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STATE OF MICHIGAN

MICHIGAN EMPLOYMENT RELATIONS COMMISSION

LAKE SUPERIOR STATE
UNIVERSITY

-and-

MERC CASE NO. L05 A-5005

UNITED STEELWORKERS
OF AMERICA, LOCAL 997

FACT FINDER'S REPORT AND RECOMMENDATIONS

APPEARANCES:

UNION: JEFFREY HARRIS, PRESIDENT, LOCAL 9997

EMPLOYER: ROBERT M. VERCRUYSE, ATTORNEY

PETITION

DATA: PETITION FILED: OCTOBER 17, 2005
HEARING DATE: MARCH 3, 2006
RECOMMENDATION DATE: APRIL 10, 2006

FACT FINDER

RECOMMENDATION: THE FOLLOWING IS RECOMMENDED:

Section 51 Waiver – Employees and dependents who do not receive a passing grade must reimburse the University.

Section 34 Inclement Weather – Earned comp time must be used within 60 days or it will be lost.

Section 20 Promotions and Lateral Transfers – The four week trial period does not include a period during a temporary or partial closedown.

Section 39B and L Extended Leave – Not in dispute.

Section 39E Jury Duty Leave – Adopt provision in Tentative Agreement.

Section 39F, G, H and I Military Leave – Adhere to Federal and State law. In all other respects, adopt provision in Tentative Agreement.

Section 39K **Union Education Leave** – University Proposal – a leave of absence without pay.

Section 38 **Funeral Leave** – Adopt provision in the Tentative Agreement.

Section 39 **Leaves of Absences** – Adopt Family and Medical Leave.

Section 2.6 Definitions and **Section 7(A) Districts** – Maintain *status quo* as found in the Tentative Agreement.

Section 24 **Overtime** – Pay overtime when earned. Adopt provision in Tentative Agreement as to overtime pay for work in excess of eight hours in a day and 40 hours in a week with holiday, sick day and vacation day counted as a day worked.

Section 17 Contracting and Subcontracting and **Section 56 Employment of Students** – Maintain *status quo* as recited in the Tentative Agreement.

Section 58 **Wages** –

 \$.20 increase on the date a new Agreement is effective;

 \$.17 increase six months thereafter;

 \$.16 increase on October 1, 2007

 \$.15 increase on October 1, 2008

Section 42 **Hospitalization**

Section 43 **Dental Insurance**

Section 44 **Vision Insurance**

 A 5% co-pay for Pay Scale I and 4% co-pay for Pay Scale II employees effective on the date of this Report.

 A 6% and 5% co-pay for 2007-2008.

 A 7% and 6% co-pay for 2008-2009.

 Adopt other co-pays as found in the Tentative Agreement.

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INTRODUCTION

The Parties have a basic difference as to the outstanding issues. The University states:

“... Due to the University’s financial situation and the rising cost of health insurance, LSSU submitted to the Fact-Finder its proposal prior to entering the tentative agreement. With regard to the health insurance co-pay, LSSU seeks a 20% contribution (as opposed to 15%).”

The Union relies on the earlier Tentative Agreement and disputes that the following issues are outstanding:

“Item 2 Section 17 and 56 Subcontracting and Employment of Students
Item 3 Sections 2.6 and 7(A) Redistricting
Item 4 Section 24 Overtime
Item 5 Sections 38 and 39 Leaves
Item 6 Section 20 Transfers and Bumping
Item 7 Sections 34 and 54 Tuition Waiver and Inclement Weather (Tuition Waiver is section 51 and is now called Tuition Award)

Both parties agreed to all above issues in the Tentative Agreement. The language either did not change or the new language was agreed to. Therefore the union considers these items resolved and not

outstanding.”

The earlier Tentative Agreement did not result in a Collective Bargaining Agreement. The Undersigned will consider the University issues as unresolved, however, he will give consideration to the previous Tentative Agreement.

ISSUES

Section 51 Tuition Waiver:

The University proposes that an employee dependent who does not receive a passing grade will no longer be eligible for a tuition reduction grant.

The Proposal is deemed unnecessarily harsh. Your Fact Finder recommends the following found in the Tentative Agreement relative to those who do not receive a passing grade:

“Employees and dependents who do not receive a passing grade in a course must reimburse the University for the amount of the award for each course that is not passed. Employees or dependents will not be eligible for any future tuition grant award until reimbursement is made.”

Section 34 Inclement Weather:

The most important issue here relates to time off for employees designated as essential. The University wants the earned comp time to be used within 60 days or it would be lost.

I recommend the following found in the Tentative Agreement:

“Employees designated as essential who are scheduled to work and report for work when the University is closed will be granted equivalent time off work with pay. Such time off with pay must be taken within sixty days or it will be lost.”

Section 20 Promotions and Lateral Transfers:

The main point here is that the four week trial period not include a non-work period of

time -- i.e., a shutdown.

The Employer Proposal is deemed reasonable and it is recommended:

"An employee who receives a lateral transfer as a result of their position being eliminated or who is bumped from their position by a senior employee through the layoff process, shall not have a right to revert to their former position during the four (4) week trial period. If it is the determination of the Employer that the employee's performance during the four (4) week trial period is unsatisfactory in the new position, the employee shall have the right to be placed in another position pursuant to the provisions of Section 16.

The commencement of the four (4) week trial period may be delayed by the Employer during the temporary or partial closedown of any operation until such operations return to full schedule."

Section 39B and L Extended Leaves of Absences:

This item relates to application for an extended leave and it does not appear to be in dispute.

Section 39E Jury Duty Leave:

The University seeks to limit paid time for jury duty to a maximum of three days. Your Fact Finder is not persuaded the University proposal has merit. I recommend the provision found in the Tentative Agreement be adopted.

Section 39F, G, H & I Military Leave:

The University seeks to delete the existing provisions and replace them with the following:

"Military Leave

The Employer shall comply with federal and state law concerning the reemployment of individuals returning from military service. Employees must reapply for employment within the time limits

specified by law.”

I agree that the Parties should comply with federal and state law relative to reemployment rights of individuals returning from military service. It also needs to be noted that other provisions which the Employer seeks to eliminate relate to pay for active duty training, state emergency duty, etc. Given the current situation, this is not deemed an appropriate time in which to eliminate the benefits enumerated therein. If this becomes burdensome, then some relief should be sought from those at the state or federal level.

Section 39K Union Education Leave:

The University proposes to discontinue a leave of absence with pay for those elected or selected by the Union to attend educational classes conducted by the Union.

I recommend that the University Proposal – a leave of absence without pay – be adopted.

Section 38 Funeral Leave:

The University seeks to reduce the number of paid leave days for immediate family and to limit the definition of immediate family member. For other specified deaths, it seeks to limit the amount of leave to one day chargeable to sick leave.

I recommend the language in the Tentative Agreement be adopted. The events are limited in number so this would not appear to be an unduly burdensome cost item for the Employer.

Section 39 Leaves of Absences

It appears the Parties agree to adoption of a Family and Medical Leave.

Section 2.6 Definitions:

Section 7(A) Districts:

The Bargaining Unit has eight Districts with each having a Steward and Alternate Steward. The Employer proposes to combine the eight Districts into two as follows:

“Combine Secretarial, Clerical and Special Skills into one district.
Combine Building Attendants, Grounds, Maintenance and Central
Heating Plant into one district.”

The Parties have a detailed Layoff and Recall procedure which is grounded on “seniority within their district.”

Your Fact Finder recommends that the *status quo* reflected in the Tentative Agreement be maintained.

Section 24 Overtime:

The Employer seeks to end payment of overtime for work in excess of eight hours in a workday. It wants to pay overtime as follows:

“Employees who work in excess of forty (40) hours in one work week shall be paid at time and one-half the regular straight time rate for hours actually worked in excess of forty (40) hours in that work week.”

A second aspect of the proposal is to eliminate holiday, sick day and vacation day from being counted as a day worked when computing overtime. A final aspect of the proposal is to eliminate Compensatory Time so that individuals would be paid when overtime is earned.

The payment of overtime when earned will avoid the necessity of tracking comp time. Overtime pay for work in excess of eight hours is intended to compensate an employee for work beyond the regular work schedule. The same reasoning applies relative to counting holiday, sick day and vacation day as a day worked when computing overtime.

I recommend that the University Proposal on Compensatory Time be adopted. I also recommend the *status quo* in regard to overtime pay for work in excess of eight hours in a work day and the counting of holiday, sick day and vacation day as time worked when computing overtime.

Section 17 Contracting and Subcontracting:

Section 56 Employment of Students:

The University Proposal is “to eliminate all restrictions on subcontracting and the employment of students.”

The Employer Proposal is overreaching. A desire for flexibility does not translate to necessity. It is not indicated that the current language has been inadequate. The current provision relative to the employment of students gives the University the right to utilize students.

I recommend the *status quo* as to subcontracting and employment of students.

Section 58 Wages:

The University proposes no increase over the term of the contract, except it agrees to a 1.5% lump sum payment in January 2008.

The last Agreement involving the employees herein – LSSU and the MEA – expired on August 31, 2003. The Union here does not seek any retroactive wage increase. The basic wage rate has remained unchanged since September 2002. It should also be noted this Unit has a two-tier wage structure – employees hired before July 1, 1995 and those hired after July 1, 1995. The latter receive 80% of the amount paid to the former group.

The Hearing testimony revealed that, in bargaining, the Union had sought a \$.50 across-the-board increase retroactive to September 1, 2005. The University at this juncture proposes a

1.5% lump sum payment in January 2008.

Your Fact Finder is well aware that the Fact Finder's Report and Recommendation relative to the Faculty had a recommendation of a lump sum payment of 1.5% of base salary payable December 1, 2006. It must be noted the Faculty Unit had received a 4% increase in the 2002-2003 and 2003-2004 years. It is also appropriate to consider the fact that the employees in the Unit herein are compensated at a lower level than the other employee groups at the University. I am also keenly aware that the Employer has sustained greater health care costs as a result of the Tentative Agreement not being ratified. It does not seem particularly helpful for either Party to realize a benefit or a loss as a result of events which are now history.

I am persuaded that the Tentative Agreement provides a good basis for resolution of the wage issue. That Agreement provided a \$.20 across-the-board increase effective October 1, 2005 and a \$.17 increase effective October 1, 2006. In order to resolve this matter, I recommend a \$.20 increase on the date a new Agreement becomes effective and a \$.17 increase six months thereafter. I further recommend that the remaining aspects of the Tentative Agreement take effect – \$.16 increase October 1, 2007 and \$.15 increase October 1, 2008. It is my hope that conditioning the two initial wage increases on the effective date of the Collective Bargaining Agreement will enhance the prospect that an Agreement will be reached.

Section 42 Hospitalization and Medical Insurance:

Section 43 Dental Insurance:

Section 44 Vision Insurance:

Once again, the intractable issue of health care comes to the forefront.

The University Proposal is displayed:

“The University proposes a 20% co-pay on all insurance (health, dental, vision) premiums, \$10 generic drugs; \$20 brand name drugs, \$25 office visit, \$50 emergency room visit and annual deductibles of \$250 single/\$500 two-person or family (in network); \$500 single/\$1,000 two-person or family (out of network).”

For the period July 1, 2005 - June 30, 2006, the University Proposal with a U.P. Blue Rider would result in the following monthly amounts:

	Health	Dental	Vision	Total	Amount Paid By LSSU	Amount Paid by Employee
Single	\$ 74.90	\$ 5.34	\$1.13	\$ 81.37	\$ 65.09	\$16.27
2-Person	\$170.29	\$12.00	\$2.55	\$184.84	\$147.87	\$36.97
Family	\$195.60	\$14.40	\$3.06	\$213.06	\$170.45	\$42.61

A 10% co-pay would result in a reduction of the amount paid by employee by one-half.

Once again, the Fact Finder looks to the Tentative Agreement because it does represent the best effort by the Parties to resolve their differences. I fully understand that LSSU has continued to sustain higher costs as a result of the absence of a co-pay obligation on the part of the employee Unit.

I recommend a 5% co-pay for Pay Scale I employees and a 4% co-pay for Pay Scale II employees take effect on the date of this Report and Recommendation. I further recommend that the remaining language contained in the Tentative Agreement be adopted, including an increased co-pay of 6% and 5% for 2007-2008 and one of 7% and 6% for 2008-2009. While the employees herein will pay a lower percentage co-pay than other employees, it must also be noted that this group has agreed to a Plan – U.P. Blue Rider – which is cheaper than that applicable to other University employees.

RECOMMENDATIONS

Section 51 Waiver – Employees and dependents who do not receive a passing grade must reimburse the University.

Section 34 Inclement Weather – Earned comp time must be used within 60 days or it will be lost.

Section 20 Promotions and Lateral Transfers – The four week trial period does not include a period during a temporary or partial closedown.

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A 6% and 5% co-pay for 2007-2008.

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Adopt other co-pays as found in the Tentative Agreement.


JOSEPH P. GIROLAMO

Dated: April 10, 2006