

In the Matter of Arbitration Between

Board of Regents, State of Iowa,  
Employer

Interest Arbitration Award

And

Service Employees International Union,  
Local 199, Union

March 12, 2013

For SEIU:

Jim Jacobson  
General Counsel  
SEIU Local 199  
2000 James St., Suite 111  
Coralville, Iowa 52241

For the Board of Regents:

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**Statement of Jurisdiction**

The Board of Regents acting for the State of Iowa/University of Iowa Hospitals and Clinics (hereafter UHC or Employer) and Service Employees International Union Local 199 (hereafter SEIU or Union) have engaged in collective bargaining for a contract covering the bargaining unit of certain employees of the University of Iowa Hospitals and Clinics, for a two year period from July 1, 2013 to July 1, 2015. After mediation, wage increases for the two contract years remained unresolved. The parties requested "interest" arbitration pursuant to §20.22 of the Iowa Code (Iowa Public Employment Act). The undersigned was selected by the

parties to hear the case. A hearing was conducted on February 28, 2013 in Iowa City, Iowa. Both parties had an opportunity to present evidence and arguments in support of their respective positions. Post-hearing briefs were filed and the record was closed on March 4, 2013.

### **Items at Impasse**

The parties have reached agreement on all issues except for the wages for the 2013-2014 and 2014-2015 contract years. The Employer proposes a 2% across-the-board increase in the first year and 2.5% across-the-board increase in the second year. The Union proposes a 3% across-the-board increase in both contract years.

### **Factors to Consider in the Award**

Under §20.22 of the Iowa Code, the arbitrator has the authority to select from either offer on each impasse item to comprise the final contract, along with the issues not in dispute. The Iowa law enunciates the factors an arbitrator is to consider in fashioning an award. The law states:

The panel of arbitrators shall consider, in addition to any other relevant factors, the following factors:

- a. Past collective bargaining contracts between the parties including the bargaining that led up to such contracts.
- b. Comparison of wages, hours and conditions of employment of the involved public employees with those of other public employees doing comparable work, giving consideration to factors peculiar to the area and the classifications involved.
- c. The interests and welfare of the public, the ability of the public employer to finance economic adjustments and the effect of such adjustments on the normal standard of

services.

d. The power of the public employer to levy taxes and appropriate funds for the conduct of its operations.

The Employer stated that the "ability to pay" was not an issue in the case.

### **Background Facts**

UIHC and SEIU have engaged in bargaining for contracts covering approximately 2,900 health care employees who work for the University of Iowa Hospital, since the Union was certified in 1998. Beginning in 1999, the parties have successfully negotiated voluntary settlements except for 2005-2006, when the parties went to arbitration. Two thirds of the bargaining unit is comprised of nurses. The other third are tertiary care workers.

Funding sources consist of patient and third-party payers for direct patient care services. No direct state funding is received by the facility. The Hospital has little ability to affect payments because the rates are fixed by others and unlikely to increase. Medicare reimbursement rates in Iowa are near the bottom in comparison with other states. The hospital expects to have a flat revenue stream in the next few years.

UIHC is an academic teaching hospital. It served over 30,000 inpatients and over 818,000 ambulatory clinic patients in 2012. The hospital employs 812 staff doctors, 736 residents and fellows doctors, 1,912 nurses, 2,080 other professionals and 2,748 other supporting staff.

The hospital is at maximum occupancy of 90%. In-patient volume cannot be increased until the new children's hospital is completed. The hospital maintains a conservative financial position in order to protect its access to capital. It has an AA2 bond rating from Moodys and low debt. Over the last few years, revenues have only increased 1 ½ - 2%, while costs have increased 5-7%. UIHC has maintained an operating margin of 4-6% in all recent years except for 2009, when it had a loss. In that year the management team of 120 individuals took a \$1.5 million reduction in pay.

### **Position of the Union**

The Union contends that its proposal of a 3% increase in both years of the contract is the most reasonable. The UIHC is in good financial shape and can afford the Union's offer. The University has doubled revenue since 2000. The past bargaining history of the parties averages an increase of 2.96% per year. Comparing the SEIU unit to other state bargaining units is unfair. In Iowa, there is no bargaining unit that is directly comparable to the UIHC bargaining unit. There is only one other state Health Care Unit. The AFSCME Health Care bargaining unit has a salary schedule with steps, unlike the nurses at UIHC, who have always bargained across-the-board increases.

There is no insurance cost increase to the Employer for this unit in the first year, unlike all other state government units.

The parties agreed to a Professional Recognition Program for nurses. This program is voluntary and replaces an automatic \$1,000 payment all nurses with a BSN received. The costs of this new program are unknown and shouldn't be included in the package costs.

The Employer wants to make market adjustments for certain bargaining unit classifications. These adjustments are discretionary, not a part of the tentative agreement and shouldn't be counted against the bargaining unit's across the board increase. The Employer cannot include expenditures which the Union didn't agree to, or which only affect a small number of the bargaining unit.

The Bureau of Labor Statistics data is the most useful information to judge the reasonableness of the parties' positions. Using information available for all health care professionals, excluding physicians, demonstrated a 3.76% increase in wages from 2000 to 2011.

Looking at 36 Iowa public hospitals, raises for 2010-2012 averaged 2.85% . Finally, comparing UIHC with other Midwest academic medical centers demonstrated that the Union's offer is within the 2-5% range of these organizations.

The Union argues that the Employer's method for "aging" the Iowa Hospital Association salary data by increasing the numbers by 2% and 2.5% for the coming two years, was flawed and not supported by any evidence.

None of the state bargaining units is comparable with the UIHC unit. Even the AFSCME statewide health care unit is not comparable. The skill level of UIHC workers is much greater because of the severity of medical problems an academic hospital confronts. The AFSCME bargaining unit has a salary schedule with 4.5% step increases. The average salary for SEIU is known, but not that of the AFSCME unit.

The Employers exhibit on sources of funding for academic health centers is out-of-date and not reliable. Local governmental unit comparisons are inadequate because their funding sources are different. Using the graduate student bargaining unit's settlement is not comparable because the unit negotiated tuition waivers. Their total settlement represents a 4.82% raise.

The Union contends its proposal is the most reasonable offer for all of these reasons.

### **Position of the UIHC**

The Employer contends that its proposal is the most reasonable. The wage offer of the Employer is above wage increases of other hospitals in Iowa. It is also above the settlement trend for city and county wage settlements in Iowa, and above settlements for nurses in Minneapolis/St. Paul and Madison, Wisconsin. It is more than wage settlements negotiated by Regents and the State with other unions including the

AFSCME health care workers. These settlements were modest, reflecting settlement trends for public sector contracts.

The Employer contends the SEIU unit shares many commonalities with state and University employees in other bargaining units. They are all part of the executive department of the state. The unit members are subject to the same policies as all other University employees.

The AFSCME contract with the State of Iowa is a direct comparability group to the SEIU unit, since it includes 21 of 66 SEIU classifications. The settlement for the two years at issue was 0% in each year, with steps, which represent 1.125%, because only half of the unit is eligible for a step increase. AFSCME successfully resisted the State's insurance offer, which would have required major changes in employee contributions. By contrast, the UIHC did not proposed any changes in health insurance contributions by employees.

When looking at the Iowa Hospital Association salary survey results, which include 118 hospitals in Iowa, including UIHC, the 2012 wages for UIHC Staff Nurse were 7.1% higher than the IHA weighted average. If the Union's offer is accepted this disparity will increase dramatically.

Comparing the Hospital's final offer with other State of Iowa and Board of Regents concluded negotiations, the Employer's offer is clearly the most reasonable. When including wage compression adjustments and market adjustments, the increase for this unit will be 2.61% for 2013,

which is higher than all the state labor contract settlements. The Employer's offer did not include any changes in health insurance contributions by employees. Also included were changes in the charge nurse rate, tuition assistance and a Professional Recognition Program. Including wage compression and market adjustments in the Union's offer would mean a 3.6% increase for 2013.

The Union's comparability group is not a valid comparison. It included large Midwestern universities' hospitals. The University of Chicago is a private hospital. The Union failed to prove there were similar programs or services or what the funding stream was for these facilities. All of the facilities received state funding for capital improvements, not found at UIHC.

The Union's own information regarding wage settlements does not support their position. Both the Minnesota Nurses Association three-year contract covering 11,000 nurses (which contained 2%, 1.5%, and 1% increases) and the Wisconsin Hospital Authority settlements are well below the SEIU offer. The University of Illinois Chicago settlement for 2013 was 1.5%.

The Union's evidence regarding wage increases at other Iowa public hospitals does not support their position. The SEIU unit has fared better than the 2.85% average increase over the last three years.

Finally, the Union's reliance on BLS data is misplaced. It provides only historical data, which is not probative of what future wages should be.

### **Discussion and Conclusions**

The issue for determination is which wage offer is the most reasonable, considering the statutory criteria mentioned above. The Employer stipulated that "ability to pay" was not an issue in this case, so I will not discuss the extensive financial material presented at the arbitration hearing illuminating the Hospital's current financial position. The UIHC is a well-managed facility with a conservative financial philosophy. It is operating in an environment of potential negative financial changes over which it has little control.

The bargaining history demonstrates that this unit has fared well in its negotiations since it organized. Employees have negotiated an average increase over the time since bargaining began in 1998 of 2.96%. These increases have kept wages increasing faster than the CPI. Neither party made any arguments that there were any historical factors in their bargaining relationship that supported either parties' position.

Finding comparable wage settlements with which to measure the offers for this group is a difficult task. Both parties provided historical data claiming it was supportive of their respective offers. The Employer used the Iowa Hospital Association's weighted average salaries for 2012, then "aged" the figures, adding 2% and 2.5% to reach what it felt was a

comparable average salary figure for years 2013 and 2014. The average UIHC staff nurse salary was 7.1% higher than the IHA weighted average for 2012.

The Union focused on Bureau of Labor Statistics data, comparing statewide wage changes for registered nurses, then for 8 SEIU job classifications. They compared this Unit with groups in Cedar Rapids, Des Moines and the Quad Cities. They demonstrated that the average annual raise over a 10-year period for nurses was 3.70% compared to the 2.96% average for the SEIU unit. For the 8 categories, the average was 3.76% compared to 2.95% for this unit. Des Moines and the Quad Cities fared slightly better and Cedar Rapids fared slightly worse than the SEIU unit.

The Union's exhibit comparing 36 Iowa public hospitals showed a 2.85% average increase for 3 years ending in 2012.

The historical data is helpful in determining if there is some glaring disparity between the wages of this unit and other comparable employees. A disparity such that a "catch-up" increase is called for, or an adjustment downward is needed. None of the data convinced me that either was necessary, nor did it recommend either proposal.

State wage settlements in Iowa indicate that settlements are conservative and supportive of UIHC's position. The most comparable State settlement is the AFSCME Health Care unit, which shares 21 of SEIU's

66 classifications. These health care professionals work in various institutions around the state. The voluntary settlement for the AFSCME bargaining unit was 0% plus steps of 4.5% in each year. Steps are valued at 1.125%, as less than half the bargaining unit receives them.

The Union resisted comparisons with this unit, claiming work performed at UIHC was more difficult and demanding than the AFSCME unit's work. It also contended comparisons of average salaries were not provided by UIHC. Neither of these arguments convinced me to disregard the comparison.

Other Iowa public sector settlements are instructive of a general trend in wages and benefits. The other State unit's settlements were as follows:

PPME – Judicial – arbitration scheduled. Both final offers were lower than either the Employer's or Union's final offer.

IUP – State – 0% each year, with steps (1.125%).

AFSCME – Judicial – 0% each year, with steps (1.125%). (Arbitrating insurance offers).

AFSCME – Executive Branch – 0% each year, with steps (1.125%) (Arbitrating insurance offers).

SPOC - 1% July and January each year (not lump sum/not to base/not compounded, i.e., % increase based on June 30, 2013 wage

throughout term of the agreement); 3.5% steps PLUS additional 1% step if meets expectations or satisfactory on last performance evaluation.

Agreement on Health & Dental Insurance – All employees contribute 20% toward premium with \$62 wellness credit; and \$125 opt out payment.

UNI United Faculty – Board of Regents – 2% and 2.25%.

COGS – Board of Regents – 2% and 2.25%. Plus a tuition credit.

Settlements for Cities in Iowa showed 43 contracts concluded. The average increase for 2013 was 2.04%. Additional employee contribution to health insurance premiums was included in 73% of the contracts.

Settlements for Counties included 66 with an average increase for 2013 of 2.08%. Over half included changes to health insurance with employees bearing more of the cost.

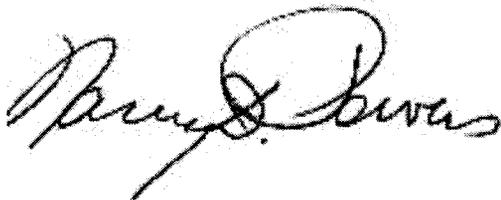
Settlements for other large health care facilities were scarce. The Minnesota Nurses Association settled contracts with six large hospitals in Minneapolis/St. Paul covering 11,000 nurses. A three-year contract was negotiated with increases of 2%, 1.5% and 1% over the next three years. The University of Illinois Chicago Hospital negotiated a 1.5% increase for 2013.

These settlements reflect a general conservative pattern in wage increases and an increasing emphasis and attempt to make employees share more of the health insurance cost increases. Employees in the UIHC unit have not had any proposed changes in their health insurance. There

is no bargaining unit that is directly comparable to the UIHC unit. The closest comparable unit is the AFSCME Health Care unit. Its voluntary settlement is lower than the UIHC final offer. Settlement trends of other Iowa public sector contracts, other Health Care facilities and nurses contracts are "relevant factors" and support the offer of the Employer as the most reasonable. For all these reasons, I find the most reasonable offer to be the Employers'.

#### **Award**

The Employer's final offer on wages shall be included in the parties' contracts for the 2013-2014 and 2014-2015 contract years. It, along with items already agreed to by the parties shall comprise the contracts.

A handwritten signature in black ink, appearing to read "Nancy D. Powers". The signature is written in a cursive, flowing style with a large loop at the end.

Nancy D. Powers

March 12, 2013

CERTIFICATE OF SERVICE

I certify that on the 13<sup>th</sup> day of March, 2013, I served the foregoing Award of Arbitrator upon each of the parties to this matter by mailing a copy to them at their respective addresses as shown below:

James Jacobson  
SEIU Local 199  
2000 James St., Suite 111  
Coralville, IA 52241

Thomas Evans  
Iowa Board of Regents  
11260 Aurora Av.  
Urbandale, IA 50322-7905

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I further certify that on the 13<sup>th</sup> day of March, 2013 I will submit this Award for filing by mailing it to:

Iowa Public Employment Relations Board  
510 East 12<sup>th</sup> Street, Suite 1B  
Des Moines, IA 50319.



Nancy D. Powers, Arbitrator