

ILLINOIS LABOR RELATIONS BOARD

In the Matter of the Interest Arbitration)	
Between)	
)	
)	
Chicago State University,)	
Employer)	JEFFREY B. WINTON
)	ARBITRATOR
and)	
)	
Metropolitan Alliance of Police,)	Case. No.
Chapter 144,)	
Union)	S-MA-11-370
)	

APPEARANCES

For the Employer:

Sonja C.P. Armstrong, Esq., General Counsel, Chicago State University
Janelle M. Carter, Associate General Counsel, Chicago State University
Ariel Flood, Law Clerk, Chicago State University
Lawrence Pinkelton, Interim Vice-president, Administration and Finance, Chicago State University
Renee Mitchell, Director, Human Resources. Chicago State University
Ronnie Wilson, Chief of Police, Chicago State University
James Maddox, Captain, Chicago State University Police

For the Union:

Raymond G. Garza, Esq., Law Offices of Raymond G. Garza, LTD.
Melanie Jones
Peter Scalone
Geoffrey Bassett
Eugene Heffner

THE PROCEEDINGS

A hearing was held in this matter on August 8, 2013, at Chicago State University. The parties' prior Collective Bargaining Agreement ("CBA") had expired on July 31, 2011, and since that time they have been negotiating on the terms of its successor. They have reached agreement on many of the issues, and numerous other items which had been in dispute, were settled on August 8, 2013 during the hearing. Approximately 9-14 issues remain unresolved and the parties submitted their final offers to the Arbitrator on the day of the hearing. The parties agreed to waive the requirement for a three person arbitration panel and elected to have the undersigned serve as the sole arbitrator.

Each of the parties had a full and fair opportunity to examine and cross-examine sworn witnesses and to present documentary evidence. A transcript of the hearing was taken, and it, plus the exhibits, are the official record. At the close of the hearing, the Arbitrator remanded several issues to the parties. The parties were unable to resolve any of those issues. Both parties filed post hearing briefs.

BACKGROUND

Chicago State University ("CSU," "the University," or "Chicago State") is a fully accredited, public, comprehensive, urban, commuter and residential institution of higher learning on Chicago's south side. Currently it has approximately 6000 students and employs approximately 1200 people in various administrative, civil service, and academic positions. The 161 acre campus is somewhat of a closed campus in that it has only two entrances, yet it makes no attempt to keep anyone from the campus. Its police force consists of 19-22 officers and telecommunicators (dispatchers) who not only patrol the campus, but who also patrol the surrounding neighborhoods in an attempt to assure the students' and employees' safety.

The parties' previous CBA expired on July 31, 2011, and, in an attempt to produce a new one, they have been negotiating since December 2010. The parties exchanged last, final offers the day before the hearing. At that time, the parties still could not agree on numerous issues. During the hearing, however, they were able to agree on additional issues. Also at the hearing, I remanded several issues to the parties because their proposals seemed so similar, and it is always true that the parties, who have been working together for many years, are able to craft language which better reflects their desires than an Arbitrator who has limited information. The parties, however, never even met, so were unable to agree on any of the remanded issues.

During the course of the hearing, the parties went through the CBA and noted if they had a TA based on the information in each party's final offer. They agreed that the status quo applied to the following sections of the CBA which are marked with SQ*¹. They agreed they had a tentative agreement on the sections marked TA*.² The other sections marked SQ or TA without an asterisk had been agreed upon before this arbitration.³ In addition, the sections unresolved are marked "at issue," and new, deleted, and number changed sections are also marked.²

Article I – Recognition of the Bargaining Unit

Section 1.1 Recognition of the Bargaining Unit	SQ*	2008-2011 CBA
Section 1.2 Fair Representation	SQ*	2008-2011 CBA
Section 1.3 Conduct of Union Business	TA	
Section 1.4 No Discrimination	TA	

Article II – Management Rights SQ 2008-2011 CBA

Article III – Personnel Files

¹ The language for those sections for which the parties agreed at the hearing that they reached a tentative agreement is attached as Appendix 1

² A copy of the document titled "Tentative Agreement Between MAP Chapter 400 and Chicago State University" is attached as Appendix 2.

³ If the parties agreed to the status quo on the entire article, the Article number is listed with SQ after it, and the individual section numbers are not listed.

Section 3.1 Personnel Files	TA	
Section 3.2 Expungement of Personnel File	TA	
Section 3.3 (Renamed) Investigative Reports	SQ	2008-2011 CBA
 Article IV – Union Security		
Section 4.1 Dues Check-off	SQ*	2008-2011 CBA
Section 4.2 Fair Share Payments	TA	
Section 4.3 Union Indemnification	at issue	2008-2011 CBA
Section 4.4 Union Telecommunicators	TA*	
 Article V – Grievance Procedure		
	SQ	2008-2011 CBA
 Article VI – Hours of Work and Overtime		
Section 6.1 Purpose	at issue	2008-2011 CBA
Section 6.2 Overtime	at issue	2008-2011 CBA
Section 6.3 Court Time	SQ	2008-2011 CBA
Section 6.4 Call-Back Pay	SQ	
Section 6.5 Compensatory Time	at issue	
Section 6.6 Standby Pay	Deleted	
Section 6.7 Shift Bidding	TA* - New App. 1	
Section 6.8 Overtime Scheduling	at issue – not adopted	
	University and Union both proposed a new section, but dealing with different issues. Neither provision adopted.	
 Article VII – Benefits		
Section 7.1 Limitations and Eligibility	SQ*	2008-2011 CBA
Section 7.2 Vacation Leave	SQ*	2008-2011 CBA
Section 7.3 Holidays	SQ*	2008-2011 CBA
Section 7.4 Sick Leave - Renamed Sick Day Benefit	TA	
Section 7.5 Parental Leave	TA	
Section 7.6 Bereavement Leave	TA	
Section 7.7 Military Leave	SQ*	2008-2011 CBA
Section 7.8 Leave for Required Witness Service	SQ*	2008-2011 CBA
Section 7.9 Compulsory Disability Leave	SQ*	2008-2011 CBA
Section 7.10 Leave of Absence (Unpaid)	SQ*	2008-2011 CBA
Section 7.11 Emergency and Extended Sick Leave	SQ*	2008-2011 CBA
Section 7.12 Educational Benefits	TA	
Section 7.13 Family and Medical Leave	SQ*	2008-2011 CBA

Section 7.14 Personal Days	TA
Section 7.15 Parking	TA – New
Section 7.16 Minimum Staffing – Proposed as a new section by both parties; University’s language adopted	at issue App. 1
Article VII – Insurance	SQ 2008-2011 CBA
Article IX – Seniority	
Section 9.1 Seniority	SQ* 2008-2011 CBA
Section 9.2 Selection of Vacation Periods, Shifts and Days Off	TA* In opinion
Section 9.3 Seniority List	SQ* 2008-2011 CBA
Article X – Wages	
Section 10.1 Wage Schedule	at issue App. 1
Section 10.2 Shift Differential	SQ* 2008-2011 CBA
Section 10.3 Field Training Officers	SQ ⁴ 2008-2011 CBA
Article XI – Discipline	SQ* 2008-2011 CBA
Article XII – Training	
Section 12.1 Scheduling of On-Duty Training	SQ* 2008-2011 CBA
Section 12.2 Training of Officers	SQ* 2008-2011 CBA
Section 12.3 Training Ammunition	SQ* 2008-2011 CBA
Section 12.4 Discretionary Firearms Training Current language deleted; Section renamed and rewritten with different content	TA - New
Section 12.5 Mandatory Firearms Qualifications	TA – New
Section 12.6 LEADS Training – moved from Section 6.4	at issue App. 1
Article XIII – Uniform Allowance	
Section 13.1a Police Officer 1’s Uniform Allowance	TA* App. 1
Section 13.1b Telecommunicator’s Uniform Allowance	TA* App. 1
Section 13.2 Duty Weapon	TA* 2008-2011 CBA

⁴ Neither party mentioned this section in the Tentative Agreement, during the hearing, or in their respective briefs. Therefore, I conclude that it is SQ.

Section 13.3 Bullet Proof Vests	TA*	2008-2011 CBA
Article XIV – Miscellaneous Provisions	SQ	2008-2011 CBA
Article XV - Substance Abuse and Mental Health	SQ	2008-2011 CBA
Article XVI – Labor Management Concerns	SQ	2008-2011 CBA
Article XVII – Layoff and Recall	SQ	2008-2011 CBA
Article XVIII – No Strike	SQ	2008-2011 CBA
Article XIX – Severability Clause	SQ	2008-2011 CBA
Article XX – Entire Agreement	SQ	2008-2011 CBA
Article XXI – Termination		
Section 21.1 Termination	TA*	2008-2011 CBA, except termination date is July 31, 2015

The parties reached agreement on two provisions during the course of the arbitration hearing and read the language into the record. For those two sections, they have agreed to the below language:

Section 4.4 Union Telecommunicators [New]

The University may utilize temporary or part-time telecommunicators who are LEADS certified and meet the minimum qualifications established by the State University’s Civil Service System. Utilization of temporary or part-time telecommunicators shall not diminish the bargaining unit other than as expressly indicated herein. The ratio of full-time telecommunicator positions to temporary part-time telecommunicator positions shall not exceed 3 to 3. Employees covered by this agreement shall have a right of first refusal for regular shifts to perform the telecommunications functions required by the police department at a regular rate of pay. Temporary or part-time telecommunicators shall not hold supervisory positions over bargaining unit members nor seniority in the event of a layoff. This provision shall have no effect on management rights with respect to organizational structure and the selection and direction of employees. The Union does not waive its right to demand to bargain for, or contest the use of, part-time police officers should the University decide to utilize part-time police officers.

Section 9.2 Selection of Vacation Leave and Shift Bidding

A. The Employer accepts the principles of seniority in selection of vacation periods, shifts, and days off by employees covered by this agreement. As long as operations under this principle are satisfactory, the Employer will continue to permit selection of shifts, vacations, and days off on such bases of seniority. Subject to the provisions in Section 6.7 of this contract, the Employer reserves the right, however, to exercise the final decision regarding vacation, days off, and shift assignments if in the judgment of the Chief of the University Police or authorized representative, seniority may be disregarded to satisfy the exigencies of service.

B. An employee's request for change of shift may only be made after completing six months on an assigned shift unless the exigencies of service required otherwise.

C. Temporary assignments of employees to any shift may be made, subject to Section 6.7 of this agreement, to facilitate proper training of said personnel.

I must note here that this Arbitrator had to spend a great deal of otherwise unnecessary time in trying to determine from the parties' briefs and their presentation at the hearing which articles and sections were still at issue, which had been resolved, which were new, which were renumbered, etc. While the parties have intimate knowledge of the CBA, the Arbitrator has only two opportunities (the hearing and the parties' briefs) to develop sufficient familiarity with the document to know precisely where the unresolved language is and what the issues are. I would recommend that the parties, if ever required to participate in an Interest Arbitration again, make sure the Arbitrator has a written compilation of the above facts and a clear list of open issues.

The parties were evidently unable even agree on precisely which issues were still open to present to the Arbitrator. The list of open issues is significantly longer than is generally heard at an Interest Arbitration. The parties themselves are always better able to resolve Contract language, particularly on some of the minor open issues, than any Arbitrator in a way that would provide a good basis for a working relationship over the course of a four year Contract. The parties are encouraged in future negotiations to try harder to resolve more of their open issues

and present only a limited number of the most critical issues to the Arbitrator. Try though he might, no Arbitrator, during the course of a one day hearing can have the same intimate and in-depth knowledge of 9-14 issues as the parties' themselves have.

STATUTORY PROVISIONS

Section 14 of the Illinois Public Relations Act provides in pertinent part:

(h) Where there is no agreement between the parties, ... the arbitration panel shall base its findings, opinions in order upon the following factors, as applicable:

1. The lawful authority of the employer.
2. Stipulations of the parties.
3. The interest and welfare of the public and the financial ability of the unit of government to meet those costs.
4. Comparison of 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 the employees, including direct wage compensation, vacations, holidays, and other excused time, insurance and pension, 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 factors, not confined to the foregoing, which are normally or traditionally taken into consideration in the determination of wages, hours, and conditions of employment through the voluntary Collective Bargaining, mediation, fact finding, arbitration or otherwise between the parties in the public or private employment.

GENERAL PRINCIPLES OF INTEREST ARBITRATION

THE ARBITRATOR'S AUTHORITY

An overriding principle in interest arbitration is not to give a party something they could not reasonably achieve through negotiations had they continued to conclusion. The party seeking a change from the Status Quo has the burden of showing that the existing way of doing things does not work and needs changing. Simply stated, good ideas are not sufficient even though they may work better. The rationale for this way of looking at things is that the parties themselves should negotiate their own terms and conditions of work. Interest arbitration should be the place of last resort.

With regard to economic issues, the Act requires that the Arbitration Panel shall adopt the last offer which, in the opinion of the Arbitrator, more nearly complies with the applicable factors described in Section 14(h). Hence, the Arbitrator cannot seek a middle ground; he must choose one offer or the other based on the factors set out in Section 14(h).

With regard to non-economic issues, however, the Act provides that the findings, opinions, and order as to all other issues shall be based upon the applicable factors in subsection (h), but that the Arbitrator has the authority to award either party's final offer or to craft language for that specific provision. As stated earlier, the parties cannot achieve through interest arbitration results they could not obtain through collective bargaining. For both economic and non-economic issues, the base line is the status quo. The party seeking change must show that the item they wish to change has been a significant problem and/or there is a strong reason to change it and their proposal will fix it. If they cannot meet this burden, the status quo will prevail.

As Arbitrator Harvey Nathan stated:

It is well established that Interest Arbitration under the ACT is essentially a conservative process, and that Interest Arbitration is most effective when it operates as an extension of, and not a replacement for, the collective bargaining process. Accordingly, Arbitrators do not lightly impose a new Contract term that departs significantly from the parties' existing bargain. The burden is on the party seeking to obtain a significant change through Interest Arbitration to prove that the old system or procedure has not worked as anticipated when originally agreed to, that the existing system or procedure has created operational hardship for the employer or equitable or due process problems for the Union, and that the party seeking to maintain the Status Quo has resisted attempts at the bargaining table to address the problem. *Will County Board and Sheriff of Will County and AFSCME Local 2961*, Case Number S-MA-88-9.

Neither party should win in Interest Arbitration, language which they could not have reasonably expected to win through ordinary bargaining and "horse trading" had the parties' been successful in agreeing to all the terms of a Contract. Obviously, it is difficult for an Arbitrator to determine what might have been if the parties had agreed on the complete language of the Contract because clearly they didn't! But it is not my intent that there be a windfall to one side or the other, so when in doubt as to a significant need for a change, I erred on the side of leaving the Status Quo.

THE “COMPARABLE COMMUNITY”

The statute lists the factors for consideration. One is the rate of pay for comparable work in a comparable community. The Union argues that the comparable “communities” (which are universities in this setting) are the University of Illinois, Chicago (UIC) and Northeastern Illinois University (NEIU). Both universities are located within the boundaries of the City of Chicago which, the Union argues, makes them the most similar. The University argues that UIC is not comparable because it is approximately four times Chicago State’s physical size, has approximately four times the number of students and police officers, and has a significantly larger budget. The University would eliminate UIC from the list of comparables and add Governor’s State University in University Park, IL (GSU) and Eastern Illinois University in Charleston, IL (EIU).

GSU, EIU, and NEIU are closer in terms of the size of the student body and the number of faculty, administrators, and other employees than is UIC. Neither GSU nor EIU, however, is located in an urban environment. GSU is located 30 miles south of Chicago on a 720 acre wooded campus. EIU is located in Charleston, IL, approximately 140 miles south of Chicago. Charleston, according to the last census, has a population of approximately 21,000 people.⁵ While GSU and EIU are closer to Chicago State in size, their small town/rural setting makes them significantly less similar to Chicago State.

UIC and NEIU are both urban universities, both situated solely within the boundaries of the City of Chicago. In that respect, both are similar to Chicago State. CSU has a student body of approximately 7,000 graduate and undergraduate students on an urban campus of approximately 161 acres. NEIU has a student body of approximately 11,000 graduate and undergraduate students on a 67 acre urban campus. UIC, however, has a student body of

⁵ This information is taken from *Wikipedia*, of which I take official notice. .

approximately 28,000 graduate and undergraduate students. Its campus covers 244 acres, located in three different areas, called the East Campus, West Campus, and South Campus. It has professional schools, such as the medical and dental schools. It is approximately .8 mile from the East to the West Campus. The South Campus is adjacent to the East Campus, separated only by a major street. While Chicago State argues that these size differences make UIC not comparable to Chicago State, I did consider them. The police officers at all three universities are sworn officers with the responsibility of protecting the students, faculty, administrators, employees, and visitors to the respective university. All three are urban universities located within the City of Chicago. Each of the police departments has similar responsibilities and challenges in working in a diverse, urban community. I find that both parties are right! To a reasonable degree both the comparables offered by the University and those offered by the Union are “comparable.” Admittedly, it would be better if the Arbitrator could have found two or three comparables in size, urban or rural geography, student body, etc., but given the parameters of Chicago State University, that was not possible. Therefore, I considered both sets of comparables.

It is somewhat difficult to do precise comparisons of the wages in the parties’ final offers vs. those in other units proposed as comparables. We are not certain whether the wages in comparable units are the third or fourth year of a three or four year Contract or the first year of a Contract. The University argues that if the Union’s wage position is Awarded, it would put the CSU officers higher on a list of comparables. However, it doesn’t seem to me that it would be unreasonable that the CSU police officers would be higher on a list which includes many universities in rural areas that are smaller geographically and are out of the Chicagoland area where the cost of living is lower.

ARTICLE IV, Section 3 – Union Indemnification

The Union proposes to change the language in this section; Chicago State proposes to keep the section as it currently is written. The current language reads as follows:

The Union shall indemnify, defend and hold the Employer, its members, officials, agents or representatives harmless against any claim, demand, suit, or any form of liability (monetary or otherwise), including attorney's fees and costs, arising from any action taken or not taken by the Board, its members, officials, agents, or representatives, in complying with this Article or in reliance on any notice, letter, or written authorization forwarded to the Board or the University pursuant to this Article.

The Union's proposal would change the language to:

The Metropolitan Alliance of Police shall indemnify and hold harmless the University, its elected representatives, officers, administrators, agents and officers from and against any and all claims, demands, actions, complaints, suits or other forms of liability (monetary or otherwise) that arise out of or by reason of any action taken or not taken by the University for the purpose of complying with the provisions of this Article, or in reliance on any written check-off authorization furnished under any of such provisions, provided that the University does not initiate or prosecute such action.

The Union proposes both what it calls a streamlining of the language and an exception to the Union's indemnification of the University in a matter in which the University would initiate or prosecute the action.

The Union's proposed exemption is a significant change in Section 4.3. The Union argues that under the current language, it could be required to pay the entirety of legal costs in causes of actions that would not be related to dues deductions, but might be raised as a counter-claim or affirmative defense. The Union has made no argument to indicate that they have, in fact, been required to pay the cost of an action in which the University is the Plaintiff or that anything has happened to indicate the system is "broken." In fact, the Union has made no showing that it has ever had to indemnify the University. It argues only that other state universities, namely NEIU and EIU, have similar provisions.

Given the burden of showing the language in question does not work, and the fact that the Union has made no showing on those grounds, I rule that Article 4, Section 3 shall remain as it is: Status Quo.

ARTICLE 6, Section 1 Purpose

The Union proposes the status quo on this issue. The University proposes dividing the current Section 6.1 into two sections – 6.1 and 6.2 with the following changes in language.

Section 6.1 Purpose:

This article defines the normal hours of work, and establishes the basis for the calculation of overtime. It is not, however, a guarantee of hours of work per day, work period, month or year. The number of hours in a work day, work week, the number of days in a work week and the shift schedule may be changed at the discretion of the Employer in order to meet the needs of the University. This Article is not intended to establish a right to compensation in any form for time not worked except as specifically provided for in this Article.

If the University decides to change a covered employee's assignment, shift, or regularly scheduled days off, the University shall notify the affected employee at least seven (7) days prior to the effective date of the change. The seven (7) day notice will not apply in cases of an emergency.

Section 6.1 shall remain the Status Quo except for the change indicated below.

Section 6.2. The University's proposed language reads:

Section 6.2 Hours of Work⁶

The ~~current~~ work week consists of forty (40) hours of five (5) ~~consecutive~~ working days of eight (8) hours each, followed by two (2) consecutive days off. No covered employee shall be ordered to work more than sixteen (16) hour per work day, including standby time.

The rest of the University's proposed Section 6.2 is the same language currently found in Section 6.1 of the Agreement.

⁶ Words that the University proposes to delete are struck through. New wording is underlined. This is a renumbering of Section 1 in the previous CBA in that all of the rest of the proposed language of the new Section 6.2 was part of Section 6.1 in the previous CBA. In this discussion, the section numbers will be described as if the information in Section 6.1 has been separated into two sections. In all of the subsequent discussions, I will discuss the section as if Section 6.1 of the CBA has not been split into Sections 6.1 and 6.2.

The University's argument here is that the police department needs the flexibility to be able to schedule its officers with split days off. This will not only aid the department's staffing, but also reduce the amount of overtime. The University argues it has a proven need for split days off scheduling because of a strong need to meet the University's public safety needs while relieving some of the financial pressure overtime causes.

The Union objects to the change in the "five consecutive working days" that is currently in the Contract. Obviously, it would be a significant burden on police officers to have a split schedule where they do not have two consecutive days off but the University makes a good argument for occasionally needing this type of flexibility particularly when there are special events on the campus and/or special scheduling requirements where officers are needed. It also seems logical that with additional flexibility the University can save money otherwise spent for overtime. Yet, given the burden this would place on police officers and their families, I do not think it is prudent that anything other than five consecutive days be scheduled except when *the police chief determines there is an unusual and exceptional need for different scheduling and when overtime funds can be saved by scheduling changes.*

Since this is a non-economic issue and I can fashion language and am not bound to accept either parties offer, the language in the new contract shall be:

Not more than four times per year and not less than 90 days apart, police officers may be scheduled to work other than a five consecutive day schedule when in the sole judgment of the Police Chief there is an unusual, exceptional and compelling reason necessitating this change in the normal five consecutive day schedule and in addition, that overtime funds can be saved by making schedule changes. To explain further, this shall mean on not more than one occasion every 90 days an officer (or more than one officer) may be scheduled to work other than a five consecutive day work schedule.

This has been called Section 6.2 – Hours of Work by the parties, but since there is already a 6.2, I would suggest calling it 6.1A or any other section number the parties mutually agree to.

Section 6.2 Overtime⁷, 6.5 Comp Time and Section 6.8

Overtime obviously is an economic issue; therefore I am required to choose one of the two proposals.

In connection with this issue, the parties seem to have some misunderstandings about who is proposing what. Both parties propose changes to current 6.2, Overtime. The University proposes to make several important changes. The current CBA states that overtime will be offered according to seniority. The University's proposed language also includes that if no qualified full-time employee volunteers, then the University will order overtime by reverse seniority. Both versions refer to the abuse of vacation leave or sick leave to obtain an unfair advantage in the assignment of overtime. The current CBA merely states pay for overtime work shall not be duplicated or pyramided. The University proposes specifically to make abuse of leave time an event which may subject an employee to discipline. Additionally the University proposes to eliminate standby time from the calculation of the maximum of 16 hours which can be worked per day, the iteration of calculations for the sixth and seventh day of work within a work week, and to add that the seven day notice for shift changes does not apply to temporary changes.

The Union's position, is only to change the language in the prior CBA (the one which expired in 2011) is to the last sentence in the next to the last paragraph, *viz.*,

~~Overtime opportunities...shall be offered first to all qualified full time employees on a seniority basis. Overtime opportunities for Telecommunicators shall be first to qualified~~

⁷In the CBA which expired on June 30, 2011, this was Section 6.2.

full-time certified Telecommunicators on a seniority basis shall be offered in accordance with Section 6.8 of this contract.

The Union here seeks to add a new subsection to the CBA. It argues that it is merely seeking to carve out the existing seniority provision and place it in its own separate section, namely Section 6.8 Overtime Scheduling. The Union's argument relies on the fact that the University, at some time in this process, made a proposal for a change in the language of Section 6.2. In its brief, however, the University does not. Given what seems to be some confusion about this section, and given that neither party has presented an argument that the overtime system is somehow not functioning properly, I am leaving this matter as status quo.

With regard to Section 6.5, Comp Time (Section 6.5 in the current CBA; Section 6.6 in the University's proposal) perhaps the most obvious is that an employee would no longer be paid for accrued compensatory time ("comp time") upon leaving the University's employment. The current CBA provides that employees may accumulate up to 480 hours of comp time and that they will be paid for that accrued comp time at the end of their service to the University. Most importantly, in terms of effect on the bottom line, employees will be paid at their respective current rates of pay. Assume an employee accrues and carries over 80 hours in his/her first year of service and leaves after 15 years of service. Upon leaving the University, the employee will be paid for those first 80 hours at the rate the employee is making after 15 years of service. It can result in a tidy payout for the employee.

The second change is that an employee can substitute comp time for overtime only for events where the Police Department pays for the employee's service and would apply only to designated internal events and mandatory overtime. An employee could not substitute comp time for overtime where an outside contractor had paid for the employee's work. The University's proposal seeks to limit the Police Department's responsibility to those occasions

when it is requesting or ordering the overtime. In both the respective testimony and briefs, neither party indicated whether this would be a significant change.

The Union's proposals obviously are different. The Union proposes no changes to the language in Section 6.1. The Union's only proposal with regard to the current Section 6.2, Overtime is to remove the language regarding the offering of overtime to what the Union would create as a new Section 6.8 Overtime Scheduling. According to the Union, this section merely creates a new section, but does not change the way overtime scheduling has been done in the past. The Union proposes no changes to Section 6.5, Compensatory Time. As stated before, the Union seeks to create a new Section 6.8 which is partly a restatement of Section 6.2 in the Current CBA and is partly new in that it says, "Other overtime posted [not mandatory overtime] shall be first come first serve while posted with the option of a senior employee bumping a least senior employee up to 3 days before the actual overtime day."

Both parties used the criteria that the other had a heavy burden to prove that the respective changes were necessary because the system was not working and changes had to be made. I have found, however, that because it is impossible to consider the changes proposed in one section without considering the effects in another section, the entire group of proposed changes must be considered as a single unit. That unit definitely is an economic issue. Therefore, I must choose one party's complete offer based on the criteria listed in Section 14 (h).

The parties have provided the following arguments to support their proposed changes. The Union's argument is two-fold – that they are not proposing any significant change in the CBA and that the University has not met its burden to show the current ways of addressing overtime and comp time do not work. Therefore, the Union argues, I should adopt its proposal.

The University argues that it cannot afford to continue the current ways of addressing overtime and comp time. Both of these parts of the way an employee is compensated contribute to the department's continuing and significant budget shortfall. While not specifically tying its argument to the factors listed in Section 14(k) of the Illinois Public Relations Act, especially "[t]he interest and welfare of the public and the financial ability of the unit of government to meet those costs," the University's argument for all of its proposed changes is basically that it cannot afford the current cost of overtime and comp time and needs to try to contain that cost.

Several of the parties' arguments with regard to Comp Time and Overtime make good sense particularly where related to the University's cost. However, they do not meet the burden indicated for an Arbitrator to order the changes. These are matters the parties should resolve by doing some "horse trading" in the course of their negotiations. Some of these issues are complicated and related and the parties should arrive at any changes through negotiations, and neither has met its burden for the Arbitrator to change. Status Quo.

Section 7.16 Minimum Staffing (new)

Both parties have proposed language for this new section. The Union proposes:

Employer shall maintain a minimum staffing of two (2) Police Officers, one (1) Telecommunicator, and one (1) Supervisor during any given shift period on a shift when a Supervisor is assigned.

The University proposes:

The University shall maintain a minimum staffing plan of Police Officers, Supervisor(s) and Telecommunicator(s) based on its management discretion. The plan shall be made available to bargaining unit members on an annual basis or when the plan is amended, whichever occurs first.

The Union argues that its proposal is merely a codification of the University's current practice. The University argues that it has no intention of changing the practice of a minimum of

three active police officers per shift. It further argues, however, that law enforcement is unpredictable and that management needs to maintain its rights to change these minimum staffing levels if circumstances warrant the change. Finally, the University argues that the Union's proposal removes the University's ability to change its practice, but also adds a requirement of one supervisor and one telecommunicator per shift. It contends that the Union has not pointed to any safety issues about, or expressed any concern regarding, minimum staffing.

This is not an economic issue, so I have the authority to craft language if necessary. The authority to establish the number of departmental personnel who work a shift is expressly stated as a management right in Article 2 of the CBA and is traditionally a management right. That authority is limited by an acknowledgment that if this management right is to be limited, the CBA must specifically state the limitation. While past practice can be an important and perhaps controlling consideration in Grievance Arbitration, it is not necessarily here.

I basically agree with the University's position with one small modification. The language in the new CBA shall be:

The University shall maintain a minimum staffing plan of Police Officers, Supervisor (s) and Telecommunicator (s) based on its management discretion. The plan shall be made available to Bargaining Unit members on an annual basis or when the plan is amended, whichever occurs first. *If the plan in effect as of August 8, 2013 is to be changed, the University shall meet with the Union to discuss the changes and explain and discuss its reason for the changes, but shall not be required to obtain the consent of the Union to implement the changes. This meeting or meetings shall be up to a total of four hours consisting of one or more meetings if the Union requires meetings up to that time allotment.* (Note: the four hours is included, since Union consent is not, to assure that the University does not simply meet for five minutes and say "here's our plan" and thus meet the requirement of this provision).

Section 10.1 Wages

This section is probably the core of this interest arbitration. Obviously it is an economic issue so that I am required to choose one party's proposal. Both parties, however, agree that the wage proposal shall be retroactive to August 1, 2011.

The Union proposes a wage schedule provides for a 2.5% wage increase every year for police officers plus the addition to the Wage Scale of an eighth step for officers who have completed 15 years of service. A chart of its proposed wages is attached as Attachment 1.

The University proposes:

Each employee shall be entitled to a two percent (2%) annual raise of his/her regular hourly wage on August 1 of each calendar year of this Agreement. Further, each Officer shall receive a wage increase of two percent (2%) after his/her first year of employment and upon completion of every two years of service thereafter on the anniversary of his/her respective date of hire. Telecommunicators shall receive a one-time wage increase of five and one half percent (5.5%) upon completion of one (1) year of service. All wage terms shall be effective and retroactively applied to regular hours worked since August 1, 2011.

The Union argues first that the University's language is confusing; The Union understands the University's proposal to mean that

[A]n officer starting his 5th year would have received an hourly wage of \$25.14 the first year of the contract. The \$25.14 was derived by adding 2 percent to the hourly rate of \$24.65, which is the rate a Step 3, 5-6 year officer currently makes. The second year of the contract, the hypothetical officer would be starting his 6th year of service and would make \$25.65 per hour. The officer would not be entitled to an additional 2 percent because he has not worked two consecutive years. In the third year of the contract, our officer will be starting his 7th year after having worked two consecutive years. Under the University's proposal, he would now be entitled to 2 percent yearly increase plus an additional 2 percent having completed 2 consecutive years. Our officer would now make at the third year of the contract \$26.67 per hour. The hourly rate for each year of the contract illustrated above and as proposed by the University represents an increase of less than 1 percent under the current percentage increase between steps.

The Union's exhibits show that NEIU's starting patrol officers have had an average of a 2.58% wage increase; UIC's starting patrol officers have had an average increase of 3.22%.

NEIU's senior patrol officers have received a 3.27% increase while UIC's top patrol officers have had a 2.3% increase. Given those figures, the Union's proposed 2.5% yearly is consistent with its comparable universities.

I also find the addition of the eighth step for patrol officers to be consistent with the University's comparable institutions. NEIU has a nine step wage scale with the top wage being paid after 11 years of service. UIC has an eight level wage scale with the top level being attained after seven years. Clearly the Union's proposal to add an eighth level is comparable to the wage scales at both NEIU and UIC.

The same arguments can be made for the Union's proposed 2.5% increase for telecommunicators.

According to the University's data, the difference in cost between the two wage proposals is \$76,000 over the four year life of the Contract. This is not an insignificant amount, but in light of the University's total budget it does not seem to be an insurmountable cost nor one that is beyond the University's ability to pay.

Consideration can be entertained under Section 14 (h)(8) of the ACT, but I am concerned that the University's proposal is fraught with opportunities for misunderstanding. Simply put, it is quite possible to interpret the proposed language in more than one way, which could lead to additional disputes between the parties.

For the above reasons, I adopt the Union's proposed language for Article 10.1.

Article XII, Section 6 Training of LEADS

The Union argues for the status quo regarding LEADS training. The University proposes the following language:

All persons serving the telecommunication functions required by the Police Department must be LEADS certified. The Police Department shall provide LEADS training to any

employee covered by this Agreement seeking LEADS certification in connection with his or her employment duties and assignments.

The University argues that Section 12.6 needs to be changed both to comply with Illinois State Police policy and to eliminate confusion arising from the status quo requirement that any person in telecommunication function must also take the telecommunicator test administered by HR.

Obviously this is not an economic issue, and therefore I may craft language as I think appropriate. While the University does not indicate that the current system is “broken,” it does argue that Section 12.6 is confusing and unnecessary. The Illinois State Police require that any person serving in the telecommunication function be LEADS certified. The University states that if an employee is LEADS certified, the employee does not need to take the HR telecommunication test. This seems like a simplification of the current policy, and I do not see how this change will result in any adverse effects to the Union. Therefore I adopt the University’s language for Section 12.6. *

* I am somewhat confused on the parties’ positions on this issue and notice some language in the TA’s (Appendix 1). In case of any conflict between the preceding and the TA, the TA shall control.

SUMMARY OF DECISIONS

In summary, the following shall be made a part of the CBA for 2011 through 2015:

Section 4.3 Indemnification - Status quo

Section 6.1 Purpose – Status quo

Section 6.2 (or 6.1A) Hours of Work – Arbitrator’s language

Section 6.2 Overtime – Status Quo

Section 6.5 Compensatory Time – Status Quo

Section 6.8 Overtime Scheduling – Not adopted and no Section 6.8 in CBA

Section 7.16 Minimum Staffing – Arbitrator’s language

Section 10 Wage Schedule – Union’s language

Section 12.6 LEADS Staffing - University’s language

AWARD

The Collective Bargaining Agreement between Chicago State University and the Metropolitan Alliance of Police, Chapter 144 shall be as described above.

The Arbitrator hereby incorporates into this Award and the new Collective Bargaining Agreement, all tentative agreements and resolved contractual provisions reached during negotiations between the parties.

This matter is now remanded to the parties for the purpose of drafting language consistent with the provisions of this Award. Due to the number of issues and complicated nature of some of them, the Arbitrator will retain jurisdiction for 30 days to deal with any matters that may arise with regard to interpretation of this Award.

_____ 10/23/13

Date

 _____

Jeffrey B. Winton, Arbitrator

APPENDIX 1

COLLECTIVE BARGAINING AGREEMENT SECTIONS WITH A

TENTATIVE AGREEMENT DATE OF AUGUST 8, 2013

Section 6.7 – Shift Bidding

The Employer shall consider the bidding preferences of non-probationary employees on a seniority basis as a factor for shift assignments and days off as established by the Chief of Police or his/her designee, subject to the operating needs of the Police Department. Shift bidding will be offered every six months, and each employee shall hold his/her assigned shift for a period of six months, unless the exigencies of service or bumping rights require otherwise.

Employees will be permitted to trade shifts or days off on a temporary basis, provided the department head or his/her designee approves of the trade in advance. Such approval shall be subject to the operating needs of the Police Department and shall not be unreasonably denied.

The chief of Police or his/her designee may make temporary schedule changes if the operational requirements of the department so require (*e.g.* special assignments, training, emergency situations). Said changes shall be provided to the affected employee(s) in writing. Absent an emergency situation, an employee shall receive at least forty-eight (48) hours advance notice of any temporary schedule changes. Temporary schedule changes normally should not exceed thirty (30) calendar days.

Section 7.16 – Minimum Staffing Requirements

The University shall maintain a minimum staffing plan of Police Officers, Supervisor(s) and Telecommunicator(s) based on its management discretion. The plan shall be made available to bargaining unit members on an annual basis or when the plan is amended, whichever occurs first.

Section 10.1 – Wage Schedule

Employees shall be compensated in accordance with the wage schedules attached to this Agreement as Appendices A and B for police officers and telecommunicators. All wages shall be effective and retroactive to August 1, 2011.

Section 12.6 – LEADS Training (moved from Section 12.4)

All persons serving the telecommunications function required by the Police Department must be LEADS certified. The Police Department shall provide LEADS training to any employee covered by this Agreement seeking LEADS certification with his or her employment duties and assignments.

Section 13.1a – Police Officer I’s Uniform Allowance

The employer agrees to provide each new employee all necessary equipment as listed in General Order 95-1 (see Appendix F attached).

Each covered employee shall receive an annual uniform allowance of nine hundred thirty-five dollars (\$935.00), payable in equal installments of four hundred sixty-seven dollars and fifty cents (\$467.50) on June 1 and December 1 of each year. Each employee shall receive a cleaning allowance of seventy-five dollars (\$75.00) every four (4) months. Employees are responsible for the purchase, care, cleaning and maintenance of all uniforms and equipment.

The University will replace or repair an affected employee’s personal property that has been damaged or destroyed as a result of an employee’s physical interaction with another during the performance of the employee’s duties.

Section 13.1b – Telecommunicator’s Uniform Allowance

Each covered employee shall receive an annual uniform allowance of three hundred eighty-five dollars (\$385.00), payable in equal installments of one hundred ninety-nine dollars and fifty cents (\$192.50) on June 1 and December 1 of each year. Each employee shall receive a cleaning allowance of seventy-five dollars (\$75.00) every four months. Employees are responsible for the purchase, care, cleaning and maintenance of all uniforms and equipment.

The University will replace or repair an affected employee’s personal property that has been damaged or destroyed as a result of an affected employee’s physical interaction with another during the performance of the employee’s duties.

Section 13.2 – Duty Weapon

Parties agreed to the language in the 2008-2011 CBA.

Section 13.3 – Bullet Proof Vests

Parties agree to the language in the 2008-2011 CBA.

Section 21.1 – Termination

Parties agree to the language in the 2008-2011 CBA, except that the termination date shall be July 31, 2015.