



UNITED STATES
FEDERAL SERVICE IMPASSES PANEL

WASHINGTON, DC 20424-0001

January 15, 2008

VIA FACSIMILE TRANSMISSION

Mr. Charles M. Carron
Director of Workforce Management
The Library of Congress
LM 653
101 Independence Ave., SE.
Washington, DC 20540-9994

Mr. J. Kent Dunlap
Chief Negotiator
Local 2910, AFSCME
LM-G41
101 Independence Ave., SE.
Washington, DC 20540-9994

RE: The Library of Congress
Washington, D.C. and
Local 2910, AFSCME, AFL-CIO
Case No. 07 FSIP 111

Gentlemen:

Enclosed herewith is the Decision and Order in the above-captioned case.

Sincerely yours,

A handwritten signature in cursive script that reads "H. Joseph Schimansky".

H. Joseph Schimansky
Executive Director

Enclosure

United States of America

BEFORE THE FEDERAL SERVICE IMPASSES PANEL

In the Matter of

THE LIBRARY OF CONGRESS
WASHINGTON, D.C.

and

LOCAL 2910, AMERICAN FEDERATION OF
STATE, COUNTY AND MUNICIPAL
EMPLOYEES, AFL-CIO

Case No. 07 FSIP 111

DECISION AND ORDER

The Library of Congress, Washington, D.C. (Employer or LOC) filed a request for assistance with the Federal Service Impasses Panel (Panel) to consider a negotiation impasse under the Federal Service Labor-Management Relations Statute (Statute), 5 U.S.C. § 7119, between it and Local 2910, American Federation of State, County and Municipal Employees, AFL-CIO (Union or Guild).

Following an investigation of the request for assistance, the Panel determined that the dispute, which arose under a mid-term reopener provision of the parties' collective-bargaining agreement (CBA) and concerns procedures for reporting official time use, should be resolved through an informal conference with Panel Member Barbara Bruin. The parties were informed that if a complete settlement was not reached during the informal conference, Member Bruin would notify the Panel of the status of the dispute, including the parties' final offers and her recommendations for resolving the impasse. After considering this information, the Panel would take whatever action it deems appropriate, which may include the issuance of a binding decision.

Pursuant to the Panel's procedural determination, the parties' representatives met with Member Bruin on November 30, 2007, in the Panel's offices in Washington, D.C. While the possibility of a voluntary resolution was explored, a settlement was not reached. The Panel has now considered the entire

record, including the parties' pre-conference and post-conference submissions, and Member Bruin's recommendations for resolving the dispute.

BACKGROUND

The LOC's mission is to make its resources available to Congress and the American people and to sustain and preserve a universal collection of knowledge and creativity for future generations. The Union represents approximately 1,600 bargaining-unit employees who work as catalogers, reference librarians, computer analysts and specialists in acquisition and interpretation of collections; many have Masters and Ph.D. degrees, and some have law degrees. The parties' CBA is due to expire in April 2008.

ISSUE

Essentially, the parties disagree over the level of specificity that should be provided by certain Union officials when reporting their official time use under Article 6, Section 3.D., of the CBA.^{1/}

POSITIONS OF THE PARTIES

1. The Employer's Position

The Employer proposes that Article 6, Section 3.D. read as follows:

D. The use of official time for representational activity will be recorded on a Form 468.

1. In the case of official time for meetings with management and presentation of grievances, disputes, complaints, etc., the Guild will include on Form 468 the date and starting and ending times of each meeting or presentation, and the name of one management official present.

^{1/} Article 6, Section 3.D. of the CBA currently states:

The use of official time for representational activity will be recorded on Form 468.

2. In the case of all other official time, the Guild will include on Form 468 the starting and ending times (or in the case of activities that are intermittent during the day, the cumulative number of full hours on each day for each such activity) and the subject matter of the activity, such as "preparation for negotiation session on Library Services ABA reorganization" or "preparation for consultative meeting with management of MBRS."

3. To protect confidentiality, the Guild may use unique numbers rather than names or organizational units to identify bargaining-unit employees, such as "preparation of Employee 1001 grievance" or "discussion with Employee 2121 about rights under the Americans with Disabilities Act." The Guild will keep separate records associating these unique numbers with bargaining-unit employee names, in the event of any investigation or audit by the Library's Office of Inspector General (the OIG), which by statute is independent of management.

4. If reporting the subject matter of a representational activity would prematurely disclose the Guild's bargaining and/or litigation strategy to management, the Guild may instead describe that activity on Form 468 as "Confidential - Reported to OIG." At the end of each biweekly pay period, the Guild will confidentially report to the OIG the subject of each such representational activity, on Form 468 or by memorandum or email.

Its proposal would ensure that management is provided the specific information it needs to determine the amount of official time being used, the activities for which official time is used, and whether those activities are reasonable and appropriate. Contrary to the Union's view, management is entitled to assess the reasonableness of its use of official time, as Article 6, Section 3.B., of the CBA allows the Union's President and Chief Steward "a reasonable amount of official time to perform their duties as employee representatives, subject to the limitations of law. The amount of time used may not exceed 1,560 hours per person per year." (Emphasis added.) The Employer's approach also complies with the 2004 report by

the OIG which concluded that some official time reports provided by Union officials lacked specific details regarding the activities for which official time was being used. Moreover, the code numbers assigned by the Union when meeting with employees would give management the ability to determine that the number of hours used for an employee's particular situation was reasonable, while at the same time protecting the employee's confidentiality by not requiring the Union to disclose the name or organizational unit of the employee. The Union would have complete discretion as to recordkeeping in this matter so long as its records are responsive to an official OIG investigation or audit. Finally, the Employer's offer would ensure that the Union does not have to disclose negotiation or litigation strategies to management by having those reports sent directly to the OIG, which is statutorily independent from the Employer.

2. The Union's Position

Under the Union's proposal, Article 6, Section 3.D. would contain the following wording:

D. The use of official time for representational activities will be recorded on the Form 468 using the following five reporting categories. Stewards will report starting and ending times on Form 468. The President and Chief Steward will report total hours spent on each category in the aggregate.

1. Meetings with management: time spent with management representatives in any representational activity such as meetings and consultations, negotiations, grievance and appeal presentations, FLRA proceedings, arbitration hearings, formal meetings and Weingarten investigative meeting:
 - include an identifier such as the name of the manager or name of the group/meeting
 - stewards will indicate the room number where the meeting took place
 - indicate total number of hours in the "Library" column
2. Term Negotiations: time used to prepare for and negotiate a basic collective bargaining agreement or its successor.

3. Mid-term Negotiations: time used to prepare for and bargain over issues raised during the life of the term agreement. After the parties have identified the subject matter(s) of bargaining, the Union representative's report will include a brief reference to the subject matter.

4. Grievances, Dispute Resolution, and Appeals: time used to investigate, evaluate, research, prepare, and process disputes, grievances, clarification of unit, unfair labor practice charges, adverse actions, EEO complaints, performance rating appeals, etc.

5. General Labor-Management Relations: time used to confer with unit employees regarding working conditions and contract interpretation; review and study of Library policies or other matters affecting the unit; research, preparation, and distribution of labor-management information to unit employees; labor relations training for Guild representatives; compliance with reporting and disclosure requirements; providing information to Congress and other government agencies; general contract administration, and related matters. Activities in excess of four hours a day will include a brief reference to the subject matter.

Preliminarily, the Union recognizes that the 2004 OIG report concluded that LOC management, in some instances, could not determine how much official time Union officers were using and whether the time being used was appropriate. Its proposal would do a better job than the Employer's of implementing the recommendations contained in the OIG's report by balancing the needs of both parties. In this regard, it provides clear guidance to each Union officer of the exact type of activity appropriate for official time use while protecting the privacy of employees who meet with the Union but do not file a formal complaint. At the same time, it captures fully the amount and cost of the hours used for Union activities, as well as the types of activities for which the official time is used, giving management the information it needs to ensure that its use is both reasonable and appropriate. Finally, the categories proposed by the Union are similar to those that executive branch

agencies are required to provide to the Office of Personnel Management when reporting official time use.

CONCLUSIONS

After carefully considering the evidence and arguments presented by the parties, we conclude that the Union's proposal should serve as the basis for settling the impasse, with the exception of the last sentence of Section 3.D.5., which shall be replaced with the following wording: "When officials use this category to report official time on Form 468, they will identify which of the specific sub-categories the official time was used for, regardless of the length of time used." In our view, the additional specificity concerning official time that Union officials will provide under the general labor-management relations category using this approach, in conjunction with the other portions of the Union's proposal, are sufficient to meet the Employer's official time reporting needs. In this regard, we are not persuaded that the direct involvement of the OIG in administering the parties' CBA is compelled by the 2004 OIG report, or that the Employer has established a record that would warrant the adoption of its approach to official time reporting. Accordingly, we shall order the adoption of the Union's proposal as modified.

ORDER

Pursuant to the authority vested in it by the Federal Service Labor-Management Relations Statute, 5 U.S.C. § 7119, the Federal Service Impasses Panel under § 2471.11(a) of its regulations hereby orders the parties to adopt the Union's proposal, with the exception of the last sentence of Section 3.D.5., which shall be replaced by the following wording:

When officials use this category to report official time on Form 468, they will identify which of the specific sub-categories the official time was used for, regardless of the length of time used.

By direction of the Panel.


H. Joseph Schimansky
Executive Director

January 15, 2008
Washington, D.C.