

BEFORE
ROBERT W. McALLISTER
ARBITRATOR

In the Matter of the Arbitration)	Interest Arbitration
)	
between)	2-MA-04-269
)	
UNIVERSITY OF ILLINOIS)	
SPRINGFIELD, ILLINOIS)	
)	
and)	
)	
ILLINOIS FRATERNAL ORDER)	
OF POLICE LABOR COUNCIL)	

APPEARANCES:

For the University:	Jill D. Leka, Esq. Seyfarth Shaw
For the Union:	Gary Bailey, Esq. Illinois Fraternal Order of Police Labor Council
DATE OF HEARING:	February 24, 2006
PLACE OF HEARING;	Springfield, Illinois

I. FACTS

By agreement of the parties, the University of Illinois at Springfield (UIS) and the Illinois Fraternal Order of Police Labor Council and pursuant to Section 14(p) of the Illinois Public Relations Act, the parties selected the undersigned as the neutral Arbitrator to decide an impasse between the parties over unresolved terms of a successor labor agreement (Wages).

The parties stipulate the procedural prerequisites for convening the arbitration have been met and that the Arbitrator has jurisdiction and authority to rule on the submitted mandatory issue of wages, “. . . including, but not limited to the express authority and jurisdiction to award increases in wages retroactive to August 29, 2004.”

The hearing was convened on February 24, 2006, at the campus in Springfield. A transcript of the proceedings and testimony was made.

Union Exhibit 1 is the parties' agreed upon ground rules and pre hearing stipulations consisting of fourteen (14) items.

Item 3 reflects the fact the parties agreed to waive Section 14(b) of the Act requiring the appointment of panel delegates and agreed that the undersigned shall serve as the sole arbitrator in this dispute.

Item 5 states:

The parties agree that the following issue remains in dispute, that this issue is a mandatory subject of bargaining, and is submitted for resolution by the Arbitrator, and that the Arbitrator must choose either the University's offer or the Union's offer inasmuch as the following issue is economic within the meaning of Section 14(g) of the Act:

- (a) Increases in wages, commencing August 29, 2004, through August 25, 2007;

The Union's final wage offer is as follows:

The Union makes no proposed changes to the wording of Article 13, but proposes to increase the wages of the employees, as set forth in Appendix A, as follows:

Effective August 29, 2004: 4.5% increase to the base salary, retroactive on all hours paid.

Effective August 28, 2005: 4.5% increase to the base salary, retroactive on all hours paid.

Effective August 27, 2006: 4.5% increase to the base salary, retroactive on all hours paid.

The University's final wage offer is as follows:

Article 13 Wages.

Section 1. Effective Date of Wages

Wages specified in this Agreement shall become and remain effective as set forth in Appendix "A", attached hereto and a part hereof.

Article 13 Wages

NEW Section 2. Wage Rates

Wages in Appendix A shall be modified in accordance with the following:

Year 1: The base salary of all bargaining unit members shall be increased by 3.1% effective August 29, 2004.

Year 2: The base salary of all bargaining unit members shall be increased by 2.75% effective August 28, 2005.

Year 3: The base salary of all bargaining unit members shall be increased by either 2.5% or the campus salary program whichever is greater, effective August 27, 2006. Effective the beginning of the first pay period in March, bargaining unit members shall receive a 1.0% equity adjustment.

II. RELEVANT STATUTORY CRITERIA

The statutory provisions governing the issues in this case are found in Section 14 of the IPLRA.

(g) As to each economic issue, the arbitration panel shall adopt the last offer of settlement which, in the opinion of the arbitration panel, more nearly complies with the applicable factors prescribed in subsection (h).

Pursuant to the IPLRA, the Arbitrator is required to base his findings, opinions, and order upon the following factors as applicable:

- (1) The lawful authority of the employer.
- (2) Stipulations of the parties.
- (3) The interests and welfare of the public and the financial ability of the unit of government to meet those costs.
- (4) Comparison of the wages, hours and conditions of employment of the employees involved in the arbitration proceeding with the wages, hours and conditions of employment of other employees performing similar services and with other employees generally.
 - (A) In public employment in comparable communities
 - (B) In private employment in comparable communities.
- (5) The average consumer prices for goods and services, commonly known as the cost of living.
- (6) The overall compensation presently received by employees, including direct wage compensation, vacations, holidays and other excused time, insurance and pensions, medical and hospitalization benefits, the continuity and stability of employment and all other benefits received.
- (7) Changes in any of the foregoing circumstances during the pendency of the arbitration proceedings.
- (8) Such other facts, not confined to the foregoing, which are normally or traditionally taken into consideration in determination of wages, hours and conditions of employment through voluntary collective bargaining, mediation, fact finding, arbitration or otherwise between the parties, in the public service or in private employment.

III. DISCUSSION

The Union maintains the most pivotal statutory factor is external comparability. The Union acknowledges the parties disagree on this factor. The Union points out this issue was litigated and determined by Arbitrator Robert Perkovich, *University of Illinois at Springfield and Illinois Fraternal Order of Police Labor Council, S-MA-00-282* (2002).

The Union contends there is no objective reason to reconsider the Perkovich findings on comparability because there have been no substantial changes at the University.

The Union notes that four years ago it proposed ten (10) state universities as the external comparables whereas the University proposed a combination of five (5) state universities, as well as numerous small towns in the local geographic area. The Union stresses Arbitrator Perkovich found that municipalities were not the appropriate benchmark. The Union also states Arbitration Perkovich held the external comparables were:

Eastern Illinois University (EIU)
Illinois State University (ISU)
Southern Illinois University at Edwardsville (SIUE)
Western Illinois University (WIU)
University of Illinois at Champaign-Urbana (U of I)

The University opposes Arbitrator Perkovich's findings on the above five comparables on several grounds. Initially, the University contends Section 14 of the Act requires external comparability analysis for "communities" not universities. The University claims that since no Illinois court has interpreted the term "community" within

the context of an interest arbitration one must rely upon the plain and ordinary meaning of the term.

Arbitrator Perkovich addressed the same argument in his May 2002 Award involving these same parties. Perkovich noted that the University inferred that:

. . . from the Legislature's use of that language that it must have therefore intended to exclude the use of external comparables when non-municipal employers are engaged in interest arbitration.

Eleven years have passed since university police officers were placed under the IPLRA. The University has offered no evidence that the Illinois Legislature intended to exclude external comparables when dealing with universities. Moreover, there is no evidence in this record that the University sought to vacate the Perkovich Award based on its strained reading of the Act. On this issue, the burden of persuasion rests with the University. Assertions and inference are found to be insufficient grounds to uphold the University's arguments.

Recognizing the strong probability of the above ruling, the University argues that notwithstanding the 2002 Perkovich Award, UIS is not comparable to any other state university. Accordingly, the University seeks to reargue the underlying facts and considerations already ruled upon by Arbitrator Perkovich.

In reaching his decision on external comparables, Arbitrator Perkovich was faced with the University argument that the distinctions between universities, especially UIS, "are so drastic that any reliance on a comparability analysis using universities is flawed."

The University points to its very small budget as compared with other universities; the fact it serves primarily graduate students; and that its "calls for service" and "total crime index" are extremely low as compared with the Union's proposed

comparables. In light of these factors, the University argues its unique place in Illinois' higher education system, external comparability should be given little or no weight.

Notwithstanding, the University maintains that to the limited extent external comparability is a useful tool, it proposed eight (8) municipalities for consideration.

They are:

Beardstown	Litchfield	Hillsboro
Pittsfield	Shelbyville	Pana
Vandalia	Clinton	

Arbitrator Perkovich cited *Chicago State University*, S-MA-96-148 (Berman, 1997) and *University of Illinois at Chicago*, S-MA-96-240 (Briggs, 1998) who earlier had dealt with choice between universities and municipalities. Perkovich noted "both shared the view that universities differed as to mission, funding, structure, and policing and that municipalities were not to be used or were to be given little weight.³⁶" The footnote states:

Arbitrator Briggs' limited use of municipalities is distinguishable because in that case, unlike the instant case, there was a mutual aid pact between the employer/university and a nearby municipality.

Arbitrator Perkovich found that "municipalities are not the appropriate benchmark and that only universities should be utilized." The Union accurately points out that since the Perkovich Award two additional arbitrators came to the same conclusion. (*University of Illinois at Urbana-Champaign and the Illinois Fraternal Order of Police Labor Council*, S-MA-03-005 (McAlpin, 2004) and *Southern Illinois University at Carbondale and the Illinois Fraternal Order of Police Labor Council*, S-MA-01-239 and 240, Stallworth (2003).

It is evident the differences between a university and a municipality are substantial. Those differences are exemplified by examination of the missions funding, structure, and accountability of universities versus municipalities.

The undersigned is satisfied that such factors were considered by Arbitrator Perkovich. His findings on comparability are well reasoned and persuasive. The University has offered no evidence that the facts and circumstances considered in that 2002 Award have substantially changed. There is simply no objective basis for rejecting Arbitrator Perkovich’s finding on external comparables and, in place, adopting the University’s proposal to use municipalities as the external comparables.

The University characterizes its wage proposal as a “competitive increase” that “attempts to maintain the historically agreed upon gap regarding the officers’ wages in relation to other universities.”

The Union asserts bargaining union officers, regardless of rank, earn salaries that are far below the average wages of police officers in comparable universities. The following chart clearly shows UIS officers are, in fact, ranked sixth in any time in grade comparison for the 2003-2004 contract period. The same conclusion applies to sergeants.

2003-04	UIS	EIU	ISU	SIUE	U of I	WIU
Start	32,053	34,486	38,750	39,162	38,251	36,636
After 1	32,053	40,269	41,184	43,514	38,251	40,224
“ 2	35,464	40,269	41,766	43,514	43,347	40,224
“ 3	35,464	42,266	42,390	43,514	43,347	42,828
“ 4	38,834	42,266	42,973	43,514	47,424	42,828
“ 5	38,834	42,266	44,179	45,690	47,424	42,828
“ 10	38,834	42,786	44,762	47,685	47,424	43,704
“ 15	38,834	43,306	45,406	50,041	47,424	44,208
“ 20	38,834	43,576	45,989	50,041	47,424	44,208

In proposing a 4.5% wage increase for each year (three year contract), the Union’s stated intention is to “gradually” close the wage disparity gap between the

University officers and officers employed in the comparable, educational institutions. The University views the Union's proposal as an unjustified "catch-up."

According to the University, the parties have voluntarily and repeatedly come to an agreement on wages through the collective bargaining process, and those wages place UIS at the bottom of the Union's comparables. The University states Union Exhibit 8 shows the average starting pay of its officers is generally 84% of the average comparable University officer's starting pay and 87% of the five-year average comparable officer rate.

The University maintains the Union's proposal seeks to have a police officer's starting rate jump from 16% below the average starting rate of comparable universities and 13% below the average five year rate to 12% below the average starting rate and 9.5% below the average five year rate.

The above percentages were purportedly taken from Union Exhibit 8. This exhibit indicates the actual difference between comparable universities' average starting and average five-year rates is 14.43% and 12.69%, respectively for 2003-2004. Applying the Union's 4.5% wage offer, Union Exhibit 8 shows the gap narrowing in the first year of the contract to 12.78% for the average starting salary and 10.67% for the average five year rate.

Given the existence of a substantial percentage difference between University's wage scale and the average of comparable universities, the following chart expresses the actual dollar difference between the University and the comparables for starting, five year and twenty years for 2003-2004 before the wage offers are considered.

03-04	EIU	ISU	SIUE	U of I	WIU
Start	2,433	6,697	7,109	6,198	5,404
After 5	3,432	5,345	6,856	8,590	5,643
After 20	4,472	6,572	11,207	8,590	7,417

As noted above, the University maintains its final wage offer “evidences a competitive increase and attempts to maintain the historically agreed upon gap regarding the officers’ wages in relations to other universities.”

As stated above, the University’s first year final offer is a 3.1% increase. Significantly, SIUE officers received no wage increase for 2004-2005. This fact obviously reduced the dollar gap between UIS officers and those at SIUE. With the exception of the start and after five-year progression at WIU, the University’s 3.1 wage offer increased the dollar gap between UIS officers and the officers employed at EIU, ISU, U of I, for all progressions and increased the gap at the after twenty-year progression at WIU.

The chart below demonstrates the dollar impact on the gap existing between UIS officers and those at the comparable universities. A plus sign indicates an increase in the dollar gap whereas a minus sign indicates a decrease in the gap.

04-05	EIU	ISU	SIUE	U of I	WIU
Start	2,895(+462)	6,806(+109)	6,115 (-994)	6,348(+150)	4,573(-10)
After 5	3,684(+252)	5,389(+ 44)	5,652 (-1204)	8,800(+210)	3,414(-580)
After 20	4,994(+522)	7,261 (+689)	10,003(-1204)	8,800(+210)	5,976(+602)

Comparison of the University’s second year offer of 2.75% is made difficult because we have no final data on the wages of EIU and SIUE. The University asserts the wages at EIU will not be increased because the Union missed the timeline within which to demand bargaining. The Union claims an ULP charge has been filed and the wages at

EIU are not a settled matter. Both parties appear to agree the SIUE bargaining unit is in negotiation with the University.

Applying the University’s second year wage to 2.75%, the remaining three comparable universities establishes that with the exception of the second year progression at WIU, the dollar gap that existed prior to negotiations increased. In other words, the University’s wage offer for the first two years of the agreed upon three year contract generally widened the dollar gap between UIS officers and sergeants with those of the comparable universities’ officers and sergeants. The two-year results are set forth below. The plus sign means the dollar gap increased.

	ISU	U of I	WIU	Avg
Start	+386	+633	+402	-473
After 5	+316	+836	-157	-332
After 20	+1003	+836	+1199	-1012

The chart demonstrates that as length of service is taken into account the dollar gap accelerates beginning with the five-year progression and thereafter.

The University’s claim that its wage offer maintains the “historically” agreed upon wage gap seems logical until the offers are looked at in terms of dollars. The University bases much of its comparable wage argument on percentages. But, this approach ignores the fundamental fact that the same percentage increase applied to different sums produces different dollar amounts.

The Union’s wage offer for the first contract year is a 4.5% increase. The University calls this offer, as well as second and third year wage offers of 4.5%, an extraordinary leap in salaries. The chart below expresses the dollar impact for the 2004-2005 contract year compared with the starting point (2003-2004).

	UIS	Comparables Average	Dollar Gap	03-04 Dollar Gap	Dollar Decrease
Start	33,488	38,394	4,906	5,404	-498
After 5	40,581	45,426	4,845	5,644	-799
After 20	40,581	47,445	6,864	7,414	-550

The Union's second 4.5% wage offer is, likewise, analyzed in terms of comparing the starting point (2003-2004) with the resultant two-year gap. The chart below does not include EIU or SIUE for the reasons set forth above.

	UIS	ISU, U OF I, WIU Average	Gap	2-year Decrease
Start	35,006	40,248	5,242	162
After 5	42,411	47,447	5,036	608
After 20	42,411	48,997	6,586	828

Restating the results of the parties' respective wage offers for the years 2004-2005 and 2005-2006, the University's offer results in its officers and sergeants falling further behind the dollar gap that existed previously. The Union's proposal closes the existing dollar gap moderately. One can speculate as to the impact the wages at EIU and SIUE might have on the issue of the dollar gap once their contract issues are settled, but the fact is any attempt to predict the amount of the dollar gap for those universities requires assumption and speculation.

The record reliably demonstrates the University's wage offer for the first two years increases the dollar gap between the UIS officers and the comparables.

The UIS officers and sergeants are ranked sixth and last versus the external comparables. Given the size of UIS student enrollment, its operating budget, and the budget of the police department, the ranking is understandable. Notwithstanding, the University has offered no probative basis to make a wage offer that increases the existing dollar gap between UIS officers and sergeants and the external comparable officers and

sergeants. The University's wage offer simply pushes its officers and sergeants further behind as opposed to the claim that the wage offer maintains the wage gap.

There is obviously a dollar and percentage difference between the parties' final wage offers, but we are not speaking of an enormous difference. The statutory factors have been considered and surely are a guideline for the selection of the final offer that is more fair and reasonable.

Finding that the external comparables chosen by Arbitrator Perkovich in 2002 were and are the proper basis for comparison of wages, I find those comparisons have considerably more weight than comparison with internal university employees.

The University seeks to widen the actual pay gap between its officers and sergeants and the external comparables. I do not find this to be a fair and reasonable position. I will, therefore, select the Union's final wage offer.

IV. AWARD

The parties' tentative agreements reached during negotiations are hereby incorporated into the parties collective bargaining agreement as set forth in Joint Exhibit 1

2. The Union's final offer on wages is hereby adopted.

October 31, 2006



Robert W. McAllister
Arbitrator