
IN THE MATTER OF THE IMPASSE

BETWEEN

THE CITY OF NEW YORK

Case No. I-30-69

AND

THE DOCTORS ASSOCIATION OF THE
DEPARTMENT OF HEALTH OF THE
CITY OF NEW YORK

REPORT
AND
RECOMMENDATIONS
OF
FACT-FINDING PANEL

Before:

GEORGE MOSKOWITZ, CHAIRMAN
PROFESSOR MONROE BERKOWITZ
ABRAM H. STOCKMAN, ESQ.

Impasse Panel

This fact-finding proceeding arises from the inability of the City of New York, hereinafter referred to as the "City", and the Doctors Association of the Department of Health of the City of New York, hereinafter referred to as the "Association", to arrive at a mutually satisfactory settlement through collective bargaining negotiations, of the terms and conditions of employment for the following titles of employees: in the respective City departments, as hereinafter specified:

1. Clinicians: This title exists only in the Department of Health. There are approximately 1200 part-time and 35 full-time clinicians. In every other department, such as the Department of Hospitals,, medical doctors are referred to as physicians. The Association does not represent physician.5. and they are not involved in this instant proceeding. Clinicians employed in the Department of Correction have been included in the foregoing figures, according to the Association.

2. Dentists: There are, approximately 213 part-time and 25 full-time dentists in the Department of Health; approximately 100 part-time dentists in the Department of Hospitals; and approximately 85 part-time dentists in the Department of Social Services. The Association represents the full-time and part-time dentists in the three aforementioned, departments. Dentists employed in the Department of Correction have been included in the foregoing figures.

3. Veterinarians: There are 9 full-time veterinarians in the Department of Health; and no veterinarians in any other department.

4. Optometrists: There are 12 part-time optometrists in the Department of Health; and no optometrists in any other department.

5. Senior Dentists Per Session: There are 8 senior dentists per session in the Department of Social Services; and no employees in this title in any other department.

6. Medical Specialists: There are approximately 100 medical specialists in the Department of Health; and no employees in this title in any other department.

7. Medical Inspector:

The Association is the certificated bargaining representative for the employees in the aforesaid titles and departments, and has been negotiating with the City since January, 1961. An impasse in the current negotiations having resulted, the parties resorted to mediation but were unable to reach an agreement with the mediator's assistance. Thereafter the Office of Collective Bargaining, of the City of New York designated the undersigned as the Impasse Panel to hear and make a report and recommendations with respect to the matter in impasse in the current contract dispute between the aforementioned parties.

Thereafter, hearings, were held on April 16, 1969 and April 23, 1969 at offices of the City of New York Office of Labor Relations. Pre-hearing and post-hearing briefs were submitted by the parties, who were represented at the hearings, respectively by:

For the City of New York:

Joseph A. Mazur, Esq.
Associate Counsel, Office of Labor Relations

For the Association:

Glass & Glass, Esqs.
By William Glass, Esq. of Counsel

There were also present:

For the City of New York:

Robert Pick
Assistant Director of Labor Relations
Michael Davies
Assistant Chief of Surveys & Reports

For the Association:

Dr. Donald C. Meyer
Jenny Roper
Dr. Aaron Teviovitz
Dr. Alexander Kleinmann

DOCTORS ASSOCIATION'S PROPOSALS

The Association in its pre-hearing brief advised this Fact-Finding Panel that its collective bargaining demands as presented to the City were as follows:

1. Full-time doctors shall receive \$25,000 per annum. Those working from 5 to 9 years shall receive \$500 more per annum up to 10 years, and thereafter \$1,000 per annum.

2. Part-time doctors shall receive \$50 per two and one-half hour session, and \$80 per four-hour session for Social Service personnel.

(The Association advised this Fact Finding Panel in its pre-hearing brief that the term "doctor" as used in specifying the Association's demands refers to all titles, represented since all titles "hold doctorates in the healing arts.")

3. Hazard pay for all doctors in the Correction Department, to wit -- \$1,500 for full-time doctors, prorated for part-time doctors.

4. Medical specialists shall receive a rate of \$60 per two and one-half hour session.

5. A differential of \$10.00 per session for Health Department supervisors; and a differential of \$5.00 per session for Physicians in charge. This proposal also contains a demand that Senior Dentists in the Department of Social Service receive a differential of \$16.00 per session.

6. Increments for all per session doctors for longevity of service as follows: After completion of one year of satisfactory service, each doctor shall receive an additional \$1.25 per session for the 2nd, 3rd, 4th, 5th, 6th, 7th, 8th, 9th and 10th years of satisfactory continuous employment. Each doctor in the Social Service Department shall receive an additional \$2.00 per session for the 2nd, 3rd, 4th, 5th, 6th, 7th, 8th, 9th and 10th years of satisfactory continuous employment.

7. Welfare Fund Contributions shall be made on the basis of all those working 150 sessions or more per year, including vacation sessions. The City shall contribute \$180.00 for full-time doctors and \$100.00 per year for part-time doctors.

8. Parity on all pay and fringe benefits for the titles of clinician, dentist, veterinarian, optometrist, senior dentist per session, and medical specialist.

9. There shall be no limit to the number of vacation sessions granted.

10. The accumulation of sick leave without limit, and payment of the cash value of one-half of the accumulated sick leave to each doctor who leaves the employ of the City.

11. Accumulated vacation time due to a doctor at time of death shall be paid in cash to the doctor's designated beneficiary or his estate.

12. Breakage (vacation and sick leave) shall be carried over and continued.

13. Compassion leave of up to four days for part-time doctors.

14. Full-time doctors shall be entitled to sabbatical leave on the same basis as teachers in the public schools; and sabbatical leave for part-time doctors shall be pro-rated on the base granted to full-time doctors.

15. With respect to paid holidays, a doctor shall be paid for the session missed when a holiday (described as a legal holiday, school holiday, snow holiday, transit strike holiday) falls on a day when the doctor normally would have worked a session and the school or clinic is closed for the "holiday" as above described.

16. Major medical shall be pro-rated on the basis of the number of sessions worked by part-time doctors and shall be paid in the form of a Special Welfare Fund -- 150 sessions to be considered the same as a full-time doctor.

17. Retirement System revisions with respect to per-session doctors are requested to be made as follows:

A. The number of 50 sessions shall make up a pension year.

B. All sessions above 50 sessions worked in any one year shall be carried over towards credit in the following year, i.e., breakage shall be carried over.

C. A doctor, full-time or part-time, shall have the right to demand and receive, upon 3 months notice to the Retirement System, calculation of the amount he could retire with within the said calendar year.

D. There shall be a staff officer of the Retirement System to whom the Association may refer all questions for disposition; the name and title of such officer to be made available.

18. The limit of 300 sessions shall be eliminated and the number of sessions shall be unlimited.

19. The job security arrangement shall be continued.

20. Request is made for an agency shoo for all titles represented by the Association in every department where such titles appear.

21. There shall be 7 1/2 percent interest charged against all monies due retroactive to July 1, 1968.

POSITIONS OF CITY OF NEW YORK

According to the City's post-hearing brief, its offers in the negotiation prior to the impasse were predicted on the following basic assumptions:

1. That an appropriate basis for determining the compensation or other adjustments and benefits for these positions exists in the salary history for then, and in the decision of the fact-finding panel in the previous negotiations for most of these positions as effectuated by Personnel Order No. 36/67, dated May 18, 1967.

2. Another appropriate basis for determining the compensation or other adjustments and benefits for these positions exists in the salary history for these positions as compared to that of similar classes of positions in the New York City Classified Civil Service.

3. That the demands of the Association are unrealistic and unrelated to the aforesaid salary histories and comparisons and take no account of the provisions and requirements of law, rule or regulation, or of City-wide policy with respect to the specific classification of particular positions, whether or not they are full-time or part-time positions, whether they are competitive class positions or non-competitive class positions, or simply designations or assignments to supervisory responsibilities or the performance of more complex work, with the result that the decisions are in many instances entirely inappropriate to the situation of these positions in the Classified Civil Service of the City of New York.

In the negotiations leading to the current impasse, and in the impasse proceedings as well, the Association has persisted with demands which are totally inconsistent with City practice, Personnel Orders, other rules and regulations establishing policy, and violative of agreements with the employee organization or council possessing the certificate for collective bargaining on matters of City-wide policy, and indeed, of good sense or the dictates of reason.

FACTS AND FINDINGS

It appears from the written presentation made available to the Panel by the City -- and not controverted by the Association -- that effective January 1, 1966, January 1, 1967 and January 1, 1968, adjustments of the hourly rates and the salary grades and ranges of Clinician, Dentist, Medical Inspector, Veterinarian, (on a per annum basis only) and Optometrist (as to hourly rate only) were made in accordance with Personnel Order No. 36/37, and in accordance with the recommendations of a prior Fact Finding Panel which recommended, and the City implemented, an increase in grade for the full-time per annum positions of Clinician, Dentist and Medical Inspector to Salary Grade No. 27, effective January 1, 1966; to Salary Grade No. 28, effective January 1, 1967; and to Salary Grade No. 29, effective January 1, 1968.

As of the period of the present impasse proceedings, the range for these positions on a full-time per annum basis is \$11,650 to \$14,050. On a percentage basis, according to the City, estimated at the midpoint of the resultant ranges from the midpoint of the previously existing range, the increase recommended by the prior Fact Finding Panel for 1966 was 7.2%; in 1967-6.7%; and in 1968-6.4%. According to the City, "the declining percentages of increase in (those) fact-finders recommendations result from the fact that under the rules and regulations governing reallocation of grades and ranges under the general pay plan of the Career and Salary Plan fixed amounts of \$800 each were actually added to the rates previously in effect, so that the declining percentages actually reflect fixed amount of increase divided by an increasing base."

It appears to the satisfaction of this present Fact Finding Panel and it so finds that as argued by the City the first percentage in 1966 of 7.2% may be regarded as accurately reflecting the percentage of increase with the Fact Finders then found to be reasonable and comparable to that for other classes of positions in City service as of that time.

By way of further, illustrating the purpose and effect of the prior Fact Finders, the City alluded to the increases then recommended for the Veterinarian. "For this position, "according to the City, "the Fact Finders recommended a percentage increase of 7.6% in 1966; 7.0% in 1967; and 7.7% in 1968.

The City finally concludes that "an analysis of these percentages indicates that it may be stated fairly and reasonably that after fact-finding the last negotiations between the City and the Association resulted in an average full-time per annum increase of 7.5%, based on the first percentage increase for Clinician and the first and last percentage increases for Veterinarian."

Also as a result of the prior fact finding, the hourly rate existing at the time of this impasse proceeding for Clinician, Dentist and Medical Inspector (present incumbents only) is \$11.40; and the presently existing hourly rate for Optometrist is \$7.20.

RECOMMENDATIONS

The Fact Finding Panel therefore respectfully recommends the following to the parties:

1. That the term of the agreement be for a period of two (2) years from July 1, 1968 to June 30, 1970.

2. Clinicians

With respect to Full-Time Clinicians and Medical Inspectors (limited to present incumbents of the title "Medical Inspector" only):

a) First Contract Year -- an increase of \$1,250.00 per annum.

Second Contract Year -- an increase of \$1,250.00 per annum.

b) Based on the previous minimum annual salary of \$11,650, and maximum annual salary of \$14,050 for this title:

A new Hiring Rate of \$13,000 as of July 1, 1968, and
A new Hiring Rate of \$14,500 as of July 1, 1969.
A new maximum of \$15,300 as Of July 1, 1968, and
A new maximum of \$16,550 as of July 1, 1969.

3. Dentists

For the reasons set forth in the "Facts and Findings" section of this Report, the Panel recommends increases as follows:

a) First Contract Year --an increase of \$1,250.00 per annum.

b) Second Contract Year -- an increase of \$1,250.00 per annum.

c) Inasmuch as the previous minimum and maximum annual salaries for dentists were the same as the minimum and maximum for full-time clinicians, the Panel recommends the same new hiring, rates for 1968 and 1969, and the same maximum for 1968 and 1969 for dentists as it recommends for full-time clinicians in section 2b above.

4. Veterinarians: Full-Time:

a) First Contract Year -- an increase of \$900.00 per annum.

Second Contract Year -- an increase of \$900.00 per annum.

b) Based on the previous minimum annual salary of \$9850.00, and maximum of \$12,250.00 for this title, a new Hiring Rate as of July 1, 1968 of \$10,650.00 and a new maximum of \$13,150.00.

A new Hiring Rate as of July 1, 1969 of \$11,450.00 and a new maximum of \$14,050.00.

5. WELFARE FUND CONTRIBUTIONS FOR FULL-TIME CLINICIANS, DENTISTS, VETERINARIANS AND MEDICAL INSPECTORS.

In view of the present well-fare fund contribution by the City Of \$85.00 Per annum for each of the full-time employees in these titles and the demand by the Association for an annual contribution of \$180.00:

a) As of January 1, 1969, an increase of \$25.00 per annum.

b) As of January 1, 1970, a further increase of \$15.00 per annum to a total of \$125.00 per annum.

These recommendations by the Fact Finding Panel reflect the standard welfare contributions presently being made by the City to other full-time employees as a result of collective bargaining negotiations with many other employee representatives.

6. PART-TIME EMPLOYEES

A. CLINICIANS, DENTISTS AND
MEDICAL INSPECTORS (PRESENT
INCUMBENTS ONLY)

These groups consist of some 1300 part-time clinicians and 200 part-time dentists. These groups are presently earning \$11.40 per hour. The Association proposed \$20.00 as an hourly rate, while the City offered an increase of 35 (.35) cents per hour.

The Fact Finding Panel recommends:

a) First Contract Year -- An hourly rate of \$12.00 per hour.

b) First Contract Year -- Fifty (.50) cents for Clinicians, Dentists and Medical Inspectors (present incumbent only) who have completed 5 years of City service or 1000 sessions, whichever is completed sooner, but payable on the January 1st or July 1st next following the achievement of the required years of service or number of sessions.

c) Second Contract Year -- An hourly rate of \$12.50 per hour.

B. MEDICAL SPECIALISTS

This group is presently being paid \$12.60 per hour. This rate reflects a premium of \$1.20 per hour above the hourly rate paid to part-time clinicians and dentists. The Association proposed \$20.00 (approximately) as an hourly rate, while the City offered an increase of 35 (.35) cents per hour. This was identical with the offer of the City to increase the hourly rate of part-time clinicians and dentists.

The Fact Finding Panel recommends:

a) That, the differential paid to the Medical Specialists be extended to \$1.50 in the First Contract Years, as against the previous premium of \$1.20 per hour.

b) That in the First Contract Year, the hourly rate shall be \$13.50 per hour.

c) That in the Second Contract Year, the hourly rate shall be \$14.00 per hour. This will reflect the same cents-per-hour increase as the, panel recommends in paragraph A(b) of this Section 6. for part-time clinicians dentists, et.al.

d) First Contract Year -- Fifty (.50) cents per hour for those Medical Specialists who have completed 5 years of City service or 1000 sessions, whichever is completed sooner, but payable on the January 1st or July 1st next following the achievement of the required years of service or number of sessions.

e) That the Senior Dentist Per Session receive any and all fringe benefits applicable to part-time clinicians, dentists, et.al.

C. CLINICIAN OR MEDICAL INSPECTOR
ASSIGNED AS SUPERVISOR, AND
SENIOR DENTIST PER SESSION

The Fact Finding Panel recommends:

a) That the Medical Inspector continue to receive \$5.00 per session in addition to such compensation as is recommended in this Report for Clinician and Dentist in Section 6, Paragraph A. subdivisions a) and b).

b) That the Senior Dentist Per Session receive the same hourly rate recommended for Dentists in Section 6, Paragraph A, subdivisions a) and b), to wit: an hourly rate of \$12.00 in the First Contract and an hourly rate of \$12.50 per hour in the Second Contract Year, and the longevity increase described in paragraph 6A(b) above.

c) That the Senior Dentist Per Session receive an additional \$5.00 per session as a differential for services as a supervisor.

D. OPTOMETRISTS

The prior Fact-Finding proceeding, (effective as of January 1, 1966) established the relationship between the title of "optometrist " and the title of "clinician, dentist et.al." Its recommendation also establishes an hourly -rate of \$7.20 per hour for optometrists.

In the present proceeding, the Association urged equality with clinicians who are medical doctors, while the City urges that the same increases be recommended for optometrists as is recommended for part-time, clinicians, dentist, et.al.

The Fact Finding Panel recommends:

a) First Contract Year -- an increase in the hourly rate of 90 (.90) cents per hour, to wit, a rate of \$8.10 per hour.

b) First Contract Year -- Fifty (.50) cents per hour for those Optometrists who have completed 5 years of City service or 1000 sessions, whichever is completed sooner, but payable on the January 1st or July 1st next following the achievement of the required years of service or number of sessions.

c) Second Contract Year -- a further increase in the hourly rate of 50 (.50) cents per hour, to wit, a rate of \$8.60 per hour.

E. WELFARE FUND CONTRIBUTIONS

The City presently contributes \$30.00 per year on behalf of part-time employees. The Association proposed and seeks a contribution of \$100.00 per year. This Panel, having given consideration to this issue and the proposal, as well as its recommendation with respect to increases in the Welfare Fund Contributions for full-time clinicians, dentists et.al. (see Section 5 of these Recommendations) therefore recommends:

a) All personnel whose compensation is computed on an hourly basis covered by this Fact Finding Report shall be entitled to Welfare Fund Contributions on their behalf made on the basis of 150 sessions:

1. As of January 1, 1969, a contribution in the sum of \$45.00.

2. As of January 1, 1970, a contribution in the sum of \$55.00.

F. FRINGE BENEFITS - HOURLY EMPLOYEES

The Panel recommends that the Senior Dentist Per Session and Medical Specialist be granted parity on a fringe benefits such as sick leave, workmen's compensation, welfare fund contributions, etc. as proposed in Association's proposal No. 8.

G. FOR ACCUMULATED SICK LEAVE

The Association demanded from the City and seeks from this Panel a recommendation granting to each per session doctor, the cash value equal to one-half of accumulated sick, leave (see Association Proposal No. 10). The City took the position in these hearings and in its post-hearing brief that this is a City-wide issue and is not appropriate for consideration by this Panel.

The Fact Finding Panel, having given due consideration to the views of the parties, has concluded and recommends that this Association proposal should be denied.

H. COMPASSION LEAVE

The Fact Finding Panel, having given due consideration to the views of the parties, has concluded and recommends that Association proposal for leave of up to four (4) days for part-time doctors should be denied.

I. SABBATICAL LEAVE

The Fact Finding Panel, having given due consideration to Association's proposal No. 14 (See Association's Proposals), has concluded and recommends that this Association proposal should be denied.

K. MAJOR MEDICAL

The Fact Finding Panel, having given due consideration to Association's proposal No. 16 (See Association's Proposals), and the City's position that this is a City-wide issue, has concluded and recommends that this issue is not within the purview of this panel and should be denied for that reason.

L. RETIREMENT SYSTEM REVISIONS

The Fact Finding Panel, having considered the Association's Proposal No. 18, has concluded that the subject matter of these proposed revisions requires further study and discussion, and therefore recommends that the appropriate pension personnel representing the Association and the City should meet to discuss the possible inequities in the Retirement System, if any, as suggested by the Association Proposal.

M. JOB SECURITY ARRANGEMENT

The Fact Finding panel has considered Association Proposal No. 19, and also that the City has each year negotiated a job security agreement for each fiscal year. The Panel has also taken cognizance of the City's expressed willingness to guarantee job security on a fiscal year basis and that it has done so for fiscal 1968. The Panel therefore concludes and recommends that this issue should not be determined by mandatory collective bargaining.

Furthermore, it is the understanding of the Panel that the parties are now in the process of negotiating job security arrangement. In the event that they are unable to reach agreement, the Panel recommends that this issue shall be referred back to it for further consideration.

N. AGENCY SHOP

The Fact Finding Panel has considered Association Proposal 20, and recommends, in the event that enabling legislation is enacted, that the City negotiate on this issue with the Association, and failing to reach agreement in such circumstances, the Panel further recommends that this issue be referred back to it for further consideration.

O. INTEREST

The Fact Finding Panel recommends that Association Proposal No. 21 should be denied.

7. PAYMENT OF ACCUMULATED VACATION ON DEATH

The Panel makes no recommendation with respect to the Association's Proposal No. 11, having concluded that this item is not properly before the Fact Finding Panel.

8. BREAKAGE (VACATION AND SICK LEAVE)

The Panel is not called upon to make any recommendation as to Proposal No. 12 (Item XII in Association's Preliminary Statement), having been advised by the parties that they have reached agreement with respect thereto.

9. LIMIT OF 350 SESSIONS

The Panel makes no recommendation with respect to the Association's Proposal No. 18 (Item XVIII in Association's Preliminary Statement), having advised that this is withdrawn.

10. With respect to any other Proposal or part thereof, set forth in the Association's Preliminary Statement but not otherwise explicitly referred to in these Recommendations, it is the conclusion and recommendation of this Panel that such Proposals be deemed denied.

Dated: New York, N.Y.
August 6, 1969

Respectfully Submitted

George Moskowitz, Chairman

Prof. Monroe Berkowitz, Panel Member

Abram H. stockman, Panel Member