hours during either week of the pay period, the employee will receive time and one-half wages at the end of that pay period. Each pay period shall consist of two (2)

weeks, and each week of the pay period shall start on Saturday and end on the following Friday.

Section 303.02 All Caseworkers, Home Finding Recruiters, and Registered Nurses shall not be paid time and one-half for all hours worked in excess of forty (40) hours per week.

The Employer will grant compensatory time off on a time and one-half basis for hours worked in excess of eight (8) hours per day or ten (10) hours per day for employees regularly scheduled four (4), ten (10) hour days per week, and/or in excess of forty (40) hours per week. Compensatory time may be accumulated to a maximum of eighty (80) hours. Compensatory time may be taken at a mutually acceptable date, agreed upon by the employee and his/her immediate Supervisor. All accrued compensatory time shall be taken in increments of eight (8) hours or ten (10) hours, where applicable, unless otherwise mutually agreed upon by the employee and the Supervisor. Employees who have accumulated sixty-eight (68) hours of compensatory time shall be permitted to take, within the next four (4) weeks, a minimum of eight (8) hours compensatory time off. Such request must be made in writing, and the scheduling of such time shall be in accordance with the above defined procedures in this provision.

Upon termination of employment with the Employer, employees in positions listed in Section 303.02 will be compensated for up to (80) hours of their unused compensatory time.

NEW UNION PROPOSAL:

Section 303.01

Receiving Unit staff, Front Desk staff, Kitchen staff, Clinic Clerical staff, Phone Room staff, Respite Center staff, and Cal Board staff must be paid time and one-half for all hours worked in excess of forty (40) hours per week.

All other Bargaining Unit employees of the Summit County Children Services Board, except for those listed in Section 303.02, shall be paid time and one-half for all hours worked in excess of forty (40) hours per week, except that these employees may elect to accumulate compensatory time at the rate of time and one-half up to a maximum of 8 hours which may be used over a four month time period (as defined herein). Such time must be used within the same time period it is accrued. The four month time periods are January 1 through April 30, May 1 through August 31, and September 1 through December 31. If such compensatory time is not taken within the time period which it is accumulated, the employee shall be automatically paid for it.

If an employee has worked more than forty (40) hours during either week of the pay period, the employee will either receive time and one-half wages at the end of that pay period, or if the employee has elected to accumulate compensatory time as outlined above, said compensatory time will be credited at the end of that pay period. Each pay period shall consist of two (2) weeks, and each week of the pay period shall start on Saturday and end on the following Friday. Paid vacations and sick leave are not hours worked within the meaning of the overtime provisions of Article 303 and, therefore, do not count in tabulating total hours per week.

Section 303.02

All Case Workers, Home Finding Recruiters, and Registered Nurses shall not be paid time and one-half for all hours worked in excess of forty (40) hours per week. The Employer will grant compensatory time off on a time and one-half basis for hours worked in excess of eight (8) hours per day or ten (10) hours per day for employees regularly scheduled four (4), ten (10) hour days per week and/or in excess of forty (40) hours per week, however, compensatory time may be accumulated to a maximum of eighty (80) hours and once an employee has eighty (80) hours of compensatory time in his/her "Compensatory Time Bank," any additional overtime worked will be paid to the employee at the rate of one and one-half (1-1/2) times his/her hourly rate. Should the employee's "Bank" fall below eighty (80) hours, the employee must reach eighty (80) hours before he/she will be paid overtime. Examples of overtime computation under this method are attached as Appendix D and made a part hereof. (Note: Compensatory time taken is considered as hours worked for the purposes of overtime computation).

Compensatory time earned by Home Finding Recruiters, and Registered Nurses may be taken at a mutually acceptable date, agreed upon by the employee and his/her immediate Supervisor, and their accrued compensatory time shall be taken in increments of eight (8) hours or ten (10) hours, where applicable, unless otherwise mutually agreed upon by the employee and the Supervisor. Compensatory time earned by Case Workers may be taken at the employee's discretion.

Home Finding Recruiters and Registered Nurses who have accumulated sixty-eight (68) hours of compensatory time shall be permitted to take, within the next four (4) weeks, a minimum of eight (8) hours compensatory time off. Such request must be made in writing, and the scheduling of such time shall be in accordance with the above-defined procedures in this provision.

Upon termination of employment with the Employer, employees in positions listed in Section 303.02 will be compensated for all of their unused compensatory time.

AGENCY PROPOSAL: Change existing language only to the extent needed to make it consistent with the settlement of grievance 94-108 (Attach. "7"). Otherwise, current contract.

RATIONALE: Part of the language change introduced under the Union's proposal is the bi-product of a January 7, 1999 grievance settlement in Case No. 94-108 (Attach. "7"). By virtue of that grievance settlement employees who had exceeded the maximum amount of banked eighty (80) hours compensatory time are now paid, in cash, one and a half (1-1/2) times their hourly rate of pay for any overtime worked above eighty (80) hours (*id.*). Cognizant of this Fact-Finder's particular rationale, CSB is not desirous of changing its mutually-bargained grievance settlement in this regard. See, *In The Matter of Fact-Finding between CWA Local 4546 and Summit County Children Services Board*, Case No. 96-MED-12-1163, p. 32 (Stein, 1997) ("Recent bargaining history plays a major role in any determination to reinstate something that was deleted by mutual agreement of the parties [in the past]").

Interestingly, the issue that does divide the parties under this proposal is one that appeared to be acceptable to the CWA back in 1997. During the fact-finding process in 1997, a mediated resolution provided that: "Compensatory time may be taken at a mutually agreeable date, agreed upon by the employer and his/her immediate supervisor." If that verbiage was acceptable to the CWA just three years ago, why is it so objectionable now? After all, "recent bargaining history plays a major role" in this Fact-Finder's rationale.

Truth be told, the Union was in a much more advantageous position back in 1997 to argue its case on this overtime proposal, and still ended up with the: "Compensatory time may be taken at a mutually acceptable date, agreed upon by the employee and his/her immediate supervisor" verbiage. In 1997 there was no provision for the payment in cash or additional compensatory banked hours for those overtime hours that exceeded the eighty (80) hour accumulation plateau. Those employees who had met the plateau essentially lost out on additional overtime over and above eighty (80) hours. That no longer is the case, as cash-in-kind is now paid out by the Agency under this scenario.

Transfers/Promotions §§403.07, 403.08; p. 31

OLD: Section 403.07 Upon receipt of the application and completion of screening in accordance with Section 403.04, the Employer shall give first consideration to those timely-filed applicants who are in the same classification as the vacant position and are, therefore, requesting a lateral transfer to the vacant position. The vacancy shall be filled by an applicant from the three(3) most senior full-time employees requesting a lateral transfer. The three (3) applicants shall be

considered subject to the criteria outlined in Section 403.05. If there is only one (1) full-time applicant for a lateral transfer, the applicant's two (2) most recent performance evaluations must be satisfactory for the employee to be considered for the vacant position. Said applicant meeting this requirement shall be awarded the vacant position.

Section 403.08 After Section 403.07 has been complied with by the Employer, and the vacancy has not been filled, then upon receipt of the application and completion of screening in accordance with Section 403.04 and Section 403.05, the first consideration shall be given to those timely, in-Agency applicants who desire the position as a promotion (as defined in Section 403.11) or a transfer (as defined in Section 403.13). The vacancy shall be filled with the most senior full-time applicant. If there are no full-time applicants who desire the position as a promotion or a transfer, then the vacancy shall be filled with the most senior part-time or intermittent applicant.

NEW AGENCY PROPOSAL:

Section 403.07 Upon receipt of the application and completion of screening in accordance with Section 403.04, the Employer shall give first consideration to those timely-filed applicants who are in the same classification as the vacant position and are, therefore, requesting a lateral transfer to the vacant position. The vacancy shall be filled by ~~the most senior full-time applicant~~ requesting a lateral transfer. The applicant's two (2) most recent performance evaluations must be satisfactory for the employee to be considered for the vacant position. Said applicant meeting this requirement shall be awarded the vacant position.

Section 403.08 After Section 403.07 has been complied with by the Employer, and the vacancy has not been filled, then upon receipt of the application and completion of screening in accordance with Section 403.04 and Section 403.05, the first consideration shall be given to those timely, in-Agency applicants who desire the position as a promotion (as defined in Section 403.11) or a transfer (as defined in Section 403.13). The vacancy shall be filled by ~~an applicant from the three (3) most senior full-time employees requesting a promotion or transfer. The three (3) applicants shall be considered subject to the criteria outlined in Section 403.05. If there is only one (1) full-time applicant for the promotion or transfer, the applicant's two (2) most recent performance evaluations must be satisfactory for the employee to be considered for the vacant position.~~ If there are no full-time applicants who desire the position as a promotion or a transfer, then the vacancy shall be filled with the most senior part-time or intermittent applicant.

UNION PROPOSAL: Assumed current contract. No different proposal stated by CWA during interest-based bargaining.

RATIONALE: This is only the second of a total of three proposals made by the Agency in this fact-finding process. Essentially the Agency proposes to flip-flop the current system in place which is used to fill vacancies either by "lateral movement," "transfer," or "promotion."² The proposal is made to bring the Agency in step with simple commonsense. Where the movement into a vacancy is a true "lateral transfer," at least some argument can be advanced to choose applicants on a strict seniority basis. Since the movement necessarily takes place within the "same classification" under §403.12, the employee will already possess the requisite fundamental skills and abilities to perform in the job and a true union advocate could logically argue that their seniority will be the only factor necessary for consideration. However, a much broader scope of candidates must be involved when the Agency is considering a "promotion." Under that scenario, the employee will necessarily be moving to a new classification with a corresponding higher pay grade, and seniority should not drive the selection process. Indeed, where promotions are concerned, the Agency should by logic consider the relative "skills, aptitude, education, experience, training, seniority, record of efficiency and effectiveness of performance, and record of tardiness and absenteeism" before such a movement takes place. See, CBA p. 30, §403.05.

Simply put, this proposal by the Agency is a change introduced to the contract to bring about commonsense. It makes all the sense in the world. And, there is no evidence whatsoever that the Agency has abused its selection discretion when operating under the "pick 3" proviso now in place for lateral transfers. There is no reason to fear that the Agency will change in that regard if permitted to exercise such sound discretion in the promotional setting.

Transition: §403.14; p. 32

OLD: Section 403.14 An employee who applies for and is subsequently selected and placed in any vacancy posted under this Article shall remain in said position for twelve (12) months before becoming eligible to apply for another posted vacancy. Calculation of the twelve (12) months shall begin sixty (60) days after the deadline for submitting applications listed on the posting for said position. In addition, no later than five (5) days after the employee is notified by the Personnel Department that they have been awarded the position, the supervisor and the employee shall meet to devise a plan for transition to the employee's new position. Said transition shall be completed within sixty (60) days, when feasible, but not more than ninety (90) days after the employee is notified by the Personnel Department that they have been awarded the job.

² Under the contract, a "transfer" is defined as "... the movement of an employee to a vacancy in the same pay grade, but not the same classification." CBA at p. 32, §403.13. A "lateral transfer" on the other hand involves the movement of an employee to a vacancy in the same classification. *Id.* at §403.12.

NEW: Section 403.14 An employee who applies for and is subsequently selected and placed in any vacancy posted under this Article shall remain in said position for twelve (12) months before becoming eligible to apply for another posted vacancy. Calculation of the twelve (12) months shall begin sixty (60) days after the deadline for submitting applications listed on the posting for said position. In addition, no later than five (5) days after the employee is notified by the Personnel Department that they have been awarded the position, the supervisor and the employee shall meet to devise a plan for transition to the employee's new position. The transition plan shall be in writing, signed by employee and supervisor, and shall include the planned date of transition. Copy of transition plan shall be given to the employee and gaining supervisor. No new assignments will be given to the employee following acceptance of the new position, except for emergency situations. Said transition shall be completed within sixty (60) days, when feasible, but not more than ninety (90) days after the employee is notified by the Personnel Department that they have been awarded the job. Employees who fail to complete the transition plan within the established time period will be denied the vacancy.

UNION PROPOSAL: Current contract.

RATIONALE: This is the third, and final proposal made by the Agency to alter the contract through this fact-finding process. Every other issue submitted herein is an effort to enhance (and thus change for the betterment of the CWA) the existing collective bargaining agreement. Under current contract, there is a process in place that defines the transition of employees when moving to a new vacancy. Fundamentally, it is important for the incumbent employee to follow through with their existing work before the transition actually takes place. Cases involving social work cannot be dropped mid-stream, and so easily left for others to assume. Part of the change proposed by the Agency is very simple in that it merely reduces to writing the transition plan agreed upon by the employee and supervisor as dictated under the existing contract. What's more, a protective measure for the employee has been introduced by the Agency in that it provides: "No new assignments will be given to the employee following acceptance of the new position" so that the transitioning employee can follow through on the written transition plan. But, there must be some penalty that inures to the employee who neglects to keep up with the agreed-upon transition plan. Under the term of this contract, that has happened, albeit on infrequent occasion (See, Attach. "8"). In those limited circumstances, the employee should forfeit the vacancy particularly given the fact that they are given ninety (90) days with no new cases added, in which to complete transition.

Corrective Action. §404.06; pp. 33-34

OLD: Section 404.06 The procedure for any proposed suspension or dismissal shall be as follows:

- A. Within five (5) working days of completion of the Supervisor's investigation, the Executive Director or his designated representative shall serve the affected employee with written notification of pending suspension or dismissal. Such notification shall cite the charges against him/her.
- B. A hearing shall take place before a neutral and detached Administrator not involved in any of the events giving rise to the proposed corrective action. Said hearing shall be scheduled by the Personnel Director and shall take place within forty-eight (48) hours, when feasible, from notification in Paragraph A of this Section; the parties recognizing that time is of the essence in the disciplinary procedure. The employee may be accompanied by a representative of his/her choice. If either of the representatives is an attorney, the party being represented by that attorney shall notify the other party of such at the time of the notification or confirmation of the hearing. At said hearing, the evidence upon which the charges were based shall be presented, and the employee, with the assistance of his/her representative, shall be afforded a fair opportunity to be heard in opposition to the charges against him/her, including the right to question witnesses for or against him/her.
- C. A written explanation of the neutral Administrator's recommendation and the reasons for it shall be issued to the employee and the Executive Director within fourteen (14) days of said hearing.
- D. In cases where the Supervisor's recommended suspension or dismissal is agreed upon by the Executive Director, or in his absence a designated representative, shall meet with the employee and his/her representative to issue the Corrective Action Order, in writing, within five (5) days of the receipt of the Hearing Officer's recommendation. Said Corrective Action Order shall include the specific time period for suspension or the effective date of dismissal, if applicable.

Section 404.07 Supervisor's Record of Instruction and Cautioning, written warnings and written reprimands are subject to appeal through the Grievance Procedure, including third party adjudication, as provided herein. All suspensions and removals are subject to appeal through Grievance Procedure,

including third party adjudication, and such grievance shall be initiated at Step 3 of the Grievance Procedure.

NEW UNION PROPOSAL:

Section 404.06 The procedure for any proposed suspension or dismissal shall be as follows:

- A. Within five (5) working days of completion of the Supervisor's investigation, the Executive Director or his designated representative shall serve the affected employee with written notification of pending suspension or dismissal. Such notification shall cite the charges against him/her.
- B. A hearing shall take place before a Pre-Disciplinary Hearing Panel which shall consist of two (2) representatives appointed by the Union and two (2) representatives appointed by Management who are not involved in any of the events giving rise to the proposed corrective action nor in the direct line of supervision of the employee. All Pre-Disciplinary Panel members must have completed appropriate training (as determined by mutual agreement between the parties) prior to serving as an appointee to the Panel. Said hearing shall be scheduled by the Labor Relations Specialist and shall take place within seventy-two (72) hours, when feasible, from notification in Paragraph A of this Section; the parties recognizing that time is of the essence in the disciplinary procedure. The employee may be accompanied by a representative of his/her choice. If either of the representatives is an attorney, the party being represented by that attorney shall notify the other party of such at the time of the notification or confirmation of the hearing. At said hearing, the evidence upon which the charges were based shall be presented, and the employee, with the assistance of his/her representative, shall be afforded a fair opportunity to be heard in opposition to the charges against him/her, including the right to question witnesses for or against him/her.
- C. The Pre-Disciplinary Panel shall, by consensus, determine if there is just cause for discipline, and if so, make a recommendation on the penalty, which shall not exceed penalties identified in the Table of Discipline and consistent with Section 404.03 of this Agreement.

(Paragraph C of current contract becomes Paragraph D)

- D. A written explanation of the Pre-Disciplinary Panel's determinations regarding whether just cause exists and the recommended penalty, if any, and the reasons for each shall be issued to the employee and the Executive Director within fourteen (14) days of said hearing.

- E. Within seven (7) days of receipt of the Pre-Disciplinary Panel's report, the employee may submit a written statement to the Executive Director explaining his/her case, or in lieu of a written statement, submit a written request to meet with the Executive Director. Said meeting shall take place within seven (7) days of the written request and will include the Labor Relations Specialist and the employee's representative in addition to the Executive Director and the employee.

(Paragraph D of current contract becomes paragraph F)

F. If the Executive Director determines that a suspension or dismissal will be issued, a Corrective Action Order will be issued within five (5) days of receipt of the employee's written statement or the meeting referred to in Paragraph E above. The Corrective Action Order will be issued as follows: In cases of suspension, the Executive Director, or a designated representative, shall meet with the employee and his/her representative to issue the Corrective Action Order, in writing. Said Corrective Action Order shall include the specific time period for suspension. In cases of dismissal, the Executive Director, or in his absence a designated representative, shall meet with the employee and his/her representative to issue the Corrective Action Order, in writing, which shall include the effective date of dismissal.

Any documents related to the disciplinary procedures outlined under this Section will be copied to the Labor Relations Specialist as a courtesy.

AGENCY PROPOSAL: Current contract.

RATIONALE: This proposal by the Union to change the contract is entirely unnecessary given the utter absence of disciplinary suspensions or terminations by CSB. It also runs afoul of this Fact-Finder's articulated rationale just three years ago that the Executive Director of this Agency should not be wound up in the day-to-day happenings of the grievance/arbitration procedure. "I disagree that a sound management/union relationship can be fostered at the highest level of the Union and administration through the narrowly focused adversarial grievance process. Labor/management cooperation has more of a chance of developing through meetings of a less adversarial nature." *In the Matter of Fact-Finding Between CWA Local 4546 and Summit County Children Services Board*, Case No. 96-MED-12-1163, p. 28 (Stein, 1997).

In the six-year time span 1994-2000, only five bargaining unit employees have been terminated from the Agency for disciplinary reasons (Attach. "9"). The last forcible termination occurred back in September of 1996 (*Id.*). There have only been eighteen (18) suspensions over this same six-year time span, which is not a staggering amount given a 300+ employee bargaining unit.

What the Union proposes given this dearth of occurrences is that an altogether new step be introduced into the disciplinary process whereby a joint labor/management committee must reach "consensus" on the discipline, and generate a written report, to be delivered to the Executive Director. Presumably, while all this hearing, writing, and debate time is going on with respect to the discipline, both the management and Union representatives are being paid to tend to those meetings instead of the Agency's business. The fact that "consensus" (meaning that *all parties* to the process must uniformly agree) must be reached nearly guarantees that no one at the Agency will in the future be disciplined for anything. It is simply hard to believe that two ostensibly detached "neutral" Union representatives on this hypothetical disciplinary board will ever side with the notion that one of their Union brethren ought to be terminated or suspended. As it stands under the existing contract, a "neutral and detached Administrator" fulfills the role of this imagined pre-disciplinary hearing panel proposed by the Union under §404.06.

The creation of an altogether new "panel" was one floated by the Union back in 1997, albeit within a different context, and rejected soundly by this Fact-Finder. There, the Union proposed to eliminate the single arbitrator proviso from the contract and substitute in its stead a panel of three arbitrators—one designated by the Union, one designated by the Agency, and one mutually agreed by the two designated individuals. See, *In the Matter of Fact-Finding Between CWA Local 4546 and Summit County Children Services Board*, Case No. 96-MED-12-1163, p. 25 (Stein, 1997). The Fact-Finder's rationale for rejecting this proposal was, *inter alia*, that panels of this nature are cumbersome, expensive, and typically unworkable: "In addition, trying to schedule three arbitrators on the same date is very difficult and would cause undue delays in the processing of grievances. The rendering of decisions would also be prolonged, with three arbitrators trying to coordinate their thinking and rationale." *Id.* This logic and reasoning has equal application where, as here, the CWA wants to introduce a whole new level of panel-like disciplinary scrutiny. There is no need for this provision. There has been no demonstrated abuse of the current system. The current contract should remain in tact.

Grievances. §§504 et seq.; pp. 37-41

OLD: Section 504.05 If the Employer fails to (a) meet with the Grievant within the timelines qualified in Section 504.07, or (b) to provide the Grievant with a response within the timelines specified in Section 504.07, then the Grievant may appeal to the next Step within seven (7) days. Any grievance not advanced from one Step to the next Step by the employee within the time limits of the Step shall be considered dropped by the employee at that Step. If, at any Step of the

Procedure, the aggrieved employee, his/her representative, or the appropriate Employer representative should not be able to be present because of approved leave, time limits must be waived to allow the above parties to be present.

* * *

Formal Steps:

Step 1: An employee having a grievance shall submit the grievance in writing to the employee's Supervisor and his/her Supervisor. The grievance shall be signed by the employee and Steward. The appropriate Supervisor shall sign the grievance upon receipt. The supervisor and his/her Supervisor shall meet with the employee and Steward within five (5) days after the grievance is submitted in an attempt to resolve the grievance. The Supervisor's Supervisor shall submit an answer, in writing, to the employee and Steward within five (5) days after such meeting. A Union Steward having an individual grievance may ask any Steward or Union Officer to assist in adjusting the grievance with his/her Supervisor. No formal written grievance will be considered later than ten (10) days after the oral decision of the Supervisor. The Union shall provide the Personnel Director with one (1) courtesy copy of each formal grievance filed.

Step 2: If the grievance is not satisfactorily settled at Step 1, the employee may file the grievance within seven (7) days after receipt by the employee of the Step 1 answer with the appropriate next level of supervision. The grievance shall be signed by the employee, Union Steward, and the next level of supervision upon receipt. The next level of supervision shall meet with the employee and Steward together with the employee's Supervisor and his/her Supervisor to review and attempt to settle the grievance within seven (7) days after the grievance has been filed. The next level of supervision and/or the Division Director shall provide a written answer to the employee, the Steward, and the Personnel Director within seven (7) days after the Step 2 Meeting. If the next level of supervision is the Executive Director, Step 2 shall be omitted and the grievance shall be filed at Step 3.

Step 3: If the grievance is not satisfactorily settled at Step 2, the Union may appeal to the Personnel Director in writing within seven (7) days after receipt of the Step 2 answer. Where Section 404.07 is used, the employee may file the grievance at Step 3 within ten (10) days after the last effective date of suspension, or in the case of dismissal, within ten (10) days of receipt of the Corrective Action Order. The Personnel Director and the Executive Director or designee shall, within fourteen (14) days of receipt of the appeal, meet with the aggrieved employee,

Steward, and any witnesses necessary to arrive at a resolution. The Executive Director shall render his/her decision in writing within fourteen (14) days subsequent to such meeting. In addition to the employee-grievant and the Steward, the employee-grievant may choose a non-employee representative of the Union or the Chief Steward to attend this meeting under Step 3.

Step 4: If the grievance is not satisfactorily resolved at Step 3, it may be submitted to Arbitration upon request of the Union or the Employer in accordance with Section 504.08 of this Article.

NEW UNION PROPOSAL:

Section 504.05 If the Employer fails to (a) meet with the Grievant within the timelines qualified in Section 504.07, or (b) to provide the Grievant with a response within the timelines specified in Section 504.07, then the Grievant may appeal to the next Step within seven (7) days. Any grievance not advanced from one Step to the next Step by the employee within the time limits of the Step shall be considered dropped by the employee at that Step. If, at any Step of the Procedure, the aggrieved employee, his/her representative, or the appropriate Employer representative should not be able to be present because of approved leave, time limits must be waived to allow the above parties to be present.

* * *

Formal Steps:

Step 1: An employee having a grievance shall submit the grievance in writing to the employee's Supervisor and his/her Supervisor. The grievance shall be signed by the employee and Steward. The appropriate Supervisor shall sign the grievance upon receipt. The supervisor and his/her Supervisor shall meet with the employee and Steward within five (5) days after the grievance is submitted in an attempt to resolve the grievance. The Supervisor's Supervisor shall submit an answer, in writing, to the employee and Steward within five (5) days after such meeting. A Union Steward having an individual grievance may ask any Steward or Union Officer to assist in adjusting the grievance with his/her Supervisor. No formal written grievance will be considered later than ten (10) days after the oral decision of the Supervisor. The Union shall provide the Personnel Director with one (1) courtesy copy of each formal grievance filed.

Step 2: If the grievance is not satisfactorily settled at Step 1, the employee may file the grievance within seven (7) days after receipt by the employee of the Step 1 answer with the appropriate next level of supervision. The

grievance shall be signed by the employee, Union Steward, and the next level of supervision upon receipt. The next level of supervision shall meet with the employee and Steward together with the employee's Supervisor and his/her Supervisor to review and attempt to settle the grievance within seven (7) days after the grievance has been filed. The next level of supervision and/or the Division Director shall provide a written answer to the employee, the Steward, and the Personnel Director within seven (7) days after the Step 2 Meeting. If the next level of supervision is the Executive Director, Step 2 shall be omitted and the grievance shall be filed at Step 3.

Step 3: If the grievance is not satisfactorily settled at Step 2, the Union may appeal to the Personnel Director in writing within seven (7) days after receipt of the Step 2 answer. Where Section 404.07 is used, the employee may file the grievance at Step 3 within ten (10) days after the last effective date of suspension, or in the case of dismissal, within ten (10) days of receipt of the Corrective Action Order. The Personnel Director and the Executive Director or designee shall, within fourteen (14) days of receipt of the appeal, meet with the aggrieved employee, Steward, and any witnesses necessary to arrive at a resolution. The Executive Director shall render his/her decision in writing within fourteen (14) days subsequent to such meeting. In addition to the employee-grievant and the Steward, the employee-grievant may choose a non-employee representative of the Union or the Chief Steward to attend this meeting under Step 3. ~~"Should the employer fail to meet/answer at Step 3 within the timelines (or obtain a waiver), the relief sought by the Union for that particular grievance will be automatically granted."~~

Step 4: If the grievance is not satisfactorily resolved at Step 3, it may be submitted to Arbitration upon request of the Union or the Employer in accordance with Section 504.08 of this Article.

AGENCY PROPOSAL: Current contract.

RATIONALE: This proposal by the CWA has no known "comparable" with respect to other social service agencies, and is completely unnecessary when one considers the existing contractual provision. Under the existing grievance/arbitration framework, the CWA has the absolute right to move grievances they have filed along each step of the process, ultimately to "final and binding" arbitration. Of course, the parties' contract contains a loser pay proviso which places the Union somewhat at risk should it choose to move forward with a meritless grievance. This, however, has not stopped the CWA from at least filing droves of grievances (Attach. "6"), but whether by agreement between the parties or otherwise, the Union has chosen not to pursue its written disputes to final and binding arbitration. CSB suspects that's because the Union does not want to

jeopardize economic losses under the "loser pay" proviso. Instead, the Union is perfectly comfortable backing up its grievances and agreeing to time-line extensions with respect to step answers, all so that it can use this perceived bank of grievances to its political advantage. The fact of the matter is, if the Union wants to pursue, and move along from step-to-step, any grievance that it has with CSB, it has the current ability under this contract to do so. Instead, it has chosen not to exercise that right, and instead comes to this Fact-Finder to propose additional sanctions upon CSB for the Union's own inaction.

Even the clause suggested by the CWA is unprecedented within the annals of either private or public sector labor arbitration. By default, the Union would have all of its "relief sought" granted in the event a Step 3 response is not timely provided. This will only encourage the Union to fill out its "relief requested" form of a grievance by asking for: "A house in Hawaii; a house in Tahiti; and a million dollars in cash." True, the Union might not be able to obtain that "relief" out of a realistic grievance/arbitration procedure, but what's the problem with asking, particularly with a default proviso such as this.

Indeed, if the Union had any sense of history, it would not have credibly made this proposal at all. During the 1994 fact-finding process, the Agency made a proposal that if the Union did not move its grievances along they would be deemed forfeited (Attach. "16"). The Union's counter-rationale was as follows:

The Union cannot agree to a proposal which transfers the entire burden of the arbitration process to the Union, with the ultimate result being that the Union loses the grievance if they fail to meet those timelines.

(Attach. "16"). Apparently, the CWA has had a startling change of heart.

There is no need to change this contract provision. The Union has every right in the world to move its grievances along from step-to-step, and there is no impediment that the Agency can erect to block this unfettered right. The problem here is that the Union has simply not exercised the rights it already possesses.

Personal Leave. §601.01; p. 41

OLD: ARTICLE 601 BENEFITS

Section 601.01—Personal Leave Days

- A. All full-time Bargaining Unit employees who have completed their initial hire probationary period shall be credited with sixteen (16) hours of

Personal Leave per year. Such leave shall be credited during the initial pay period of each calendar year. Newly hired employees completing their probationary period after June 30 of each year shall be credited with eight (8) hours of Personal Leave during the first pay period after completion of probation. Employees who are on probation during the initial pay period of each calendar year and complete their probationary period before June 30 of each year shall be credited with sixteen (16) hours of Personal Leave during the first pay period after completion of probation.

- B. Personal Leave days are non-cumulative and must be taken during the calendar year credited upon advance approval by the immediate Supervisor.
- C. Personal Leave shall not be used to extend a date of resignation or retirement, nor for the purpose of extending an employee's active pay status or accruing overtime or compensatory time.

NEW UNION PROPOSAL:

Section 601.01—Personal Leave

- A. All full-time Bargaining Unit employees who have completed their initial hire probationary period shall be credited with sixteen (16) hours of Personal Leave per year. Such leave shall be credited during the initial pay period of each calendar year. Newly hired employees completing their probationary period after June 30 of each year shall be credited with eight (8) hours of Personal Leave during the first pay period after completion of probation. Employees who are on probation during the initial pay period of each calendar year and complete their probationary period before June 30 of each year shall be credited with sixteen (16) hours of Personal Leave during the first pay period after completion of probation.
- B. Personal Leave ~~hours~~ are non-cumulative and must be taken during the calendar year credited upon advance ~~notice when possible to~~ the immediate Supervisor.
- C. Personal Leave shall not be used to extend a date of resignation or retirement, nor for the purpose of extending an employee's active pay status or accruing overtime or compensatory time.

AGENCY PROPOSAL: Current contract.

RATIONALE: This again is another Union swipe at power, in an area where there is no historical, "comparable" support whatsoever. No other social services agency allows employees to take accrued personal leaves whenever they feel like doing so and without advance notice. Additionally, there will be no demonstration by the Union at the hearing that the existing provision is "inadequate" and poses a "frequency" of "problem." *In the Matter of Fact-Finding Between CWA Local 4546 and Summit County Children Services Board, Case No. 96-MED-12-1163, pp. 15-20 (Stein, 1997).* With no supporting "comparables," and no demonstrated need, the current contract should not be altered.

Intermittent Employee Vacation Accrual. §601.09; pp. 43-44

OLD: C. Determination of total service for each full-time employee shall be calculated on the basis of the total years of service attained beginning with the date the individual became employed by the Board, County, or any political subdivision of the State.

NEW AGENCY PROPOSAL:

Determination of total service for each employee shall be calculated on the basis of the total years of service attained beginning with the date the individual became employed by the Board, County, or any political subdivision of the state, except for Intermittent staff hired after the date of ratification of this year 2000 Agreement, who later become full-time employees.

For such staff, determination of total service shall be calculated by dividing the total hours worked while employed as an intermittent at the Agency by 800 hours to determine the equivalent years of service attained with the provision that no such employee will receive more service credit than he/she could have attained as a full-time employee. Service carried over from another public employer shall also be credited to these employees.

UNION PROPOSAL: Current contract.

RATIONALE: The battleground over this proposal perhaps best exemplifies the "cherry picking" nature of this fact-finding procedure. Amidst interest-based bargaining, the Agency lowered the tier for the maximum amount of vacation from 25 to 22 years of service. In exchange, the Agency got a commitment from the CWA to resolve a pending intermittent vacation accrual grievance by giving partial recognition for the service of these employees once they become full-time. Now, the Union wants to keep the reduced vacation plateau, and whipsaw the Agency on the Intermittent issue.

Notwithstanding this inherently unfair bargaining tactic, the Agency's proposal here makes perfect sense. Why should Intermittent employees—some who may not have worked more than one (1) day/month—receive the same amount of credited service as a full-time CSB employee in relation to the vacation benefit? What's more, the Union's position, advanced through its pending grievance, is not a sure-bet at all. It may very well be that an experienced labor arbitrator will conclude that the existing contract already provides what the Agency is proposing here, and from that perspective this is nothing but language clarification. The built-in grandfather clause adequately protects existing staff from this proposed "change."

Bereavement Leave. §601.13; p. 46

OLD: Section 601.13—Bereavement Leave

All members of the Bargaining Unit shall be given a leave of absence with pay for three (3) days in the event of the death of a member of the immediate family. The Bereavement Leave provision shall only be applied one (1) time during the calendar year. All other request(s) shall be charged to Sick Leave.

Immediate family is defined as:

Husband, wife, child(ren), mother, mother-in-law, father, father-in-law, sister, sister-in-law, brother, brother-in-law, daughter, daughter-in-law, son, son-in-law, grandchild(ren), grandparents, legal guardian, or other person who stands in place of a parent.

NEW UNION PROPOSAL:

Section 601.13—Bereavement Leave

All members of the Bargaining Unit shall be given a leave of absence with pay for three (3) days in the event of the death of a member of the immediate family. ~~The Bereavement Leave provision shall only be applied one (1) time during the calendar year.~~ All other request(s) shall be charged to Sick Leave.

Immediate family is defined as:

Husband, wife, child(ren), mother, mother-in-law, father, father-in-law, sister, sister-in-law, brother, brother-in-law, daughter, daughter-in-law, son, son-in-law, grandchild(ren), grandparents, legal guardian, or other person who stands in place of a parent.

AGENCY PROPOSAL: Current contract.

RATIONALE: Under existing contract, the Agency provides a valued benefit in the form of a one-time per annum bereavement leave in the event of the unfortunate passing away of a very broad category of claimed "immediate family."³ The Union would alter current contract by removing this one-time annual benefit and make it applicable an unlimited number of times throughout the course of a year. Under the existing contract, employees who have the unfortunate experience of needing two bereavement leaves within a year can meet the second need via use of sick leave.

Bereavement leave at CSB is no small potatoes. A significant amount of bereavement leave legitimately gets used by bargaining unit employees each year (See, Attach. "10"). There will be no evidence put on by this Union at the fact-finding hearing that any employee was denied their need to take a leave of absence to pay their last respects to a departed "immediate family" member. That leave occurred either by virtue of CSB's generous bereavement leave or, if that benefit had already been utilized, by virtue of the Agency's allowing sick leave to be used. Again, the Agency's response to this proposal is a simple, "if it isn't broke"

Continuing Education. §601.15; pp. 46-47

OLD: Section 601.15—Continuing Education Flex-Time

Where operational needs permit, all full-time employees in the Bargaining Unit with two (2) years of continuous and satisfactory service shall be permitted up to four (4) hours per week (during the regularly scheduled work day) to take university courses for academic credit.

Eligible employees requesting approval for Continuing Education Flex-Time shall meet the following criteria:

1. The employee shall have been given a satisfactory rating or been approved to receive a merit increase at his/her most recent salary review date.

³ The "immediate family" is so broad that it includes: "Husband, wife, children, mother, mother-in-law, father, father-in-law, sister, sister-in-law, brother, brother-in-law, daughter, daughter-in-law, son, son-in-law, grandchildren, grandparents, legal guardian, or other person who stands in place of a parent." CBA at p. 46, §601.13.

2. The employee shall obtain approval that the desired class work is applicable to the employee's current job duties or in preparation for another position within the Agency.
3. The employee shall document that the class desired is not available at a time outside the regularly scheduled work day for the semester desired.
4. The employee shall make up hours missed from the regularly scheduled work day on the same work day any educational flex-time is taken.
5. Educational flex-time shall be separate and distinct from compensatory time, and will not directly or indirectly add to the accrual of compensatory time.
6. The employee shall submit a request for approval (on a form to be provided by Management) at least one (1) month prior to the registration deadline for the course work.
7. Selection of employees who have applied for Continuing Education Flex-Time shall be based on Agency seniority.
8. No more than six (6) Bargaining Unit employees may participate at a time.
9. No more than one (1) employee per line supervisory unit may participate at a time.
10. In the event of an emergency, Continuing Education Flex-Time changes may be canceled by the Supervisor for the duration of the emergency.

NEW UNION PROPOSAL:

Section 601.15—Continuing Education Flex-Time

Where operational needs permit, all full-time employees in the Bargaining Unit ~~who have successfully completed their initial hire probationary period~~ shall be permitted up to four (4) hours per week (during the regularly scheduled work day) to take the university courses for academic credit.

Eligible employees requesting approval for Continuing Education Flex-Time shall meet the following criteria:

1. The employee shall have been given a satisfactory rating or been approved to receive a merit increase at his/her most recent salary review date.

2. The employee shall obtain approval that the desired class work is applicable to the employee's current job duties or in preparation for another position within the Agency.
3. The employee shall document that the class desired is not available at a time outside the regularly scheduled work day for the semester desired.
4. The employee shall make up hours missed from the regularly scheduled work day on the same work day any educational flex-time is taken.
5. Educational flex-time shall be separate and distinct from compensatory time, and will not directly or indirectly add to the accrual of compensatory time.
6. The employee shall submit a request for approval (on a form to be provided by Management) at least one (1) month prior to the registration deadline for the course work ~~when feasible~~.
7. Selection of employees who have applied for Continuing Education Flex-Time shall be based on Agency seniority.
8. ~~Delete Current Contract~~
9. No more than ~~two (2)~~ employees per line supervisory unit may participate at a time.
10. In the event of an emergency, Continuing Education Flex-Time changes may be canceled by the Supervisor for the duration of the emergency.

AGENCY PROPOSAL: Current contract and add language that more than one (1) employee per line supervisory unit can utilize flex-time only with supervisory approval.

RATIONALE: Once again, this proposed change is nothing but a "power play" by the CWA. Significantly, this "continuing education flex-time" benefit is not one doled out by other "comparable" social services agencies. It is rather unique to CSB. The Agency needs to retain the discretion to deny continued education flex-time when more than one employee per line supervisory unit attempts to participate at the same time. While the Agency cultivates an atmosphere whereby employees make use of the available flex-time benefit, staffing levels nonetheless need to be maintained to carry on the work. Where one employee leaves a supervisory unit to take advantage of flex-time, staffing levels are not significantly impaired. However, where two employees leave the same unit at the same time, staffing levels may be impaired. Thus, the Agency wishes to retain the right to deny flex-time under these particular circumstances where

have been increased by three and one-half percent (3.5%) effective April 1, 2000, and will be increased by three and one-half percent (3.5%) on April 1, 2001 and three percent (3%) on April 1, 2002.

RATIONALE: The Agency's wage proposal is bolstered by two stark realities, neither of which can be remotely disputed by the CWA. First, CSB clerical and support staff are grossly over compensated when compared to Summit County and other "comparable" Ohio employers. This phenomenon has largely developed because for decades those who, on behalf of the CWA, have led the collective bargaining process are themselves clerical workers, and have stubbornly insisted that uniform, across-the-board wage increases be offered. Second, there is an admitted dearth of professional social worker candidates available for hiring across the nation, and CSB needs to put its best foot forward to attract and maintain these scarce resources. Fundamentally sound business dictates the pouring of more economic assets into those positions of employment which, by virtue of market conditions, command ever-escalating salary increases. This is an economic reality that the CWA has historically refused to face.

Numbers usually don't lie and that is particularly the case here. Data drawn from the Ohio State Employment Relations Board in its benchmark report proves that within Summit County, the Account Clerks, Clerical Specialists, Clerks, Computer Operators, Computer Programmer I's, Data Entry Operators, and Secretaries of CSB enjoy an existing salary package that far exceeds their Summit County counterparts in those same positions at both the entry level and top of the wage scale (Attach. "14"). And, this doesn't even tell the full extent of the story. In 1988 when CSB "rolled out" longevity payments from the base rate salaries of employees, it simultaneously committed to grandfather those amounts that had then matriculated into the base rates of pay for employees. As such, there are many clerical employees at this Agency whose annual salary far exceeds top-end of the salary range set forth in the collective bargaining agreement at pp. 50-52. By scouring SERB's own databank (Attach. "14"), this Fact-Finder can see for himself just how bad and truly outrageous the clerical salary differentials are within Summit County alone. For instance, there is a whopping \$6,000.00 salary difference in both the entry level and top rate levels of salary for Account Clerks as between CSB and Summit County Human Services. A \$5,000.00-\$6,000.00 per annum salary differential exists in the Clerical Specialist job. Again, \$6,000.00 and \$7,000.00 separate Summit CSB and Summit Human Resources in the Clerical position as between entry level and top-level rates. A \$7,000.00 salary differential is also present in the Data Entry Operator position. That's a whopping 32% premium in pay for no other reason than the worker is employed by CSB. Furthermore, we are truly talking apples-to-apples here as Summit County Human Resources, like CSB, has no step increases in pay. Any truly impartial neutral looking at these figures will have to conclude that the non-professional staff at CSB live a good life. Their pay rates are grossly disproportionate to their peers in the same community and there is

there are demonstrable staffing level concerns. Again, since the ever-present "arbitrary or capricious" check will remain in place, and since the Agency's hypothetical denial can be challenged via grievance/arbitration in any event, the Agency's proposal in this regard fits neatly within "mainstream." This same element of supervisory discretion would apply across the board to attendance at workshops by employees. Again, where and if the Agency is able to support a denial of attendance as being something other than "arbitrary or capricious," it must retain that fundamental right.

Wages. §602.01, p. 50

OLD: ARTICLE 602 WAGES

Section 602.01 Effective April 1, 1997, each Bargaining Unit employee shall receive a three and one-half percent (3.5%) increase in his/her current salary. Effective April 1, 1998, each Bargaining Unit employee shall receive a three and one-half percent (3.5%) increase in his/her salary. Effective April 1, 1999, each Bargaining Unit employee shall receive three and one-half percent (3.5%) increase in his/her salary. The salary ranges for all Bargaining Unit positions have been increased by three and one-half percent (3.5%) effective April 1, 1997, and will be increased by three and one-half percent (3.5%) on April 1, 1998 and April 1, 1999.

NEW AGENCY PROPOSAL:

ARTICLE 602 WAGES

Section 602.01 Effective April 1, 2000, each ~~Caseworker classified~~ employee shall receive a four and one-half percent (4.5%) increase in his/her current salary. Effective April 1, 2001, each ~~Caseworker classified~~ employee shall receive a four and one-half percent (4.5%) increase in his/her salary. Effective April 1, 2002, each ~~Caseworker classified~~ employee shall receive four percent (4%) increase in his/her salary. The salary ranges for all ~~Caseworker classified~~ positions have been increased by four and one-half percent (4.5%) effective April 1, 2000, and will be increased by four and one-half percent (4.5%) on April 1, 2001 and by four percent (4%) on April 1, 2002.

Effective April 1, 2000 each ~~other Bargaining Unit~~ employee shall receive a three and one-half percent (3.5%) increase in his/her current salary. Effective April 1, 2001, each ~~other Bargaining Unit~~ employee shall receive a three and one-half percent (3.5%) increase in his/her salary. Effective April 1, 2002, each ~~other Bargaining Unit~~ employee shall receive three percent (3%) increase in his/her salary. The salary ranges for all these ~~other Bargaining Unit~~ positions

not a shred of evidence that their particular assigned tasks are any different from their peers.

Statewide, the gross wage disparity now enjoyed by Summit CSB clericals is even starker. In all social service agencies across the state, CSB ranks number one in pay for all Account Clerks, Clerks, and Data Entry Operators (Attach. "14" at pp. 3-8). We are not talking about a few nickels and dimes here. There is a \$3,000.00 spread for Account Clerks between CSB and the second highest agency. A \$5,000.00 spread exists at the Clerk level as between CSB and the second highest social services employer. A \$5,000.00 spread similarly exists between the first (CSB) and second highest paying employers at the Data Entry position.

In all the other clerical positions—Clerical Specialist, Computer Operator, Computer Programmer and Secretary—CSB is the second highest paying employer out of some thirty social service agencies (Attach. "14" at pp. 3-8). In most of these positions, Franklin County leads the way, but it has a taxpayer population base nearly two times that of Summit County (*Id.*). So, in summary, CSB ranks either first or second in all clerical position pay across this state, and would continue to hold those esteemed rankings even if its clerical staff received no wage increase at all through the life of a new three-year contract. The existing salary gap is so cavernous that proposed 0%, 0%, 0% raises for CSB clericals still leaves them head and shoulders above their counterparts.

Nor can it be denied that the number of candidates within the Social Worker field is spiraling downward (Attach. "4"). "Nationally, turnover is a problem for most child-protection agencies, according to the Child Welfare League of America, which sets caseload standards for agencies" (*Id.*). The supply problem appears to be at the entry level of the equations as studies have proven that most Social Worker graduates " . . . opt for private counseling practices or higher-paying fields such as health, elder care, or corporate employee assistance programs" (Attach. "4" at p. 4). The economic budget in year 2000 has allowed CSB to step to the plate and offer what can only be described as a most generous economic package. But all positions within the Agency are not fungible widgets. Simply by virtue of the nature of their degreed jobs, Caseworkers have more economic leverage in the job market. When that inherent leverage is coupled with a dwindling candidate pool, then it makes perfect sense for the Agency to offer an enhanced economic package to the workers it needs most. There are now some twenty (20) vacancies in the Social Worker classifications at the Agency. Predictions on the horizon are that matters are expected to worsen as less and less students in college enter social services fields. The stark reality is that the same cannot be said for clerical positions. That's not to denigrate those valued employees at all, it's simply the economic realities of a real world.

To apply salary increases out of this labor contract across-the-board in a uniform fashion would be economically irresponsible. The wage package offered to non-professional CSB workers by the Agency is a healthy one. Indeed, the average 1999 salary increase statewide for "other" bargaining units was 3.31% (Attach. "14," p. 9). For the first thirty-six (36) weeks of fiscal year 2000, the weighted average increase in negotiated contracts was 3.7% for all industries (*Id.*). The 3.5% salary increase offered in the first year of this contract to non-professional employees of CSB is therefore above average. Thus, it cannot be said that CSB has taken money from its clericals and placed it in the hands of its professionals. Instead, the Agency has allotted for clericals what "everyone else" is getting, and wisely spent more of its monies in the professional staff where shortages now abound and are expected to increase. This is not only an imminently fair wage proposal, it is one that is needed to best position the Agency for what might be a bleak future in the social worker field.

Step Increases. \$602.02 (NEW)

NEW UNION PROPOSAL:

A new step system within the salary scale shall be implemented. For all pay scales, the amount between each step will be three percent (3%). Employees who are not at or above the top of their assigned pay scales shall receive increases to his/her current salary in those amounts not to exceed the top of their assigned pay scales effective on their anniversary dates.

AGENCY PROPOSAL: Current contract.

RATIONALE: This again is an issue that the Union seeks to re-visit from the 1997 fact-finding, with no new evidence, no new demonstrable need, and in the face of a healthy economic package offered here by the Agency. What's more, this proposal violates this Fact-Finder's fundamental rationale that: "Recent bargaining history plays a major role in any determination to reinstate something that was deleted by mutual agreement of the parties [in the past]." *In the Matter of Fact-Finding Between CWA Local 4546 and Summit County Children Services Board*, Case No. 96-MED-12-1163, p. 32 (Stein, 1997). It also runs afoul of a second Fact-Finder maxim to the effect that: "The fact is if you want to either gain or take back an economic benefit, you must pay for such a change." *Id.*

Although camouflaged as "step increases" under its proposal, the CWA's recommendation in this regard is nothing more than the same "merit increases" rejected by this Fact-Finder in 1997. In those earlier proceedings, it was duly

noted that the Agency effectively purchased the then-existing "merit increases"⁴ in the labor contract by negotiating "... a better than average salary increase for all members of the bargaining unit." *Id.* at p. 32. And, this Fact-Finder upheld the rejection of the Union's request to reinstate "step increases" where the awarded general wage increases were 3.5%, 3.5%, and 3.5% over the life of the 1997-2000 labor contract. If the facts in 1997 did not "... support the Union's ability to once again buy this benefit during this round of bargaining," then they surely do not support that renewed effort here.

Moreover, this Fact-Finder recognized in his 1997 report that social service agencies typically have one or the other as between step increases and longevity pay. *Id.* at pp. 33-34. The Fact-Finder found it better to preserve existing longevity pay rather than reintroducing a benefit that had been mutually negotiated away just six short years ago. Indeed, this Fact-Finder enhanced the CWA's longevity benefit by instituting an altogether new tier at five (5) years of continuous service. *Id.* at p. 34. The Fact-Finder clearly did not take this step on the assumption that just three (3) short years later "step increases" would make their way back into this contract.

There is no acceptable rationale that can be manufactured by the CWA that would change this Fact-Finder's opinion which existed just three short years ago. The proposal to reinstate "step increases" must therefore be soundly and firmly denied.

Section 601.02 Continued Service Benefit

OLD: All part-time and full-time Bargaining Unit employees shall, on the appropriate anniversary date, receive a service bonus. The bonus amount will not be included in the employees' base rates of pay. The bonus will be paid on a one-time basis according to the following schedule:

- A. Completion of 5 years continuous service at Summit County Children Services Board - \$225.00.
- B. Completion of 10 years continuous service at Summit County Children Services Board - \$450.00.
- C. Completion of 15 years continuous service at Summit County Children Services Board - \$700.00.

⁴ The denomination of these increases as "merit increases" is somewhat of a misnomer. There was no "merit" assessment of the employees at all. Instead, merely by virtue of continued service with the Agency, the corresponding economic increases were granted. They would be better served by being called "automatic increases."

- D. Completion of 20 years continuous service at Summit County Children Services Board - \$950.00.
- E. Completion of 25 years continuous service at Summit County Children Services Board - \$1,200.00.

NEW: All part-time and full-time Bargaining Unit employees shall, on the appropriate anniversary date, receive a service bonus. The bonus amount will not be included in the employees' base rates of pay. ~~The bonus will be paid on a one-time basis according to the following schedule:~~

- A. Completion of 5 years continuous service at Summit County Children Services Board - \$225.00.
- B. Completion of 10 years continuous service at Summit County Children Services Board - \$450.00.
- C. Completion of 15 years continuous service at Summit County Children Services Board - \$700.00.
- D. Completion of 20 years continuous service at Summit County Children Services Board - \$950.00.
- E. Completion of 25 years continuous service at Summit County Children Services Board - \$1,200.00.

RATIONALE: This is a proposal by the Union to hide its request for inflationary-like wage increases of a perpetual nature at the Agency. By "rolling in" the existing continuous service benefit into one's annual pay rate, instead of leaving it as a one-time lump-sum payment, those enhanced dollars become commingled with virtually every benefit remotely linked to one's wages. Time-and-one-half overtime is affected by the Union's proposal. So are across-the-board percentage salary increases that may come out of this fact-finding process. In short, every Agency bargaining unit employee who meets one of the service plateaus receives enhanced pay by having the payment perpetually rolled into their base rates of pay.

A short history lesson is in order here. It was during the 1988 negotiations that the Union committed that longevity bonuses would not be "rolled into" base rates of pay (Attach. "11"). Each year thereafter the service plateaus were paid out as a lump-sum payment which, of course, did not produce a trickle down economic impact on the Agency when ever-increasing across-the-board percentage increases became effective. Now, the Union wants to change all this. What's its rationale? There is none. There is no evidence that the existing

longevity payments have become "unworkable" or are flawed in any respect. Indeed, this Fact-Finder just added another tier to the longevity increases in 1997, and the Agency is pretty certain that he did not do so in contemplation of the amounts being "rolled into" base rates of pay. Given the well above average wage increases voluntarily proposed here by the Agency, this enhanced, expensive benefit is clearly unwarranted. Moreover, the Union has proposed nothing to "buy back" the longevity it surrendered in 1988.

Healthcare: §601.06; p. 42

OLD: Section 601.06—Health Insurance and Prescription Card

The Employer shall provide a Group Health insurance Plan and Prescription Card coverage for all full-time employees. The benefit level provided by the Employer at the time of the signing of this Agreement shall be retained, and all increases in premiums for said benefits shall be borne by the Employer. All Bargaining Unit employees shall contribute ten percent (10%) of the total monthly premium costs for either Single or Family coverage for the remainder of the term of the collective bargaining Agreement. Insurance coverage shall take effect ninety (90) days after initial hire date for a permanent full-time position. For the purposes of this Section, full-time employees means an employee who works a scheduled work week of at least thirty-two (32) hours.

NEW UNION PROPOSAL:

Section 601.06

The Employer shall provide a Group Health insurance Plan and Prescription Card coverage ~~Dental Insurance and Optics Insurance~~ for all full-time employees. The benefit level provided by the Employer at the time of the signing of this Agreement shall be retained, and all increases in premiums for said benefits shall be borne by the Employer. All Bargaining Unit employees shall contribute ten percent (10%) of the total monthly premium costs for either Single or Family coverage ~~of \$55.00 per month for Family coverage and \$20.00 per month for Single coverage (effective 4/1/00 through 12/31/00; \$58 per month for Family coverage and \$23 per month for Single coverage (effective 1/1/01 through 12/31/01); or \$64 for Family coverage and \$26 for Single coverage (effective 1/1/02 through 3/31/03); whichever is less~~ for the remainder of the term of the collective bargaining Agreement. Insurance coverage shall take effect ninety (90) days after initial hire date for a permanent full-time position. For the purposes of this Section, full-time employees means an employee who works a scheduled work week of at least thirty-two (32) hours.

In addition, a Health Care Committee shall be formed which consists of three (3) Union representatives, three (3) Employer representatives, and one (1) mutually agreed-upon consultant. The cost of the consultant will be shared by the parties. The mission of the Committee will be to define the benefit package, define short and long term cost reduction strategies, and specifically address prescription co-pays as it relates to premium savings. The Committee will commence within thirty (30) days of ratification of the contract and will make recommendations to the Executive Director for presentation to the Board of Trustees. Said recommendations will be completed no later than 9/15/00. The Committee will meet at least twice per year thereafter.

In addition, the Employer shall compensate bargaining unit employees who choose to opt out of the health care plan fifty dollars (\$50) per month.

The agency will offer health care benefits to all Part-Time Worker Employees, as defined in Section 103.01 J2(b), with the employee contributing double the total monthly employee contribution for either Single or Family coverage for the remainder of the term of the collective bargaining Agreement. Part-Time Case Worker Employees are not eligible for the compensation under the option out provision in Section 601.06.

AGENCY PROPOSAL: Alter the existing Cadillac-like prescription benefit so that it is consistent with the overall Summit County Health Plan. Otherwise, current contract.

RATIONALE: The Union proposes to institute health insurance premium "caps" for the employee contribution, at a point in time when there is double digit inflation with respect to health insurance premiums across this nation (Attach. "12"). Its proposal in this regard is also made against the backdrop of a current CSB plan that is being heavily subsidized by Summit County at-large (Attach. "13"). It is hard enough to sell Summit County on the notion that CSB employees should have some special, unique benefits that others in the County do not enjoy. It will be next to impossible to sell the County on the suggestion that the premiums needed to support this CSB-only benefit in the form of fully-paid prescriptions should be capped in terms of economic risk.

Some things have changed in this area since the 1997 fact-finding. CSB has since moved to a self-insurance program under the general Summit County plan. It is worth mentioning that this movement towards self-insurance is one that has been advocated by the CWA for years. Be that as it may, this change has now occurred, and the health insurance plan available to CSB employees is unique unto itself. No other Summit County agency enjoys the Cadillac-like prescription benefits enjoyed by CSB employees (Attach "13" at pp. 3-8). And, it is not a quantum leap in logic to trace escalating health insurance premiums to prescription drug benefits (Attach. "12").

Recently, the health insurance premiums applicable at CSB have admittedly risen. Full coverage family premiums jumped from \$526.87 to \$603.16, and full coverage single person premiums jumped from \$211.46 to \$241.66 (Attach. "13" at p. 2). Throughout 1998-1999 there were no changes in premium levels. During 1997-1998, premiums actually declined (*Id.*).

Are CSB's current health care premiums out of line? Not according to SERB (Attach. "13," pp. 9-20). Accounting for the prescription, major medical, vision, and dental benefits that CSB employees enjoy, the statewide average in family premiums is \$647.27 (*Id.* at p. 9). At CSB, it's only \$603.16. The statewide average for full-blown coverage on the single level is \$277.20 (*Id.* at p. 9). At CSB, premiums are only \$241.66. It appears then that Summit County has done all it needs to do to properly administer its plan.

It would be tantamount to economic suicide for this Fact-Finder to cap employee contribution health insurance premium increases given the predicted double-digit escalations in this area (Attach. "12"). That would serve to virtually wipe out the 10% employee premium remittance that the Agency obtained through the hard bargaining (and strike) that occurred back in 1991. What's more, capping employee premiums would provide a clear disincentive for employees to use their health insurance benefits judiciously. If the employee realizes they do not face a risk of increased premiums by virtue of use, then what's to prevent an abuse of use? Again, this proposal has no known "comparable" in the history in the state of Ohio. Indeed, this Fact-Finder would be hard-pressed to find such a "comparable" capping in the private sector.

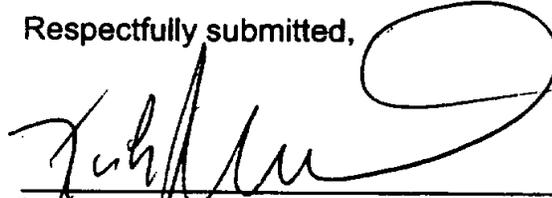
There is, however, an answer to the one-year escalating health insurance premium dilemma at CSB.⁵ Reduce the existing prescription card benefit at CSB so that it is in line with other employees in the Summit County health plan (Attach. "13" at p. 3). This is an approach that this Fact-Finder has called for in the past: "The importance of maintaining relative consistency in the County does play a significant role in negotiations. The comparables in Summit County are particularly important at this time in the [Children Services] Board's history and may be of even more importance in the future." *In the Matter of Fact-Finding Between CWA Local 4546 and Summit County Children Services Board, Case No. 96-MED-12-1163, p. 53 (Stein, 1997).* Such a change will not only produce

⁵ It is worth noting that this is the first premium increase experienced by bargaining unit employees in literally years. The reaction is truly alarmist.

Mr. Robert G. Stein
September 19, 2000
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the desired effect of holding down premium increases (a benefit to both the Agency and employees alike), but will also serve to produce parity within Summit County.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Keith L. Pryatel', with a large, stylized flourish extending to the right.

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