

New York City  
Office of Collective Bargaining

In the Matter of the Impasse

Between

DISTRICT COUNCIL 37, AFSCME, AFL-CIO

-and-

THE CITY OF NEW YORK AND RELATED  
PUBLIC EMPLOYERS

Report and  
Recommendations  
of Impasse Panel

Case No. I-101-73

Before the Impasse Panel

Daniel G. Collins

Appearances

For District Council 37, AFSCME-CIO

Henrietta Dabney, Assistant Director of Research  
and Negotiations

For The City of New York and Related Public Employers

Robert H. Pick, Esq., assistant Director,  
New York City Office of labor relations

Adam Blumstein, Associate Labor Relations  
Specialist, New York City Office of  
Labor relations

The proceeding was initiated pursuant to Section 1173-7.0/c of the New York City Collective Bargaining Law, Chapter 54 of the Administrative Code. The Impasse Panel held a total of three hearings, on November 1, 14, and 16, 1973. The testimony filled 275 pages, and 30 exhibits, many multiple, were received in evidence.

#### THE BACKGROUND OF THE IMPASSE

District Council 37, AFSCME, AFL-CIO (the "Union") has for a number of years been the certified representative of employees in the titles of Rehabilitation Counselor, Senior Rehabilitation Counselor and Assistant Director of Rehabilitation, and in fact negotiated terms and conditions of employment for them for the period ending June 30, 1972. Then, in Decision no. 66-72, rendered November 2, 1972, the Union was certified as the representative of a unit including, in addition to the aforesaid Rehabilitation titles, employees in the titles of Occupational Therapy Assistant, Occupational Therapist, Physical Therapist, Supervising Audiologist and Supervising Therapist. Finally, on August 7, 1973, the Union's certification in Decision No. 66-72 was amended to include employees in the title of Senior Speech and Hearing Therapist.

In formulating its recommendations, the Impasse Panel has weighed carefully the considerable evidence in the record concerning the relative wages, hours of work and fringe benefits

of employees in the bargaining unit and other registered professional nurses and personnel employed by the City of New York and Related Public Employers (the "City"), and by other public hospitals and voluntary hospitals in the City and elsewhere. The Impasse Panel has also taken into account the overall compensation of employees in the unit; changes in the cost of living; the interest and welfare of the public, including in particular the quantity and quality of the services rendered by the employees to the financial condition of the City, and such other factors as are normally considered in collective bargaining or impasse resolution.

The Impasse Panel's Recommendations are, unless otherwise indicated, retroactive to July 1, 1972 and will continue for the period from that date to June 30, 1974, except that said Recommendations are effective with the respect to employees in the title o Senior Speech and Hearing Therapist only for the period from July 1, 1973 to June 30, 1974.

#### THE UNION'S PROPOSAL

The Union seeks a three year agreement, effective July 1, 1972, through June 30, 1975, except for Senior Speech and Hearing Therapists for whom it would be effective as of July 1, 1973

The Union proposes a salary schedule, with two, four and five year experience differentials, and rate increases

on July 1 of 1972, 1973 and 1974. This would make the Occupational Therapist and Physical therapist range from \$11, 850 to \$13, 350 as of July 1, 1974; the corresponding ranges for Speech Therapist and Rehabilitation Counselor from \$12,500 to \$14,150 and \$16,900 to \$18,550; for the Senior such titles \$13,000 to \$14,800 and \$17,600 to \$19,400; and for Assistant Director of Rehabilitation and Supervising Audiologist and Supervising Therapist \$17,000 to \$19,400 and \$22,400 to \$24,800.

The Union also seeks promotional guarantees of \$1,000 for the Senior titles and \$1,500 for the Supervisory and Assistant Director titles; assignment differentials of \$1,000 each for service in psychiatric wards, correctional facilities, coordination and supervision of student clinical practice, assignment as "supervisor" or "assistant supervisor," and assignment as Physical or Occupational Therapist in the Department of Health to schools for the handicapped; non-cumulative educational differentials of \$600, \$900, and \$1,200, respectively, for 30 graduate credits or the M.A. degree, the Certificate of Clinical Competence in Speech, and 60 graduate credits or Ph.D degree. The Union also proposes a \$250 allowance for those employees required to wear a uniform, and reimbursement for all fees for courses related to career discipline. Finally, the Union seeks "standard

District Council 37 provisions on Union recognition, check off, grievance procedure, etc."

DISCUSSION

A. Duration of Agreement

While two and three year contracts have been variously entered into by the parties, no compelling justification for a three year contract has been advanced in the present proceeding. A two year agreement, therefore, would seem most appropriate.

B. Salaries\*

The present salary picture for the titles\* at issue is as follows:

<u>Title</u>	<u>No. of Employees</u>	<u>Total Payroll</u>	<u>Average Salary</u>	<u>Salary Range</u>
Physical Therapist	43	\$433,950	\$10,092	\$9,850-\$12,
Occupational Therapist	27	273,550	10,131	9,850 12,
Speech & Hearing Therapist	12	121,800	10,150	9,850 12,
Rehabilitation Counselor	<u>24</u>	<u>261,462</u>	<u>10,894</u>	9,400 12,
	106	1,090,762	10,290	
Sr. Physical Therapist	7	\$ 81,630	\$11,661	\$10,750-13,
Sr. Occupational Therapist	6	66,750	11,125	10,750-13,
Sr. Speech & Hearing Therapist	0	0	0	10,750-13,
Sr. Rehabilitation Counselor	<u>2</u>	<u>24,475</u>	<u>12,238</u>	9,800-13,
	15	\$172,855	\$11,524	
Asst. Director of Rehabilitation	1	\$13,000	\$13,000	10,800-14,
Supervising Therapist	<u>8</u>	<u>109,152</u>	<u>13,644</u>	12,600-15,
	9	\$122,152	\$13,572	

\* There are no Occupational Therapy Assistants presently in City employment. The City has expressed the intention to ask for abolition of this title.

The Union's basic salary proposals seek both readjustment of existing salary relationships among the aforesaid titles, and upward movement of salaries and salary ranges for all titles.

Currently, the Physical, Occupational and Speech and Hearing Therapist have the same salary range, viz. \$9,850 to \$12,250; as do the Senior such titles, viz. \$10,750 to \$13,150. The Rehabilitation Counselor's range, however, is from \$9,400 to \$12,300, and that for the Senior Rehabilitation Counselor for \$9,800 to \$13,000. The salary range for Supervising Therapists is from \$12,600 to \$15,300, while that for Assistant Director of Rehabilitation is from \$10,800 to \$13,300.

A distinction heretofore between the Rehabilitation and other titles was that the former alone were subject to collective negotiations. Now the Union seeks to equate the Speech and Rehabilitation Therapist titles at a higher salary level than for the Occupational and Physical Therapist. In addition the Union would equate all Senior titles at a higher level, and at the highest level equate Supervising Therapists and the Assistant Director of Rehabilitation.

The City's job specifications essentially require, expressly or by incorporation, a baccalaureate degree plus limited clinical experience, for Physical, Occupational, and Speech and Hearing Therapist and Rehabilitation Counselors.

The most recent examination notice for the last title, however, requires a M.A. degree plus a year's experience. Moreover, each of the aforesaid titles is within the purview of a separate professional organization which requires for certification a baccalaureate degree plus clinical experience in the case of Physical and Occupational Therapist and a M.A. degree plus clinical experience in the case of the Rehabilitation Counselor and the Speech and Hearing Therapists. As noted above, in the City's present scheme the salaries for the Rehabilitation titles are on the whole lower than those for the Therapist, though in some prior periods the Rehabilitation Counselor enjoyed a relatively higher salary range. In New York State employment, while Speech, Occupational and Physical Therapists are equated for salary purposes, the Rehabilitation Counselor is slotted higher. At the same time, in Federal employment the Speech Therapist has a higher salary than Occupational or Physical Therapists, who are equated for salary purposes.

Under all the circumstances, it would seem most appropriate to equate for salary purposes at one level, the Therapists and the Rehabilitation Counselors, at a higher level, the Supervising Therapists and Assistant Director of Rehabilitation.

There is no question that the present City scale for all of the titles at issue lags behind those for most comparable

public and private employees. For example under the current agreement between the League of Voluntary Hospitals and Homes of New York and the New York Chapter of the American Physical Therapy Association, the Staff Physical Therapist salary after three months probationary period, was \$11,811.55 (the probationary salary is \$300 less) as of July 1, 1972, for a 37 ½ hour week. On a 35 hour equivalency basis, that salary would be \$11,089.45, and would exceed the current New York City minimum by \$1,200 and the average by \$997. The salary for the Senior Physical Therapist under the League-Therapist contract, effective for the year beginning July 1, 1972, on a 37 ½ hour week basis is \$13,061.35 after three months of service (\$12,190.59 on a 35 hour equivalency basis.) In contrast the City's current Senior Therapist range is \$10,750 to \$13,150, with an average of \$11,661. The foregoing salaries and ranges are not atypical, in a number of cases they are lower, than the salaries or salary ranges at other voluntary hospitals, a number of which have affiliation contracts. Moreover, the general picture is essentially the same for Staff and Senior Occupational Therapists and Speech and Hearing Therapists.

It should also be noted that employees of voluntary hospitals in the therapist titles covered by the League contracts have received a further 6 percent across-the-board increase as of July 1, 1973 (reduced from a negotiated 7 5



percent by the Cost of Living Council).

The foregoing comparisons are especially significant because where there are affiliation arrangements employees of voluntary hospitals in therapist titles may be working side by side with those City employees whose contract is at issue in this proceeding. Moreover, while the City can make a strong case that its fringe benefits, particularly its pension plan, are superior to and more expensive than those in the voluntary hospitals, it is also a fact that under the contract between Local 1199, Drug and Hospital Union and the League of Voluntary Hospitals and Homes of New York City hospital, including those in therapist titles, are entitled to the same holiday and vacation benefits as City employees.

New York State's present salary ranges for Staff and Senior Physical Occupational and Speech and Hearing Therapists are, respectively, \$10,745 to \$12,525 and \$12,010 to \$13,966, for a 40 hour week.

The Rehabilitation titles present an even more compelling case for substantial upward adjustment. As noted above, both the Rehabilitation Counselor and Senior Counselor, inappropriately it is believed, have from an earlier frontal salary position fallen behind the therapist titles. In addition, they have lagged badly behind similar employees in voluntary hospitals,

as witnessed by the recent "rollback" to City employment of employees of affiliated voluntary hospitals who were working in City hospitals in titles comparable to those thereby represented by the Union. Included among those rolled back were thirteen Rehabilitation Counselors and two Senior Counselors. In contrast to the present City ranges--\$9,400 to \$12,300 for the Rehabilitation Counselor (of which fourteen were on City payroll prior to the rollback), with an average of \$10,827, and \$9,800 to \$13,000 for the Senior Counselors had a range of \$11,825 to \$16,659, and an average of \$14,698, while two rolled back Senior Counselors had a range of \$16,289 to \$18,578, with an average of \$17,434. Employees so rolled back are permitted to maintain their salary levels despite any reduction of hours by virtue of City employment,

There is considerable evidence in the record that the City cannot effectively recruit on the basis of the present salary scale of the titles represented in this proceeding.

Given the foregoing facts, coupled with substantial increases in the cost of living prior to the period at issue, a strong case has been made for substantial improvements in salaries for Therapist and Rehabilitation titles. These increases must be tempered, however, by the perennial financial demands on the City. The record justifies the following across-the-board increases and salary schedule for the two-year period

beginning July 1, 1972:

<u>Title</u>	<u>Salary Range</u>		<u>Across-the-broad increases</u>	
	7/1/72	7/1/73	7/1/72	7/1/73
Physical Therapist	\$10,650- 13,275	\$11,500- 14,250	\$975	\$975
Occupational Therapist*	10,650- 13,275	11,500- 14,250	975	975
Speech and Hearing Therapist	10,650- 13,275	11,500 14,250	975	975
Rehabilitation Counselor	10,650- 13,275	11,500- 14,250	975	975
Sr. Physical therapist	11,650- 14,325	12,625- 15,400	1075	1075
Sr. Occupational Therapist	11,650- 14,325	12,625- 15,400	1075	1075
SR. Speech and Hearing Therapist	--	12,625- 15,400	**	1075
SR. Rehabilitation Counselor	11,650- 14,325	12,625- 15,400	1075	1075
Asst. Director of Rehabilitation	13,600- 17,175	14,600 18,450	1275	1275
Supervising Therapist	13,600- 17,175	14,600 18,450	1275	1275
Supervising Audiologist	13,600- 17,175	14,600 18,450	1275	1275

\* There were no Occupational Therapist Assistants in the City's employ during the period from July 1, 1973 to date, and the City has expressed and intention to seek abolition of the title. The evidence indicates that an appropriate salary criterion for that position is 75% of the salary for the Occupational Therapist. Should any Occupational Therapist Assistants be hired during the year beginning July 1, 1973, they should, therefore, be hired at 75% of the entry rate for Occupational Therapist, which would be \$8,625.

\*\* This title receives only one increase of \$1,075 as of July 1, 1973.

C. Promotional Guarantees

Typically, the City awards promotional increases. The Rehabilitation titles, for example, have in bargaining earned promotional guarantees of \$600 for the Senior Rehabilitation Counselor and \$700 for the Assistant Director of Rehabilitation. The Therapist titles, in contrast, have only recently chosen to be represented in bargaining. All of the senior and supervisory titles at issue should receive such guarantees, which should also be improved to provide a \$650 advancement increase to the title of Senior Occupational Therapist, Senior Physical Therapist, Senior Speech and Hearing Therapist and Senior Rehabilitation Counselor, and a \$750 advancement increase to Assistant Director of Rehabilitation, Supervising Audiologist and Supervising Therapist.

D. Assignment Differentials

The answer to questions of appropriateness of assignment differentials essentially involves a definition of normal job requirements. Here the Union has made a persuasive case for an assignment differential to those employees assigned to correctional facilities. In fact registered professional nurses already enjoy an annual differential of \$750 for such work. The employees represented here should receive the same amount.

E. Educational Differentials

Education differentials cannot normally be justified where degree requirements are a prerequisite for employment, professional certification or advancement. Otherwise there would be duplication in the payment for basic employment qualifications. The evidence in this proceeding reveals that degree requirements are for the most part prerequisites to the employment and advancement and professional status of employees in the titles represented. Just the opposite is true, it should be noted, of the registered professional nurses, who do enjoy educational differentials. The Union's proposal for education differentials should, therefore, be rejected.

F. Uniform Allowance

The City typically provides certain classes of employees with a uniform allowance where their jobs require the wearing of a uniform which the City does not supply. It is not clear exactly which employees represented here are so required to wear an unsupplied uniform, they should receive the same allowance accorded to registered professional nurses, i.e., \$100 per year. No persuasive case has been made in this proceeding, however for increasing the amount of that allowance.

G. Tuition Reimbursement

As noted above, professional and employment advancement in the titles represented here is in substantial measure related to formal educational achievement. Needless to say, such achievement serves the best interest of the City, as well as that of the individual employee. Moreover, the registered nurses already enjoy tuition remission for courses in their career field up to \$425 per year. The Therapist and Rehabilitation titles should receive the same benefit.

H. Standard Contract Language

The parties are in general agreement that their contract should include "standard language" of other contracts between the City and the Union relating to such items as "Union recognition, check off, grievance procedure, etc."

RECOMMENDATIONS

1. The parties' agreement be for a two year period beginning July 1, 1972 and ending June 30, 1974, except that the agreement be effective for employees in the title of Senior Speech and Hearing Therapist from July 1, 1973 to June 30, 1974.

2. The parties salary schedule, including across-the-board increases be as set forth on page 11 of this report.

3. There shall be a promotional guarantee of \$650 for the titles of Senior Occupational Therapist, Senior Physical Therapist, Senior Speech and Hearing Therapist and Senior Rehabilitation Counselor and a promotional guarantee of \$750 for the titles of Supervising Audiologist, Supervising Therapist and Assistant Director of Rehabilitation.

4. There be an differential of \$750 for employees assigned to correctional facilities, but there be no other assignment differentials.

5. There be no education differentials.

6. All employees required to wear a uniform that is not supplied by the employer receive an annual uniform allowance of \$100.00

7. Employees be reimbursed up to \$425 annually for the cost of tuition for approved courses in their career field.

8. "Standard language" of other agreements between the City and the Union be included in the parties' agreement.

Dated: January 18, 1974

DANIEL G. COLLINS