

**FACT FINDING REPORT
STATE OF OHIO
STATE EMPLOYMENT RELATIONS BOARD
DECEMBER 4,2019**

In the Matter of:

Teamsters General Truck Drivers, Chauffeurs, Warehousemen, and Helpers Local Union No. 957)	Case N:
)	2019-MED-01-0059
and)	
)	Carol J. Bader, Esq.
Wright State University)	Factfinder

APPEARANCES:

For the Employer:

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For the Union:

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The undersigned was duly appointed by SERB letter, pursuant to ORC 4117.14(C) 3, to serve as Fact-Finder in the matter of Teamsters, Local 957 (hereafter referred to as “Union”) and the Wright State University (hereafter referred to as “Employer” or “University”) The Union was represented by Mr. John Doll, Esq. and the Employer was represented by Mr. Christopher Hogan, Esq. The parties agreed to waive the SERB timelines for the hearing and decided on a December 4, 2019 report submission. The Hearing was held at the University Human Resources building on Friday, November 22 at 9:30 a.m.

All tentative agreements made between the parties are deemed to have been incorporated herein and are adopted as part of the parties’ final agreement. These are listed in Appendix A.

OVERVIEW:

Wright State University became its own entity supported by the State of Ohio in 1967. Prior to this, it was a satellite campus for both Ohio State and Miami Universities. The University currently serves 13,000 students (down from a high of 19,000 plus in 2010), on two campuses

in a variety of academic pursuits including a medical school. The University has bargaining units representing its faculty (AAUP), Police Officers (FOP), Communications Officers and Teamsters 957, which is generally considered the “maintenance” employees union. Teamsters 957 currently has 90 members, down from 147. ¹ The Teamsters have thirty- eight (38) types of positions in their unit from custodians to athletic field grounds keepers. Many members hold required licenses and certificates necessary for the performance of their jobs.

The parties have been negotiating since September, 2018 meeting eleven (11) times concluding with a mediation session on July 26, 2019. After mediation, the parties had five (5) unresolved issues.

Wright State University has suffered setbacks in the last decade reaching a high enrollment of 19,000 students in 2010 falling to its current 13,000 for this academic year. This reduction in students brought the University to the brink of fiscal watch by the state. However, recently, with belt tightening including some layoffs of staff and faculty the university is again able to again regain cash reserves.

Both parties indicated that the union had nothing to do with the financial and student population downturns. Each alluded to problems with administration and management causing the losses to the University² Under new management, the University has started to turn around. The budget was slashed and 200 employees were laid off. The University has begun a turn around with a lesser rate of decline in student population than had been projected. Cash reserves which were used to balance budgets during the crisis are beginning to rebuild.

Introduction:

The fact finder reviewed all proposals, exhibits, position statements and oral arguments presented by the parties. She appreciates the well-organized presentations and acknowledges the hard work and effort that goes into fact-finding preparation. She considered the following SERB standards for fact-finding review, as required by Ohio Revised Code 4117.14(C) and 4117.14 (G) (7) (a):

1. Past collectively bargained contracts between the parties;
2. Contracts from Comparable Employers
3. The Interest and Welfare of the Public
4. Lawful Authority of the Employer
5. Such other facts which are normally or traditionally taken into consideration in the determination of the issues submitted.

¹ The position statements of the parties had differing numbers for current membership. The Employer indicated that there are 120 full time employees. (University position statement, p. 3) This discrepancy was not discussed at the hearing, so the factfinder makes note of it here. The overall membership numbers are not really relevant to the unresolved issues.

² Union Exhibit 10, Employer Position Statement, p.2

Unresolved Issues:

- Article 9** **Miscellaneous Parking**
- Article 14** **Seniority, Layoff and Recall**
- Article 17** **Wages**
- Article 25** **Employee Benefits**

Proposed New Section: Furloughs

A. ARTICLE 9 Miscellaneous:Section 8, Parking

Introduction:

Wright State University charges students and employees for parking in their lots. In the Factfinders own experience this is not unusual. Parking rates can often be substantial for both students and employees alike. The current rate for most employees at Wright State is \$225; while the Teamsters currently enjoy a rate of \$195. This is due to a \$10 cap on increases in their contract language. Naturally this discrepancy causes some friction between the Teamsters, other employees and the University.

1. Employer Position:

The Employer currently has a tier plan regarding the cost of parking spots. All parking lots must be maintained the same on campus- repair, snow removal, cleaning and striping. It costs the University \$5.5 million annually to maintain their parking areas. Spots closer to entrances to certain buildings are at a premium and cost more. Students pay less than faculty. The goal though is to bring most participants in line with a \$225 per year fee. This was recently accomplished with the faculty unit (AAUP), who will start paying that amount in 2021.

The University also cites the complexity of having various types of parking permits and fees. They argue that the various tiers, permits and prices are administratively difficult to administer. Thus, they would like to bring everyone into line at the \$225 parking fee.

In an exception, the Employer came to terms with a small number of Communication Operators who work second and third shift. These are the 9-1-1 dispatchers for the campus police force. They obtained a lower rate in exchange for other negotiated items, which the employer said was feasible because of the small size of the group.

On the other hand, the Teamsters have been able to maintain a lower parking rate because they have a ten-dollar (\$10.00) cap on annual increases in fees. Therefore, they pay \$195 annually and other employees pay \$225.

2. Employer Proposal:

As indicated above, the University wants to simplify the process and bring everyone into line, paying the same amount. Therefore, they propose:

Section 8 – Parking. Bargaining Unit employees shall pay for parking at the same rates as other University classified employees; however, ~~in no event shall parking rates for bargaining unit employees increase by more than ten dollars (\$10.00) per year during the life of this agreement.~~ **Rates will not change for employees covered by this collective bargaining agreement until January 1, 2020.**

With this proposal they hope to accomplish uniformity, and ease of administration.

3. Union Response

In its first response to the University on this subject in October 2018 was “that there be no increase in parking fees if there was a wage freeze implemented.” The university’s last proposal in March of 2019 was to eliminate the \$10 cap language in the Teamsters contract. The Union urges the fact finder to adopt the current language, if the Fact finder recommends wage increases for the contract. If there no wage increases are proposed, the fact finder then should adopt the following:

4. Union Proposal (if no wage increases)

Section 8 Parking. Bargaining unit employee shall pay for parking at the same rates as other University classified employees increase by more than ten dollars (\$10.00) per year during the life of this agreement. **If there is a University Wage Freeze, there shall be no increase in parking increases for bargaining unit employee during the life of this agreement.**

5. Analysis:

This section is a classic problem in labor relations. At some point in past bargaining, the Union was able to negotiate ³ a ten-dollar (\$10.00) cap on the increase of the annual parking fee. The result is this unit having a slower rate of increase than the other employees and staff. As noted in the University Position statement, they were able to bargain ⁴ changes to the parking for the Communication operators who work on the second and third shifts. The position statement indicated that they

³ Fact finder has no idea what the trade may have been for the cap on parking fees.

⁴ An exchange was made in order to change parking terms for the Communication Operators.

traded a few negotiated items for the change.⁵

Currently, the bargaining unit members have a certain increase of only \$10 or less. If they agree to the University proposal' it means that the employer can raise the parking fees to that of the other employees with no limit. Like the Communication operators, this is not going to change unless there is some horse trading. The factfinder did not see evidence that packages were offered in order to remove this language from the contract.

6. **Factfinder Recommendation:**

The fact finder recommends current language. Until the University works its way to the point where it can buy this language out of the contract with something more significant, the fact finder recommends current language.

B. ARTICLE 14 SENIORITY, LAYOFF AND RECALL

The dispute in this section has to do with the order of layoff, notice of layoff, and many other changes, particularly by the University regarding layoffs. Since the University has suffered layoffs and financial setbacks in the last few years this becomes a very contentious section of the contract.

1. Employer Position:

As the University has had to cut back on staff with the reduction in student population over the last few years, it seeks changes in the current language.

The University is asking for more flexibility when reducing the number of employees. They are now asking to reduce bargaining unit employees for "efficiency improvements or reorganization. They are also

⁵ University Position Statement, p.7

asking to retain “student employees” over bargaining unit employees as long as they provide a “justification” for doing so.

They are also seeking to stop the ability of a laid off bargaining unit employee from moving into a lateral or lower vacant classification as now provided for in the labor agreement. They argue that it is a hardship for students to be laid off and that their lay off may force them to quit school. Furthermore, the University complains that they have had problems with bargaining unit employees bumping into other positions for which they are supposedly qualified. They wish to eliminate this problem by limiting bumping into the same unit. In other words, no one can bump into another unit even if they are qualified for the position.

2.Union Response:

The Union responds that it has nothing to do with problems caused by University administrators which caused a financial crisis, loss of reputation and student enrollment. (Union Exhibit #10) The University has been working diligently to improve its standing and reverse the financial issues brought on by the previous administration.

The Union rejects the Employers request and argues that current language should remain in place.

3.. Analysis:

Employers often want to get out from under the constraints of the layoff language in a contract. But seniority and protection of bargaining unit positions is the heart of any labor agreement. The University proposal ignores the hardship to the bargaining unit member with seniority who loses their job over the student. It doesn't mention the fact that student workers are paid much less than the bargaining unit employee. It also provides flexibility to the Employer to use any reason to lay off a bargaining unit employee. For this reason, the factfinder cannot introduce such ambiguity into a labor contract.

4. Factfinder's Recommendation:

Current Language

C. Article 16 – Hours of Work- New Section Furlough Days

1. Employer Position:

Employer proposes the use of furlough days versus lay off to save money in case of another financial crisis. They propose 30 days' notice prior to implementation and the days would be mandatory. They want 10 furlough days annually (exception police unit which is five days, faculty one per semester) and would restrict new employees and lower income individuals from the program.

No overtime could be worked during a week when an employee has used furlough time. The exception is for police officers in case of an on-campus event. Per the University, the Union did not counter this proposal.

2. Union Response:

The Union rejected the new proposal for mandatory furloughs, they offered no counter proposal.

3. Factfinder's Analysis:

The factfinder sees the option of furlough days as a means of the employees spreading the burden around versus layoffs. They are useful for lesser financial crises, rather than placing the full burden on a few laid off employees. They are short term leaves with caps so as not to hit any individual too hard. However, she disagrees with the Employer on a couple of points. The proposal to the teamsters should mirror what was provided to the Police Unit. 1,) the number of days should be capped at five (5) not ten. 2.) if there is an event on campus that would normally provide overtime for a bargaining unit custodian, groundskeeper etc.

then they should be allowed to work even though having had furlough time that week just like the police. While police are essential for security purposes often other employees are required for campus events. The police for example do not clean areas, do not set up as well as other necessary duties. Therefore, the Teamsters should be allowed to work overtime or time for a campus event (mirroring police). In addition, in fairness to the bargaining unit they should not be made to have more mandatory furlough leave than the police unit. The faculty has only one furlough day but that can be explained by the need to have consistency in the classroom.

Factfinder's Recommendation:

The Furlough language should be that of the university bargained FOP contract language as appropriate to Teamsters proposal, specifically a 5-day annual limit and over time standards the same as FOP. In exchange, the factfinder has adjusted the timing of wage increases for this unit. (See *Article 17 Below*) As follows:

Article 16 Furloughs- *Bold to indicate new language*

The University and Union recognize that severe financial conditions may arise which necessitate the use of furloughs.

Furlough Leave is when the university has determined that bargaining unit members can be placed into a temporary, no-duty, non- pay status. Furlough leaves are different from layoffs in that impacted employees continue working on a reasonably regular basis, except for a temporary period without pay.

Mandatory Scheduled Furlough Leave days are leave days that have been identified by the president, or her/his designee, as official furlough leave days, required to be taken within an applicable fiscal year.

Before a furlough leave is implemented, the president or designee

will perform an analysis to ensure the cost- savings effectiveness. If it is determined that a significant cost- savings can be realized by the activation of a furlough leave, that president or designee will provide campus- wide notification no later than 30 days prior to implementation of the furlough leave, except in the event of any major university crisis, such as a catastrophe, natural disaster or in the event of financial exigency.

The University reserves the option to exempt any employee earning below a designated annualized minimum salary, as determined by the president or designee, from being required to take mandatory furlough leave. The president or designee will communicate the minimum salary threshold prior to the enactment of mandatory furlough leave days.

The number of days of mandatory furlough leave for bargaining unit employees shall be set at a maximum of FIVE (5) days (or 40 hours per fiscal year). Furlough leave days for bargaining unit employees will not exceed more than two (2) (16 hours) days within a given pay period.

Impacted employees are not permitted to perform work while on a furlough leave. This requirement will be strictly monitored.

No vacation, sick leave or compensatory time will be approved in lieu of a period of mandatory furlough leave. Additionally, paid holidays or other paid time off cannot be substituted for furlough leave days.

Part- time employees with the identified full-time annualized salary threshold, as determined by the president or designee, shall be required to take furlough leave on a prorated basis.

New employees who have six (6) months or less service with the university at the time of an enactment of mandatory furlough leave will be exempted from furlough leave within that fiscal year. However,

new employees with more than six (6) months of service with the university, at the time of an enactment of mandatory furlough leave, who meet the annualized salary threshold, will be required to take mandatory furlough leave days.

Supervisors may not permit bargaining unit employees to work overtime for a regular shift in a week in which there is mandatory furlough leave. Overtime should not be used to subvert furlough leave requirements. At the sole discretion of the University, additional assignments will only be permitted for events and/or other activities outside an employee's regular schedule as required by the University.

Furlough leave days may be taken in eight (8) hour or four (4) hour increments only, except for those part-time employees whose prorated furlough leave requirement is not evenly divisible by four (4).

All furlough leave days shall be documented on timesheets as "Furlough Leave" for payroll and leave records. Leave accruals will continue with the use of a specific furlough leave code on bi-weekly time sheets.

D. Article 17- Wages

1.Introduction:

The parties had several proposals back and forth on the Wage section. They included both retroactive proposals and increases upon signing of the new agreement. The Union ended up with a final proposal for fact finding. Due to the financial difficulties the university experienced, these employees did not receive raises for five years with the exception of one 1% increase. The other unions do not bargain again for some time so it is impossible to know what they should receive. The faculty contract is end loaded with 2.5% in the third year of the agreement. No comparable for universities were

presented as the Union indicated it was difficult to find comparables.

3. Union Proposal:

The Union's factfinding proposal is now 3% annual increase beginning with a retroactive payment beginning in July 1, 2018. The rationale is that the Union received only a one percent (1%) in five years. The bargaining unit no longer trusts the University as far as relying on the increases of the non-represented employees. The raise they received is well below the averages of factfinding provided by SERB statistics.

The shift differential proposal for factfinding is the same as that proposed in June, 2018.

4. Employer Proposal:

The employer quotes Factfinder Dave Stanton from one year ago as stating that the fiscal situation at Wright State University as "dire". Indeed, a year ago it was dire, with no certain turn around envisioned. Furthermore, it referenced the faculty contract as being end loaded with a 0, 0, 2.5%, Furthermore, the Communications Operators and the Police contracts contain "me too" provisions. As indicated in the introduction the University through some administration problems (*See Union Exhibit #10*), caused a severe drop in the student population and revenues. The employer acknowledged that none of this had to do with the bargaining unit members. Yet, over 200 employees have had to be laid off.

At the hearing, the University indicated that it is beginning to recover from the crisis. New cost cutting measures have been implemented by a new administration and things are beginning to turn around.

5. Factfinder's Analysis:

The Factfinder feels that her hands are tied specifically with a "me too" provision in the FOP and Communications operators contract.

There is no need to review the SERB statistics on wage increases for other comparable units. Since the "recession" of the early 2000's and current recovery, most employers are offering at least 2.2% annually for their employees. However, that is not possible here, until the Employer can get back on its fiscal feet. Since the other bargaining units have recognized the same, there can be no other choice but to follow suit.

But the factfinder recognizes that she recommended furlough leave time, which the Union flatly rejected. In her opinion, it benefits the Employer as it provides a means of cost savings, if necessary, in the future as well as flexibility over layoffs. In exchange, the factfinder thinks it is reasonable to structure the 2.5% increase over the three (3) years in a different way, from the other units. In the other units the raise is at the back end of the contract in the third. In the factfinder's opinion, enough adjustments have been made to budget and cash reserves are such that the bargaining unit can be provided a modest increase starting July, 2019.

In her opinion, this is a fair approach because the Union, in this case, did not agree to furlough leave time as the other units appeared to do.

6. Factfinder's Recommendation:

The Factfinder recommends 0% for July 1, 2018, 1.5% beginning July 1, 2019 and 1% beginning July 1, 2020. This should not overburden the University and is a morale booster for a unit down to

ninety (90) members. It is in exchange for acceptance of the furlough leave time which gives the University some flexibility with its staff.

Article 17 Section 2 Recommendation: (bold type indicates fact finder's new language)

Section 2- Job Rates: In addition, effective July 1, 2018, all job rates will be as shown below. Any bargaining unit employee whose current rate of pay exceeds the applicable rate below will continue to receive their current rate of pay without reduction. **Additionally, all bargaining unit member will receive a \$175.00 ratification bonus.**

Please insert Classification chart and job rate for 2018

As of July 1, 2019, the bargaining unit shall receive a 1.5% increase to their base wages. ⁶

Please insert new classification and job rate chart with the 1.5% increase.

As of July 1, 2020, the bargaining unit members shall receive a 1% increase in their base wages.

Please insert a new job classification and job rate chart reflecting the increase.

~~For the remainder of the term of this agreement, all bargaining unit employees shall receive increases in their hourly rate of pay in accordance with the annual increases provided for other non-represented University staff, exempt and /or nonexempt. These increases will be effective as of the same date as that of the non-~~

⁶ The Factfinder requests that the Employer Financial professionals calculate the new rates and insert the chart into the contract.

~~represented University staff. Additionally, a; pb rates will increase by the same amount and a new chart will be forwarded to the Union.~~

E. Article 25: Employee Benefits

1. Employer Position:

There are two sections in dispute in Article 25. Section 1 Insurance and Section 2 Tuition Remission. As to insurance the University just got their faculty group under their insurance and want continue with the uniformity of everyone under the same plan. In this way, they argue the university obtains the greatest cost savings. Therefore, they reject the Teamsters offer of the Michigan plan which the Union claims would also provide substantial savings. Historically, the University has had all of its employees under the same insurance plan with exception of the faculty unit, which had its own program for a few years.

2. Employer Proposal:

Insurance:

The Employer desires to have all of its employees under one insurance plan. They recently brought the University faculty back into the fold and now have everyone under the same plan. In their view this is the only way to accomplish cost savings. They propose language which provides insurance for all employees including medical, dental, prescription drug, dental and vision insurance.

They also included a 60- day notice for changes or modifications to the plan. They have also started a medical insurance advisory group which will have one place available for the Teamsters unit.

As to increasing the tuition remission program, the Employer proposes current language.

3. Union Position:

The Union offer an opportunity for all of the employees to join a Union benefit plan which they say will provide substantial savings to the Employer. They propose the Michigan Conference of Teamsters Welfare fund as the insurance carrier citing savings for the employer. The University rejected that proposal. The teamsters offer a signed letter from the faculty group (AUUP) which supports looking into this plan.

The Teamsters also complain that the University makes all the decisions on insurance, benefit levels etc. This is not unusual for the Employer to make those decisions. They pay for the plan and basically control it with little input from employees.

They further proposed an increase in the tuition remission plan including 9 credit hours and benefits for dependents.

4.Union Proposal:

As indicated above the Union desires to go to a Michigan based Teamsters Health Care plan. They argue that it would bring the University substantial savings. They reject the proposal of the Employer. Furthermore, the Union proposed expanding the tuition remission, Section 2. This included nine (9) hours of tuition free studies for each employee and their dependents. The Employer remained at current language which allows a benefit the same as the other classified employees.

5.Analysis:

The factfinder understands the University's desire to keep all employees under the same plan, she has seen benefits from Union trust funds and self-administered programs. In her experience there is not much burden as far as administration of a different plan. ⁷

⁷ Observing over 20 years of IAFF Local 92 of Toledo and Local 20 Teamsters run their own health care trust funds with the City just making the same contribution every other employee received.

However, this is something that has to be bargained as the Employer selects and determines level of benefits.

While the employer is turning things around fiscally and carries a minor cash reserve, it is not yet time to add to benefits in the tuition remission program. Current language is sufficient.

6.Factfinder Recommendation:

The Factfinder recommends that the Employer proposed language be included in the labor agreement. Employer proposal as set forth as Exhibit H in their Factfinding presentation book. This includes the language on tuition remission. The parties indicated that they had reached tentative agreement on all sections of Article 25, with exception of Section 1 and Section 2. However, in the future, the Fact finder urges the Employer through its health advisory committee to take a serious look at other insurance plans including the MCTHT. There may be substantial cost savings which will help bring the University back into fiscal health and make the employees happier for having a say in the insurance utilized.

Factfinder Recommendation:

Article 25: Employer Section 1 and Section 2 as set forth in WSU, Exhibit H.

Summary of Factfinder Recommendations:

- 1. Article 9 Miscellaneous -Parking – Current Language**
- 2. Article 14- Seniority, Layoff, Recall- Current Language**
- 3. Article 16- Employer proposal modified to 5 days/ Police Overtime (in conjunction with wage structure**
- 4. Article 17- Wages- 0% for 2018, 1.5% for July 1, 2019, 1% for July, 2020, Shift Differential at current language**

**5. Article 25- Insurance and Tuition Remission – Employer
Proposal**

Respectfully Submitted,

Carol J. Bader

Carol J. Bader, Esq.

Factfinder

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Factfinding Report has been sent via electronic means to John Doll, Esq, Christopher Hogan, Esq, and Mary Laurent at SERB on this date, 4th pf December, 2019 at 9:00 a.m.

APPENDIX A: RESOLVED /UNCHANGED ISSUES

ARTICLE 2: RECOGNITION AND COVERAGE
ARTICLE 5: UNION SECURITY; DUES DEDUCTION
ARTICLE 6: UNION REPRESENTATION
ARTICLE 7: GRIEVANCE AND ARBITRATION PROCEDURE
ARTICLE 8: LABOR MANAGEMENT COMMITTEE
ARTICLE 11: WORKPLACE VIOLENCE
ARTICLE 13: MANAGEMENT
ARTICLE 15: PROBATION
ARTICLE 16: HOURS OF WORK
ARTICLE 18: POSITION CHANGES
ARTICLE 20: SPECIAL PAY CONSIDERATIONS
ARTICLE 21: LEAVE FOR MEDICAL/BEREAVEMENT REASONS
ARTICLE 22: VACATION
ARTICLE 23: HOLIDAYS
ARTICLE 24: OTHER LEAVES
ARTICLE 26: TRAINING AND CAREER DEVELOPMENT
ARTICLE 27: UNIVERSITY PROVIDED CLOTHING
ARTICLE 28: DURATION

UNCHANGED

ARTICLE 1: GENERAL PROVISIONS
ARTICLE 3: MANAGEMENT RIGHTS
ARTICLE 4: NO STRIKE/NO LOCKOUT
ARTICLE 10: SAFETY
ARTICLE 12: DRUG FREE WORK PLACE
ARTICLE 19: PAY BASICS