Michael P. Duco
Arbitrator, Mediator and
Fact Finder
Columbus, Ohio

IN FACT FINDING PROCEEDINGS PURSUANT TO
4117 0F THE OHIO REVISED CODE
SERB Case # 2024-MED-01-0029
RECOMMEDATION August 13. 2025

Fact Finding Proceedings Between:	)
	)
City of Mansfield, Ohio	)
	Fact finding Recommendation
and	)
	)
AFSCME Local 3088	
	) DATE: July 16,2024 (Hearing)
	)
	)
	)

APPEARANCES:

Employer:

Michael D. Esposito, Clemans and Nelson, Vice-President/Employer Advocate

Keith Porch, Safety Director

Scott Arnett, Assistant Finance Director

Sharon May, Human Resource Director

Louis M. Andres, Public Works Director

Union:

Roberta Skok, AFSCME Council 8, Regional Director/Union Advocate

Gary Jacobs, AFSCME Local 3088

Buck VanDyke, AFSCME Local 3088, President

Lance Cook, AFSCME Local 3088

Pamela Frederci, AFSCME Local 3088

BACKGROUND/INTRODUCTION

AFSCME Local 3088 is a deemed certified unit. It is a wall-to wall- unit consisting of Service, Clerical and Telecommunicators. It is approximately 147 employees. The parties have a long bargaining history. Mansfield was a manufacturing city. Like most in Ohio, it has had its share of hard economic times. It was placed in fiscal emergency in 2009 by the State auditor and released from fiscal emergency in 2014. The Bargaining Unit employees feel like they have fallen behind. Both parties acknowledge recruitment issues. The Employer is cautious in its approach to finances given its history. The Union chafes under the austerity measures of the past. There seems to be a differing view of last round of bargaining The Bargaining unit employees secured an eight and one-half (8.5: 3%, 2.5% and 2,75%) increase over the three- year contract term, plus half of the bargaining unit saw wage schedule adjustments of four (4) to five (5) percent. The Employees also received a lump sum payment of $6500,00 as a result of an arbitration on a "me too" provision given that first responders received such bonus using one- time federal ARPA funds. The one -time infusion of federal funds has ended. The City's view is that these increases were significant.

The Union's view is it was not enough when comparing their actual pay rates to other cities in their region. Despite the" me too" provision the Firefighters

at Mansfield achieved a twelve percent (12%: 4%,4%,4%) in fact-finding and that the FOP achieved raises for both of their units of twelve and three-forth percent (12.75%; 7.75%, 2,5% and 2.5%) in bargaining, The Bargaining Unit employees feel unfairly treated. Further, there seems to be bad blood due to exempt pay.

This background led to contentious bargaining for the 2024-2027 agreement. The bargaining was characterized by spurts of progress followed by reconsiderations. The City of Mansfield and AFSCME Local 3088 had a Collective Bargaining Agreement that expired on May 1, 2024. Before the Fact Finder got involved the parties had engaged in approximately ten (10) Bargaining sessions, including in several mediation sessions with FMCS. This resulted in tentative Agreements on the Preamble, Articles 1-9, Articles 11 and 12, Article 14-18, Articles 20-35 Articles 37 and 38, Articles 42-48. They also had tentatively agreed upon a deletion of an MOU regarding Pay Range Market Adjustments and the addition to three new Articles: Emergency Closure of City Facilities, CDL Licensure/Testing/Training and Trainer Opportunities/Training Pay. The remaining open Articles 10,13,19,36,39,40,41, side Letter on reopener a new Article on Licensure Maintenance and Reporting Requirements.

The parties waived the SERB timeline and originally scheduled the fact-finding for April 22, 2025. The Union needed a witness from Washington DC who

was not available on that day and requested to reschedule for May 8, 2025. On May 8, 2025 a fact finding hearing was convened and the parties requested that the Fact Finder attempt to mediate. We mediated all of the issues but for wages. A verbal Tentative Agreement was reached on the majority of the issues, except for the wage Article. Further the parties, identified their priorities. The Union's priority was to put money on the pay scale (They believe they had fallen behind). The Employers priority was to fix the pay scale by changing the steps to make entry pay more attractive. Both parties agreed that there were recruitment issues. We Agreed to schedule another date for a hearing, However, since we did not get to a deep dive on wage increases, I looked at the 2024 SERB Wage Settlement Report and gave the principals some feedback on what I saw the general market to be on May 10, 2025, I suggested that they have further discussion on wages. We then scheduled an additional day on July 3, 2025. The Union informed me that they had a meeting with the Employer and thought all the issues were resolved, the employer was copied, so we did not have a hearing that day. Subsequently there was some language issues that remained unresolved when the parties exchanged language on the written Tentative Agreements. I then conducted a mediation with the chief representatives via "Teams" to resolve those issues on July 8, 2025 and agreed to a hearing date on July 16, 2025 if all

matters could not be resolved. On July 16, 2025 the parties signed Tentative Agreements on everything but one issue in Article 36 Wages – A "Me too" clause. The clause was placed in Article 36.1 in negotiations Of the 2021-2024 Agreement. A hearing was then conducted solely on that one issue. Both sides have strong feeling about this matter.

ISSUE

The employer seeks to remove the following language from 36.1(B) of the collective Bargaining Agreement: **In the event that any other bargaining units with the City of Mansfield receives greater wage benefits, AFSCME Local #3088 will receive the same wage benefits effective on the same date as the other bargaining unit(s)**

POSITION OF THE EMPLOYER

- The Act doesn't envision a situation where on bargaining unit sets terms of the agreement between any Employer and all or most of its employees. The law allows each bargaining unit to negotiate for itself. Pattern bargaining

while a consideration is important it is not everything. Overtime there may be forces that require more or less for the various jobs.

- 4117-9-05 (2) requires Fact Finders to consider: **Comparison of the unresolved issues relative to employees in the bargaining unit with those related to other Public and private employees doing comparable work, giving too factors peculiar to the area and classification involved.** AFSCME does not do comparable work with Police and Fire.
- The Internal Comparable do not exit. Neither the IAFF and the FOP contracts contain a "me too".
- The contiguous cities do not contain "me too" provisions, Thus, External Comparable do not support it.
- The parties have a long-term MOU which was agreed to in 2008 which allows the Union to reopen the Collective Bargaining Agreements should other bargaining units get more. The parties adjusted that MOU and have tentatively agreed to it this round of Bargaining.

POSITION OF THE UNION

- The provision is currently in the Collective Bargaining Agreement because the parties mutually agreed to it in Bargaining for the 2021-2024.

- Equity or Fairness requires the "me too" to continue. The only reason the Bargaining Unit got more during the last contract term was through an Arbitration after bargaining concluded. With out the "Me too" there is no practical way for the Union to ensure that the city will treat them fairly.

ANALYSIS AND RECOMMENDATION

A Fact finder, per OAC 4117-09-05, must consider the following criteria.

1. Past collectively bargained agreements, if any.
2. Comparison of the unresolved issues relative to other public and private employees doing comparable work, giving consideration to factors peculiar to the area and classification involved.
3. The interest and welfare or the public, and the ability of the public employer to finance and administer the issues proposed, and the effect of the adjustments on the normal standards of public service.
4. The lawful authority of the public employer.
5. Any stipulations of the parties.
6. Such other factors, not confined to those listed above, which are normally or traditionally taken into consideration in the

determination of issues submitted to mutually agreed-upon dispute settlement procedures in the public service or private employment.

Any issue can trigger one or more of these factors in consideration. The Employer here points to number 2 and references the fact-finding report in SERB Case No. 18-MED-01 -0025/0026/0027 where Fact-Finder Dennis Byrne recommended the removal of an Equitability clause or a "me too" clause writing that "...the law allows each bargaining unit to negotiate for itself, each unit has the chance to bargain for higher wages than the average, or change in the uniform allowance, etc. In some senses, one size does not fit all, especially in contracts negotiated over a twenty-year span". They further point to SERB Case No. 2014-MED-10-1457 and 2014-MED-10-1592 where Fact Finder Novak makes the point that Pattern Bargaining is both a sword and a shield to each party. The union in this case is using it as a sword. The Employer can use it as a shield to argue that parity does not allow a Union to Cherry pick.

The Union points to No.1 to argue that the parties recognized past inequities and placed a "me too" provision in Article 36.1 of the 2021-2024 Collective Bargaining Agreement. It should continue to ensure fair

and equitable treatment. They point to larger general wages increases in Fire and Police as well as the exempt workforce to make their point.

These arguments require that the Fact finder to review what happened under the last contract negotiations to put this matter into context. AFSCME and the City was the first Bargaining Unit to negotiate. They reached a wage settlement of 8.5%, a change to the structure of the pay scales and targeted upgrades impacting half the Bargaining Unit employees. IAFF and the City go to fact finding and the unit consisting of less classifications and diversity of jobs achieved 12% over three years. The FOP also with less classifications and diversity of jobs then achieved 12.75% over 3 years in Bargaining.

Subsequent to bargaining, the Federal Government authorized ARPA money to be used for retention bonuses for "First-responders". The Union grieved and the matter went to Arbitration before Robert G. Stein who found that Union's grievance concerning violation of the side letter on the reopener and Article 36.1(B) regarding its request for an additional 4.25% was denied due to the fact that it is governed by ORC 4117. He granted the grievance regarding a violation of 36.1 (B) concerning the bonus issued using ARPA.

It is unclear to the Fact Finder what actually occurred with the exempt city employees. The employer provided evidence that a general wage increase mirroring the AFSCME Unit was authorized by the Administration. The Union provided a per centage of each exempt employee which shows higher percentages. The Employer argues that the numbers include annual raises, step increases, increases do to adding duties and pay range Adjustments. The Employer also points out those percentages cover a four-year period. Further, the "me too" provision as written does not apply to exempt staff raises.

This dispute highlights the problems of including "me too" provisions in Collective Bargaining Agreements. Fact Finder Byrne makes the point that each exclusive representative is empowered to reach an agreement tailored to its needs. That one size does not fit all. How do you compare "apples to oranges". How do you determine "greater" when the FOP and the IAFF achieved a higher general wage increase but AFSCME achieved upgrades for over half the Bargaining unit. The dispute also highlights the consequences of having both a wage reopener and "me too clause".

The parties after a very contentious bargaining for this agreement were finally able to compromise and achieve tentative agreements on everything but the inclusion or exclusion of the "me too' clause. The Union made great gains. Economically, they achieved an across-the-board equity adjustment, various certification pay, increases in shift differential as well a general wage increases within the market and a significant bonus. They reached an agreement on a MOU regarding a wage reopener. The Employer was able to achieve clarifications to its rights and some changes to its operation. Both sides achieved a good outcome; not a perfect outcome. That is the nature of Collective Bargaining.

The "me too" has only been in the Collective Bargaining Agreement for one (1) term. It is not a long-term provision of the parties Agreement or relationship. It is not supported by either external or internal comparable. "Me too" provisions attempt to constrain other units from negotiating greater terms tailored to their needs. These statutory factors outweigh the fairness or equity argument made by the Union. Further, the likely hood of retention bonuses like those authorized by ARPA occurring in the future is highly unlikely. The Fact Finder therefore

recommends that the current language of 36.1(B) set forth on this issue above be stricken and replaced with the parties tentatively agreed to language in the MOU on a wage reopener.

The reopener provides a vehicle for the parties to address inequities in the pay scales. I agree with Arbitrator Stein, In the Matter of Arbitration between city of Mansfield Ohio and AFSCME Ohio C8, Local 3088, AFL-CIO (Issue: Me too p,18) "the parties stated in in the side letter reopener 'request to reopen this agreement under R.C. 4117'. One could reasonably presume that if an impasse were reached, the parties could resort to fact-finding to help resolve the reopener negotiations."

Each Union has the right to seek agreements tailored to their needs. "Me too" provisions are not held in high regard because they contractually try to bind units not involved at the bargaining table. However, parties must be pragmatic and consider fairness and equity as a consideration when negotiating. There is a balance when Public Employers have multiple units.

The "me to" clause here is not a long-term provision of the parties' relationship. It was placed into the agreement last round. It led to disputes which were not resolved to either party's satisfaction. The

wage reopener as agreed to by the parties provides for a more pragmatic approach when comparing "Apples and Oranges". It provides flexibility and gives the parties more agency in resolving the matter. It also as Arbitrator Stein stated presumably provides the parties with access to Fact finding to resolve any impasse.

RECOMMEND CONTRACT LANGUAGES

The following language shall be stricken from 36.1(B):

~~In the event that any other bargaining units with the City of Mansfield receive greater wag benefits, AFSCME Local #3088 will receive the same wage benefits effective on the same date as the other bargaining units(s).~~

The following language shall replace the above language:

In the event that another City Bargaining unit receives a greater general wage increase (anything added to the base) for the concurrent period of their agreement than is provided for in this agreement, the Union may request to reopen this agreement under ORC 4117. Such reopener will be limited to wages and other matters with cost implications only, with other provisions of this Agreement remaining in full force and effect.

Further, the Fact Finding report incorporates all of the Tentative Agreements reached by the parties.

Signed and dated this 13 August 2025 at Columbus, Ohio.

Michael P Duco

Michael P. Duco
Arbitrator,
Mediator
and Fact
Finder

I hereby certify that, on this August 13, 2025 a copy of the foregoing award was served, by way of electronic mail, upon Michael D. Esposito, Vice president/Employer Advocate Clemens Nelson for the City of Mansfield Ohio and Roberta Skok

Michael P Duco

Michael P, Duco, Fact Finder