

NEW JERSEY PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of Interest Arbitration Between the

**RUTGERS, THE STATE UNIVERSITY
OF NEW JERSEY,**

"Public Employer,"

and

**FOP LODGE 164 (SUPERIORS), A/W
NEW JERSEY FOP LABOR COUNCIL,**

"Union."

**INTEREST
ARBITRATION
DECISION & AWARD**

Docket No. IA-2020-010

**Before
Robert C. Gifford, Esq.
Arbitrator**

Appearances:

For the Employer:

John J. Peirano, Esq. – Of Counsel and On the Brief
David M. Alberts, Esq. – On the Brief

For the Union:

Matthew D. Areman, Esq.
Markowitz & Richman

On May 12, 2020, FOP Lodge 164 (Superiors) filed a Petition to Initiate Compulsory Interest Arbitration with the New Jersey Public Employment Relations Commission. On June 1, 2020, I was appointed through random selection from PERC's Special Panel of Interest Arbitrators to serve as interest arbitrator. The law requires that I issue an Award within 90 days of my appointment.

On June 30 and July 8, 2020, I conducted mediation sessions with the parties via videoconference. The parties successfully resolved several issues that they memorialized and stipulated in writing (see Ex. FOP-C), but they did not achieve a settlement to all of their outstanding issues.

Final Offers on the remaining items were submitted on or before July 21, 2020. Interest arbitration proceedings were held via videoconference on July 27, 30 and 31, 2020. A stenographic record of the proceedings was taken. During the proceedings, the parties were afforded the opportunity to argue orally, examine and cross-examine witnesses and submit documentary evidence into the record. Testifying on behalf of the FOP were Matthew Gulsby – Local Union Vice-President, and Raphael J. Caprio, Ph.D. Testifying on behalf of the University were Harry Agnostak – Associate Vice-President for Labor and Employee Relations, J. Michael Gower – Executive Vice-President of Finance and Administration, and Kenneth Cop – Executive Director of Public Safety and Chief

of University Police. The parties provided post-hearing briefs on or before August 10, 2020, whereupon the record was declared closed.

FINAL OFFERS OF THE PARTIES

FOP's Final Offer

Term of Agreement:

- July 1, 2019 through June 30, 2022

Article 20 (Salaries):

- Delete §1 Referring to the "155 Agreement" and renumber as all transition described therein has been completed, and renumber Sections.
- Modify §2 as follows (any provision not identified below, should remain in full force and effect in the successor agreement):
 - Delete Section Header as follows: ~~Full Time Officers Subject to the 164 Agreement Prior to the Effective Date of this Agreement.~~
 - Modify Subsection "a" as follows:
 - FY 2020 (July 1, 2019) – 2.50% to all top steps only
 - FY 2021 (July 1, 2020) – 2.75% to all top steps only
 - FY 2022 (July 1, 2021) – 2.25% to all top steps only
 - Delete the "*" note, as follows: ~~The Fiscal Year 2019 increases also shall apply to officers subject to the 155 Agreement and placed on the salary guides in Appendix C at the Senior Sergeant Senior Step or Lieutenant Senior Step on July 1, 2018.~~
 - Modify Subsection "b" as follows:
 - b. Automatic Increments. Eligible officers shall receive automatic increments on their appropriate anniversary date,s as follows:

~~The FY 2015, 2016, 2017 and 2018 increments have been paid on the eligible officer's anniversary date.~~

~~The FY 2019 increments shall be paid on the eligible officer's appropriate anniversary date. Officers previously subject to the terms of the 155 Agreement and placed on the 164 salary guide on July 1, 2018 shall not be eligible for step increment movement until July 1, 2019.~~

- Delete Section 4 in its entirety.
- Modify Section 8, as follows:
 - Night Shift Differential. Lieutenants or Sergeants assigned to permanent night shifts (5:00pm to 7:00am) shall receive an additional two hundred-fifty dollars (\$250) base compensation per quarter. If the majority of a Sergeant's or Lieutenant's scheduled permanent shift is between the hours of 5:00pm to 7:00am, the Sergeant or Lieutenant shall be eligible for the night shift differential. ~~Effective the first full pay period after September 1, 2018, this provision shall become effective for officers subject to the terms and conditions of the 155 Agreement prior to the effective date of this Agreement and Article VII (Section C) shall cease to apply to those officers prior to the start of the first full pay period in September 2018.~~

Article 21 (Senior Superior Officer Differential):

- Increase the 20 Years of Service Differential from \$1,800 to \$2,000.
- Increase the 15 Years of Service Differential from \$500 to \$700.

Rutgers University's Final Offer

Article 20 – Salaries

Subject to the appropriation of and allocation to the University by the State of adequate funding for the specific purpose identified in this article for the full period of this Agreement, the following salary increases will be granted to officers in the unit during the term of this Agreement.

1. Full Time Officers Subject to the 155 Agreement Prior to the Effective Date of this Agreement.

1. Salary Guides. The salary guides in Appendix B reflect across-the-board percentage increases, exclusive of increments, for the fiscal years as follows:

FY15 – July 1, 2014 – 1% to all top steps only

FY16 – July 1, 2015 – 1% to all top steps only

FY17 – July 1, 2016 – 1% to all top steps only

FY18 – July 1, 2017 – 1% to all top steps only

Top Steps are Grade 23E, Step 9 and maximum salary on the Lieutenant LTH grade.

2. Placement of 155 on 164 scale

All Full-time officers subject to the terms of the 155 Agreement prior to the effective date of ratification shall, on July 1, 2018 be placed on the appropriate guide and step on the salary guides attached hereto at Appendix C. Such placement shall result in the officer being placed at a salary level that is equal to, or greater than the Full-time officers' salary as of June 30, 2018. After such placement, for purposes of step increment movement, all such officers shall be deemed to have an anniversary date of July 1 and shall be eligible for step increment movement on July 1, 2019, after placement on the appropriate salary guide in Appendix C. Sergeants shall, consistent with the 155 Agreement, receive merit increase movement (vertical movement) for Fiscal Years 2015, 2016, 2017 and 2018.

2. Full Time Officers Subject to the 164 Agreement Prior to the Effective Date of this Agreement.

1. ~~a. Salary Guides.~~ The salary guides in Appendix C ~~B~~ reflect across-the-board percentage increases, exclusive of increments, for the fiscal years as follows:

~~FY15 – July 1, 2014 – 1% to all top steps only~~

~~FY16 – July 1, 2015 – 1% to all top steps only~~

~~FY17 – July 1, 2016 – 1% to all top steps only~~

~~FY18 – July 1, 2017 – 1% to all top steps only~~

~~*FY19 – July 1, 2018 – 1% to all top steps only~~

~~*FY19 – January 1, 2019 – 1% to all top steps only~~

FY20 – July 1, 2019 – 0% across the board

FY21 – July 1, 2020 – 0% across the board

FY22 – July 1, 2021 – 0% across the board

FY23 – July 1, 2022 – 2.5% across-the-board (effective October 1, 2022)

~~*The Fiscal Year 2019 increases also shall apply to officers subject to the 155 Agreement and placed on the salary guides in Appendix C at the Senior Sergeant Senior Step or Lieutenant Senior Step on July 1, 2018.~~

2. ~~b. Automatic Increments.~~ Eligible officers shall receive ~~automatic~~ step increments on their appropriate anniversary dates as follows:

~~The FY 2015, 2016, 2017 and 2018 increments have been paid on the eligible officer's anniversary date.~~

~~The FY 2019 2020 increments shall be were paid on the eligible officer's appropriate anniversary date. Officers previously subject to the terms of the 155 Agreement and placed on the 164 salary guide on July 1, 2018 shall not be eligible for step increment movement until July 1, 2019. In FY 2021, step increments were paid on July 1, 2020 for officers eligible for step increments on that date. No step increments shall be paid after July 1, 2020.~~

All officers hired or promoted into the unit after the effective date of this Agreement shall be deemed to have a July 1 anniversary date for purposes of future increment payments.

Movement to Senior Officer Step will also occur on the appropriate anniversary date.

3. ~~The salary increases provided for in Sections 1 and 2 of this Article shall only apply to (1) unit members who are on the University's payroll in a position represented by FOP-S on the date of ratification of this Agreement and who continue to be on the University's payroll and in an FOP-S position on the date of payment of the increase and (2) unit members who had a bona fide retirement or disability retirement during the term of this Agreement.~~
4. ~~Paragraphs 5, 6, and 7 below shall become effective July 1, 2018 for officers subject to the effective terms of the 155 Agreement prior to the effective date of this Agreement.~~
5. 3. Movement to Senior Officer Step. Officers who have been at ~~maximum step~~ Step 8 for more than a year will be adjusted to the Senior Officer Step on the first day of the thirteenth month after they have reached ~~maximum step~~ Step 8. No officer shall be adjusted to the Senior Officer Step after July 1, 2020.
6. 4. Appointment to Senior Rank. After a Sergeant has completed five (5) years of service in his/her rank, he/she will be appointed to senior rank of the title provided that he/she has notified, in writing, his/her supervisor that he/she has completed five (5) years of service in his/her rank and provided that he/she has not been suspended for poor work performance in the previous year. Notwithstanding the above, an officer who has been promoted to Sergeant from the senior step of the Senior Police Officer salary guide set forth in the agreement between the University and FOP Lodge 62 ~~(or FOP Lodge 74 and has remained continuously employed as a UMDNJ/Rutgers officer)~~ shall be appointed to senior rank of the title provided that he/she has notified in writing his/her supervisor that he/she has completed their three (3) years of service in his/her rank and provided that he/she has not been suspended for poor work performance in the previous year.
7. 5. Senior Rank Step Placement. Upon appointment to senior rank, the Sergeant shall be placed at the step on the applicable senior rank salary guide which provides a rate equal to the rate previously applicable to that officer on the applicable non-senior rank guide. If there is no equal rate, the officer shall be placed on the next higher step on the senior rank guide, but in no event shall the officer receive a salary more than the top step on the senior rank guide.

8. ~~6.~~ Night Shift Differential. Lieutenants or Sergeants assigned to permanent night shifts (5:00 p.m. to 7:00 a.m.) shall receive an additional two hundred-fifty dollars (\$250) base compensation per quarter. If the majority of a Sergeant's or Lieutenant's scheduled permanent night shift is between the hours of 5:00 p.m. and 7:00 a.m., the Sergeant or Lieutenant shall be eligible for the night shift differential. ~~Effective the first full pay period after September 1, 2018, this provision shall become effective for officers subject to the terms and conditions of the 155 Agreement prior to the effective date of this Agreement and Article VII (Section C) shall cease to apply to those officers prior to the start of the first full pay period in September 2018.~~

FISCAL EMERGENCY

Subject to the appropriation of and allocation to the University by the State of adequate funding for the specific purposes identified for the full period covered by this Agreement, the following economic provisions shall apply:

APPLICATION OF THE SUBJECT TO LANGUAGE IN THE PREFACE TO THIS ARTICLE

In the event the University intends to withhold any of the economic provisions of this Article by invoking the "subject to" language in the prefatory paragraph of this Article, it is agreed that the invocation of the "subject to" language will be based on a determination by the University that there exists a fiscal emergency.¹ If the University invokes the prefatory "subject to" language following the determination of a fiscal emergency, the University agrees as follows:

1. The University shall provide the Union with written notice of at least twenty-one (21) calendar days. The Notice shall contain a detailed explanation for the determination by the University that a fiscal emergency exists and shall specify the action the University intends to take to address the fiscal emergency at the conclusion of the twenty-one (21) calendar day notice period.

If due to a reduction in State funding/appropriations to the University for the next fiscal year, the University determines that a fiscal emergency exists and if based on the date the University learns of the reduction it is not possible to provide the full twenty-one (21) calendar days' notice, the University shall

¹ The determination of whether a fiscal emergency exists shall not be limited to whether there is a reduction in State appropriations/funding.

provide the maximum notice possible. If the University provides fewer than twenty-one days' notice, upon request of the Union negotiations pursuant to paragraph 3 below shall commence within 72 hours; however, the University shall be permitted to delay the implementation of salary increases during the shortened period of negotiations.

2. Along with the Notice provided to the Union pursuant to paragraph 1 above, the University shall provide the latest available statements/financial documents, as follows:

- The financial information upon which the University relies as the basis for its claim that a fiscal emergency exists;

- The audited financial statements for the prior fiscal year;

- Quarterly Statement of Net Position (Balance Sheet) for the current fiscal year;

- Current projection of the Income Statement for the Unrestricted Educational and General Operating Funds (Operating Budget) for the current fiscal year;

- Quarterly Statement of Cash Flows (Statement of Cash Flows);

- Unaudited End of Year financial statements for the statements listed above;

- University budget request submitted to the Department of Treasury for past, current and upcoming fiscal years; and

- The University's Unrestricted Operating Budget for the current fiscal year and budget for the upcoming fiscal year.

- The Union may request, in writing, additional financial information. Disputes over the provision of information shall be decided by the designated arbitrator on an expedited basis.

3. During the notice period, upon written request by the Union, the University shall commence negotiations over measures to address the fiscal emergency. The University is not obligated to negotiate to impasse in order to withhold any of the economic provisions of this Article. At any point

during the notice period the Union may file a grievance pursuant to paragraph 5 below.

4. The Union agrees that during the notice and negotiation period it will not initiate any legal action, in any forum, to challenge the University's intended action other than as specified in paragraph 3 above.
5. If the parties have not agreed upon measures to address the fiscal emergency, the Union may file a grievance under Article 9 of the Agreement. The grievance shall proceed directly to arbitration under Article 9. Such arbitration shall be concluded within ninety (90) days of implementation of the University's decision to withhold any of the economic provisions outlined above in this Article.

The arbitrator shall determine whether a fiscal emergency existed (exists) at the University based on the evidence presented. The arbitrator shall not have the authority to reallocate University funds.

The parties designate Arbitrator J.J. Pierson to hear disputes that arise under Section 5 of Article 20. The parties designate Arbitrator Joseph Licata as an alternate to hear such disputes. If neither arbitrator is available to hear the dispute consistent with the provisions of Section 5 of this Article, the parties shall mutually agree upon another arbitrator.

Article 21 – Senior Superior Officer Differential

1. Effective July 1, 2003, a superior officer achieving twenty (20) years of service with the Rutgers University Police Department and who notifies, in writing, his/her supervisor that he/she has completed such twenty (20) years of service, shall receive a senior superior officer differential of eighteen hundred dollars (\$1800.00), to be paid in equal amounts during each year in each pay period, provided that the superior officer has not been suspended for poor work performance in the previous year. The senior superior officer differential shall not be cumulative.
2. Effective July 1, 2003 a superior officer achieving fifteen (15) years of service with the Rutgers University Police Department and who notifies, in writing, his/her supervisor that he/she has completed such fifteen (15) years of service, shall receive a differential of five hundred dollars (\$500.00), to be paid in equal amounts during each year in each pay period, provided that the police officer has not been suspended for poor work performance in the previous year. This differential shall not be cumulative.

3. This provision shall become Article became effective on August 1, 2018 for officers subject to terms and conditions of the 155 Agreement prior to the effective date of this the 2019 Agreement. Those officers, for purposes of this Article, shall be given credit for years of continuous service as a police officer both in the Rutgers University Police Department and the University of Medicine and Dentistry of New Jersey.

In consideration of the existence of the differentials, the University may require that qualified superior officers of each rank perform responsibilities of a training nature during normal working hours.

Article 21 - Senior Superior Officer Differential

1. Effective July 1, 2005, a superior officer achieving twenty (20) years of service with the Rutgers University Police Department and who neither is willing, neither superior that he has completed such twenty (20) years of service, shall receive a senior superior officer differential of eighteen hundred dollars (\$1800.00), to be paid in equal amounts during each year in each pay period, provided that the superior officer not been suspended for poor work performance in the previous year. The senior superior officer differential shall not be cumulative.

2. Effective July 1, 2003, a superior officer achieving fifteen (15) years of service with the Rutgers University Police Department and who neither is willing, neither superior that he has completed such fifteen (15) years of service shall receive a differential of five hundred dollars (\$500.00), to be paid in equal amounts during each year in each pay period, provided that the police officer has not been suspended for poor work performance in the previous year. The differential shall not be cumulative.

BACKGROUND

Rutgers University is the state university of New Jersey. The University has 22 bargaining units, two (2) of which are law enforcement units. [See Rutgers Exhibit 31 "RX-31"]. FOP Lodge 164 (Superior Officers) represents the University's full time University Police Sergeants, Senior Sergeants, and Lieutenants. The duration of the parties' most recent Agreement is from July 1, 2014 to June 30, 2019. The parties stipulated that as of July 1, 2019 there were 43 bargaining unit members, and as of July 1, 2020 there were 38 bargaining unit members. [See Ex. FOP-I].

The parties presented a vast amount of evidence during the proceedings. They also submitted detailed, comprehensive briefs to support their respective positions and to rebut those of the opposing party. The parties urge the acceptance of their respective proposals. As the arbitrator noted in *W Windsor Tp & PBA Local 271*, IA-2009-014 (Mastriani 2019), the strict and limited time constraints under the law do not permit the arbitrator to provide an exhaustive summary of the evidence presented. However, these submissions have been thoroughly reviewed and considered in rendering a final Award on the parties' proposals.

DISCUSSION

I am required to make a reasonable determination of the issues, giving due weight to the statutory criteria set forth in N.J.S.A. 34:13A-16(g). The statutory criteria are as follows:

- (1) The interests and welfare of the public. Among the items the arbitrator or panel of arbitrators shall assess when considering this factor are the limitations imposed upon the employer by (P.L. 1976, c. 68 (C. 40A:4-45.1 *et seq.*)).
- (2) Comparison of the wages, salaries, hours, and conditions of employment of the employees involved in the arbitration proceedings with the wages, hours, and conditions of employment of other employees performing the same or similar services and with other employees generally:
 - (a) In private employment in general; provided, however, each party shall have the right to submit additional evidence for the arbitrator's consideration.
 - (b) In public employment in general; provided, however, each party shall have the right to submit additional evidence for the arbitrator's consideration.
 - (c) In public employment in the same or similar comparable jurisdictions, as determined in accordance with section 5 of P.L. 1995. C. 425 (C.34:13A-16.2) provided, however, each party shall have the right to submit additional evidence concerning the comparability of jurisdictions for the arbitrator's consideration.

- (3) The overall compensation presently received by the employees, inclusive of direct wages, salary, vacations, holidays, excused leaves, insurance and pensions, medical and hospitalization benefits, and all other economic benefits received.
- (4) Stipulations of the parties.
- (5) The lawful authority of the employer. Among the items the arbitrator or panel of arbitrators shall assess when considering this factor are the limitations imposed upon the employer by the P.L. 1976 c. 68 (C.40A:4-45 *et seq.*).
- (6) The financial impact on the governing unit, its residents and taxpayers. When considering this factor in a dispute in which the public employer is a county or a municipality, the arbitrator or panel of arbitrators shall take into account to the extent that evidence is introduced, how the award will affect the municipal or county purposes element, as the case may be, of the local property tax; a comparison of the percentage of the municipal purposes element, or in the case of a county, the county purposes element, required to fund the employees' contract in the preceding local budget year with that required under the award for the current local budget year; the impact of the award for each income sector of the property taxpayers on the local unit; the impact of the award on the ability of the governing body to (a) maintain existing local programs and services, (b) expand existing local programs and services for which public moneys have been designated by the governing body in a proposed local budget, or (c) initiate any new programs and services for which public moneys have been designated by the governing body in its proposed local budget.
- (7) The cost of living.
- (8) The continuity and stability of employment including seniority rights and such other factors not confined to the foregoing which are ordinarily or traditionally considered in the determination of wages, hours and conditions of employment through collective negotiations and collective bargaining

between the parties in the public service and in private employment.

- (9) Statutory restrictions imposed on the employer. Among the items the arbitrator or panel of arbitrators shall assess when considering this factor are the limitations imposed upon the employer by section 10 of P.L. 2007, c. 62 (C.40A:4-45.45).

All of the statutory factors are relevant, but they are not necessarily entitled to equal weight. I am required to make a reasonable determination of the issues with a reasoned explanation for the award. I must also indicate which statutory factors are deemed relevant, the due weight that was given to each factor, and which factors, if any, are deemed to be irrelevant. The criteria also provide me with the authority to consider other such factors not confined to those specifically stated which are ordinarily or traditionally considered in the determination of wages, hours and conditions of employment. [N.J.S.A. 34:13A-16(g)(8)]. In this case, I conclude that the interests and welfare of the public, the public sector comparisons (internal and external), and the financial impact on the governing unit must be given greater weight than such other factors as the cost of living and private sector comparisons. I have also given due weight to the fact that this Award will not require the University to exceed its lawful authority or any statutory restrictions. The party seeking a change to an existing term or condition of employment bears the burden of justifying the proposed change. I have considered my decision to award or deny any individual issue in dispute as part

of the overall terms that I have awarded, along with the continuation of contract terms and benefits that are not in dispute.

Interests and Welfare of the Public

Interest Arbitrators in New Jersey have widely recognized that “[t]he interests and welfare of the public [N.J.S.A. N.J.S.A. 34:13A-16g(1)] is paramount because it is a criterion that embraces many of the other factors and recognizes their relationships.” *Washington Tp & PBA Local 301*, IA-2009-053 (Mastriani 2012); see *Irvington Tp & Irvington Police Superior Officers Association*, IA-2019-010 (Osborn 2019); *W Windsor Tp & PBA Local 271*, IA-2009-014 (Mastriani 2019); *Boonton & PBA Local 212*, IA-2019-021 (Kronick 2019); *Ocean Cty & PBA (Corrections)*, IA-2020-005 (Gifford 2020). I now review the interests and welfare criterion through the other statutory factors addressed below.

Lawful Authority of the Employer/Financial Impact on the Governing Unit, Its Residents and Taxpayers/Statutory Restrictions Imposed on the Employer

N.J.S.A. 34:12A-16g(1), (5), (6) and (9) refer to the lawful authority of the employer, the financial impact of the award, and the statutory restrictions imposed on the employer. As the University indicates, “[n]either party’s proposals call for Rutgers to exceed its lawful authority” or “invoke statutory restrictions upon

the University.” [University Brief, pp. 40 & 43]. However, with respect to financial impact, the University contends that “the evidence clearly establishes Rutgers’ strained financial condition.” [*Id.* at 40]. The University emphasizes the following:

The current projected deficit for Fiscal Years 2020 and 2021 exceeds \$200 million collectively (RU Ex. 40). Enrollment and tuition are falling (Jul. 31 Tr., at 36:11-39:8, 65:9-66:7; RU Ex. 40). The State’s appropriation has been cut substantially (Jul. 31 Tr., at 29:5-30:5, 39:9-40:14; RU Ex. 40). The University’s revenues from on-campus services have sharply declined due to remote learning arrangements necessitated by COVID (Jul. 31 Tr., at 31:7-33:8, 36:11-41:8; RU Ex. 40).

This is very much a financial emergency. The impact upon Rutgers has been dramatic and will continue into the foreseeable future. The University has already imposed furloughs, stopped or withheld salary increases, implemented a hiring freeze, and re-negotiated contracts (Jul. 31, Tr., at 50:7-56:22). Even with these significant measures in place, the University has a Fiscal Year 2021 budget deficit of approximately \$80 million and a Fiscal Year 2020 budget deficit of \$57 million (*Id.*, RU Ex. 40). Additional cost reduction strategies such as layoffs are a virtual certainty. [University Brief, p. 41, see generally University Brief, pp. 13-28].

The FOP acknowledges that the University is not immune from the impact of COVID-19. However, the FOP indicates that “[w]ith its \$4.5 billion budget and approximately \$700 million in “flexible” reserves, Rutgers certainly has no difficulty affording the FOP’s modest proposals.” [FOP Brief, p. 47]. The FOP emphasizes the following:

Over the past six years, from 2014 through 2019, Rutgers' tuition revenue has increased from \$820 million to \$1.017 billion, or a 24% increase [FX-T, pg. 7]. Total revenues has increased 20%, from \$3.475 billion to \$4.312 billion over that same time period [Id.]. Rutgers' 2019 assets amounted to \$6.75 billion, with approximately 60% in capital assets [Id., pg. 21]. In 2019, Rutgers had approximately \$583 million in unrestricted reserves and approximately \$622 million in restricted reserves [Id., pg. 29]. [Footnote omitted. In 2019, Rutgers developed and/or completed several large capital projects, including the RWJ Barnabas Health Athletic Performance Center on the Livingston campus, the New Brunswick Performing Arts Center, the RBHS co-generation plant upgrades, a Student Services "one-stop" on the Busch campus, and renovations to the Dental Clinic [Id., pg. 22]. While salaries and benefits fluctuated during the FY2017-FY2019 period [Id.], increases in salaries and benefits are skewed because, as Dr. Caprio testified, monies expended for employee pensions payments were recently included in the budget despite being reimbursed by the State [Id., pg. 27].

Rutgers' 2019 audited financial statements reveal that the University's financial condition in June 2019 improved with an increase in net position of \$126.4 million [Id., pg.32]. Total operating revenues increased by \$146 million, or 5.4% [Id.]. Operating expenses increased by only 469.6 million, or 1.7% [Id.]. Tuition revenue, a significant source of the University's funding, increased by 2.3%, though much of that revenue was offset by increases in scholarships [Id.]. Lastly, in 2019, State appropriations increased by 8.1% over 2018 [Id.].

In February of 2020, Rutgers received an Aa3 Bond Rating from Moody's, which commented that the assignment and maintenance of Aa3 ratings positively incorporates the University's scale of operations with almost \$4.3 billion of operating revenue, and the critical role in the State's educational framework as the flagship land grant university [Id., pg. 33]. Similarly, Rutgers received an A+ Bond Rating from S&P, which cited a stable outlook and explained that the long-term rating reflects the view that Rutgers' enterprise profile is "very strong," [Id., pg. 34].

During this 2017-2020 period of growth, Rutgers has chosen to spend significant portions of its budget on highly compensated administrators. Indeed, in 2019, Rutgers employed 312 high-level employees making an average annual salary of \$209,164 [FX-T, pg. 55]. These figures represent a 7% increase in the number of highly-compensated individuals since 2017 and a 6% increase in average salary for these employees, from \$196,668 to \$209,164 during that same period [Id.]. These increases for upper management employees are significantly larger than increases for the other employee groups at the University [Id., pg. 57]. [Footnote omitted].

Rutgers has also chosen to expend funds on items like athletics rather than its police force. From 2013 to 2018, Rutgers' spending on athletics increased from nearly \$79 million to \$102.5 million [Id., pg. 61]. To make matters worse, Rutgers consistently subsidizes an annual athletics deficit, which in 2018 topped out at a whopping \$31.7 million [Id.]. Indeed, Rutgers ranked highest for Big Ten Public Institution sports subsidies, with the next highest on the list being Maryland, which by comparison provided a paltry \$14.7 million in direct funding to its sports program [Id.]. Rutgers' sports deficit funding paid for, among other things, a multi-million dollar payout to its fired football coach and offensive coordinator; a \$2.1 payout to former basketball coach; a \$2.85 total payout to two separate fired athletic directors; and \$475,000 paid to a basketball coach who was fired for hitting, kicking and shouting homophobic slurs at players [FX-N; FX-O]. It is important to note, for contextual purposes, that during this time that Rutgers was experiencing unprecedented growth, financially and otherwise, and was spending huge percentages of its billion dollar budget on the athletic department, capital projects, and former employees, the members of the FOP saw annual increases of a mere 1% to the top step of their salary guide, plus automatic step increases for those in the guide [FX-D]. It is this anomalous pattern of spending which has resulted in poor morale, a compression of wages, and high rates of attrition within the police department. [FOP Brief, pp. 6-8].

I conclude that the evidentiary record developed during this proceeding does not require the awarding of either party's proposals in their entirety. This Award will not have an adverse impact upon the University, nor will it prohibit the University from meeting its statutory obligations or cause it to exceed its lawful authority. Further, this Award serves the interests and welfare of the public through a thorough weighing of all of the statutory criteria.

Comparability

Private Employment

Given the unique nature of public safety positions, the comparison to private employment has not been allotted significant weight in previous interest arbitration awards. There continues to be an absence of evidence to support a deviation from giving greater weight to public sector comparisons.

Public Employment in General/In the Same or Similar Jurisdictions

With respect to public employment, the FOP, among other comparisons, presented "contracts for superior officers in New Jersey which have attained similar accreditations to that which Rutgers has attained, as well as municipal

jurisdictions which are in proximity with the various Rutgers campuses and which Rutgers often interact.” [FOP Brief, p. 38]. The FOP presented the following charts comparing the top rates for Sergeants and Lieutenants:

Top Rate Sergeant and Lieutenant						
Department		2019	2020	2021	2022	2023
FOP-S Proposal	Sgt	\$ 105,743.43	\$ 108,651.38	\$111,910.92	N/A	N/A
	Lt	\$ 112,352.54	\$ 115,442.24	\$118,905.50	N/A	N/A
Rutgers Proposal	Sgt	\$ 103,165.00	\$ 103,165.00	\$103,165.00	\$105,744.13	N/A
	Lt	\$ 109,612.00	\$ 109,612.00	\$109,612.00	\$112,352.30	N/A
Camden County						
Camden County	Sgt	\$ 108,477.00	\$ 110,647.00	\$113,413.00	N/A	N/A
	Lt	\$ 119,507.00	\$ 121,897.00	\$124,335.00	N/A	N/A
Berlin Boro	Sgt	\$ 105,575.17	\$ 106,630.92	\$107,697.23	N/A	N/A
	Lt	\$ 113,826.76	\$ 114,965.03	\$116,114.68	N/A	N/A
Cherry Hill	Sgt	\$ 133,840.00	\$ 136,851.00	\$140,272.00	N/A	N/A
	Lt	\$ 147,126.00	\$ 150,436.00	\$154,197.00	N/A	N/A
Gloucester Twp	Sgt	\$ 135,744.00	N/A	N/A	N/A	N/A
	Lt	\$ 145,361.00	N/A	N/A	N/A	N/A
Pine Hill	Sgt	\$ 101,457.42	\$ 103,486.56	N/A	N/A	N/A
	Lt	\$ 106,830.59	\$ 108,967.20	N/A	N/A	N/A
Runnemede	Sgt	\$ 103,374.00	\$ 105,441.00	\$107,550.00	\$109,701.00	N/A
	Lt	N/A	N/A	N/A	N/A	N/A
Vorhees	Sgt	\$ 125,491.00	\$ 128,001.00	\$130,561.00	N/A	N/A
	Lt	\$ 137,923.00	\$ 140,682.00	\$143,495.00	N/A	N/A
Waterford	Sgt	\$ 109,071.09	N/A	N/A	N/A	N/A
	Lt	\$ 113,729.56	N/A	N/A	N/A	N/A
Winslow	Sgt	\$ 136,215.04	N/A	N/A	N/A	N/A
	Lt	\$ 144,042.20	N/A	N/A	N/A	N/A

Essex County						
Belleville Police	Sgt	\$ 111,718.00	\$ 114,321.00	\$116,984.00	\$119,710.00	N/A
	Lt	\$ 128,475.00	\$ 131,469.00	\$134,532.00	\$137,667.00	N/A
Bloomfield	Sgt	\$ 124,563.01	\$ 127,054.27	N/A	N/A	N/A
	Lt	\$ 143,408.90	\$ 146,277.08	N/A	N/A	N/A
East Orange	Sgt	\$ 104,034.47	\$ 106,115.16	\$108,237.47	\$110,402.21	N/A
	Lt	\$ 116,095.97	\$ 118,417.89	\$120,786.25	\$123,201.97	N/A
Fairfield Twp	Sgt	\$ 125,885.00	\$ 128,403.00	N/A	N/A	N/A
	Lt	\$ 143,524.00	\$ 146,395.00	N/A	N/A	N/A
Glen Ridge Boro	Sgt	\$ 115,444.00	N/A	N/A	N/A	N/A
	Lt	\$ 141,515.00	N/A	N/A	N/A	N/A
Livingston	Sgt	\$ 136,214.00	\$ 138,938.00	\$141,717.00	N/A	N/A
	Lt	\$ 154,602.89	\$ 157,694.63	\$160,848.80	N/A	N/A
Maplewood	Sgt	\$ 116,807.00	N/A	N/A	N/A	N/A
	Lt	\$ 130,824.00	N/A	N/A	N/A	N/A
Montclair	Sgt	\$ 120,412.00	\$ 124,024.00	\$127,745.00	\$131,577.00	\$136,183.00
	Lt	\$ 138,474.00	\$ 142,628.00	\$146,907.00	\$151,314.00	\$156,610.00
Roseland	Sgt	\$ 126,412.00	\$ 128,927.00	N/A	N/A	N/A
	Lt	\$ 140,506.00	\$ 143,302.00	N/A	N/A	N/A
South Orange	Sgt	\$ 123,495.00	\$ 125,965.00	N/A	N/A	N/A
	Lt	\$ 140,122.00	\$ 142,925.00	N/A	N/A	N/A

Middlesex County						
Carteret	Sgt	\$ 121,535.00	\$ 124,573.00	\$127,687.00	N/A	N/A
	Lt	\$ 129,867.00	\$ 133,114.00	\$136,441.00	N/A	N/A
Dunnellen	Sgt	\$ 108,993.00	\$ 111,173.00	N/A	N/A	N/A
	Lt	\$ 119,891.00	\$ 122,289.00	N/A	N/A	N/A
Edison Township	Sgt	\$ 137,481.24	\$ 144,441.22	\$144,441.22	\$144,441.22	N/A
	Lt	\$ 154,666.25	\$ 162,487.22	\$162,487.22	\$162,487.22	N/A
Franklin Twp Somerset Cty	Sgt	\$ 140,533.00	\$ 143,344.00	\$147,644.00	\$150,597.00	\$155,115.00
	Lt	\$ 153,643.00	\$ 156,716.00	\$161,417.00	\$164,646.00	\$169,585.00
Highland Park	Sgt	\$ 126,791.10	\$ 129,326.92	\$132,560.10	\$135,874.10	N/A
	Lt	N/A	N/A	N/A	N/A	N/A
Metuchen	Sgt	\$ 113,929.00	\$ 120,056.00	\$126,459.00	N/A	N/A
	Lt	N/A	N/A	N/A	N/A	N/A
Middlesex Sheriff	Sgt	\$ 116,411.00	\$ 119,903.00	N/A	N/A	N/A
	Lt	\$ 133,872.00	\$ 137,889.00	N/A	N/A	N/A
Milltown	Sgt	\$ 102,293.08	N/A	N/A	N/A	N/A
	Lt	\$ 110,801.20	N/A	N/A	N/A	N/A
New Brunswick	Sgt	\$ 122,530.00	\$ 125,283.00	\$128,105.00	N/A	N/A
	Lt	\$ 136,314.00	\$ 139,377.00	\$142,517.00	N/A	N/A
Newark	Sgt	N/A	N/A	N/A	N/A	N/A
	Lt	N/A	N/A	N/A	N/A	N/A
North Brunswick	Sgt	\$ 122,530.00	\$ 125,283.00	\$128,105.00	N/A	N/A
	Lt	\$ 136,314.00	\$ 139,377.00	\$142,517.00	N/A	N/A
Old Bridge	Sgt	\$ 116,722.75	\$ 119,057.21	N/A	N/A	N/A
	Lt	\$ 126,952.15	\$ 129,491.20	N/A	N/A	N/A
Piscataway	Sgt	\$ 135,774.00	\$ 138,218.00	N/A	N/A	N/A
	Lt	\$ 149,275.00	\$ 151,962.00	N/A	N/A	N/A
Plainsboro	Sgt	\$ 124,048.00	N/A	N/A	N/A	N/A
	Lt	\$ 153,776.00	N/A	N/A	N/A	N/A
South Brunswick	Sgt	\$ 132,004.00	\$ 137,268.00	\$142,751.00	\$148,452.00	N/A
	Lt	\$ 146,151.00	\$ 151,802.00	\$157,779.00	\$163,993.00	N/A
South Plainfield	Sgt	\$ 131,605.00	\$ 134,896.00	N/A	N/A	N/A
	Lt	\$ 147,398.00	\$ 151,083.00	N/A	N/A	N/A
Spotswood	Sgt	\$ 116,248.00	\$ 119,735.00	\$123,327.00	N/A	N/A
	Lt	\$ 120,763.00	\$ 124,407.00	\$128,139.00	N/A	N/A
Woodbridge	Sgt	\$ 130,208.00	\$ 132,812.00	N/A	N/A	N/A
	Lt	\$ 144,531.00	\$ 147,421.00	N/A	N/A	N/A

The FOP contends that while its salary proposal enables the bargaining unit members to "simply keep pace" with comparable jurisdictions that Rutgers' proposal will cause them to lag further behind.

With respect to internal comparisons, the FOP submits that the University's proposal is punitive:

Even by Rutgers own calculations, the total compounded cost of the University proposal (including steps and across-the-

board wage increases) is a meager 5.64% over four years [RX-33]. To suggest that this proposal fits with a pattern established among other University bargaining units is simply detached from reality. Rutgers' own exhibit, RX-31, demonstrates that Rutgers' bargaining units receive average across the board wage increases of between 2% and 3% per year, with some units also receiving step increments. For example, the two AFSCME units at the University have contracts that provide for exactly what the FOP has proposed in this proceeding, *to wit*: 2.5% to the top step only for FY2020, 2.75% to the top step only for FY2021, and 2.25% to the top step only for FY2022, plus step increments each year [RX-31]. HPAE Local 5094 includes step increments for each year of the contract, plus across-the-board wage increases of 2% (\$1,200 flat to top step) in FY 2020; 0.5% (\$1,200 flat to top step) in FY 2022; and 2.5% across-the-board wage increases in FY2022 [RX-31]. The FOP's proposal clearly aligns with these internally comparative contracts. [Footnote omitted]. [FOP Brief, pp. 45-46].

The University contends that internal comparisons must be given greater weight than external ones. Citing previous interest arbitration awards that have addressed the significance of patterns of settlement, the University maintains that it has established an internal pattern that must be adhered to:

Originally, the negotiated pattern was 3% (FY19), 3% (FY20), 3% (FY21), 2.5% (FY22), **inclusive** of both increments and across-the-board increases:

Staff					
Name of Agreement (Party Involved)	FY19	FY20	FY21	FY22	Increments
AAUP-AF/EOF	3%	3%	3%	2.5%	No
AFSCME Local 888	2.5% (top step only)	2.5% (top step only)	2.75% (top step only)	2.25% (stop step only)	Merit
AFSCME Local 1761	2.5% (top step only)	2.5% (top step only)	2.75% (top step only)	2.25% (stop step only)	Merit
CWA, Local 1031	\$1,995	3%	3%	2.5%	No
CWA, Local 1040	\$2,092	3%	3%	2.5%	No
Doctor's Council, SEIU	-	-	-	-	-
FOP-P, Lodge 62	1.5% (top step only)	-	-	-	-
FOP-S, Lodge 164	1.5% (top step only)	-	-	-	-
HPAE, Local 5089	1.75%	1.75%	1.75%	1.25%	Some ²
HPAE Local 5094	3%	2% (\$1,200 flat to top step)	0.5% (\$1,200 flat to top step)	2.5%	Yes
IAFF Local 5082	3%	3%	3%	2.5%	No
IUOE, Local 68A	3% (top step only)	3%	3%	2.5%	Yes
OPEIU, Local 153	3%	3%	3%	2.5%	No
Teamsters Local 97	3%	3%	3%	2.5%	No
URA-AFT	3%	3%	3%	2.5%	No
Academic Labor Contracts					
Name of Agreement (Party Involved)	FY 2018-2019	FY 2019-2020	FY 2020-2021	FY 2021-2022	FY 2022-2023
AUUP-AFT (Faculty)	\$3,642	3%	3%	2.5%	No
PTLFC-AAUP-AFT	3%	3%	3%	2.5%	No
Committee of Interns and Residents	3%	3%	3%	2.5%	No

² The HPAE proposal has different wage increases for different types of employees (some who have steps and some who do not). The MOA is designed for employees to receive a combination of ATB and step increases of 3%, 3%, 3%, 2.5%.

AAUP-AFT	2.125%	-	-	-	-
AAUP-BHSNJ	-	-	-	-	-
NJEA	-	-	-	-	-
Winter/Summer	-	-	-	-	-

(RU Ex. 31).

As evidenced from the above chart, units that received increments negotiated lower across-the-board increases, whereas units that did not receive increments negotiated higher across-the-board amounts (Jul. 30 Tr., at 111:2-112:17). Ultimately, all units received a total economic package (increments plus across-the-board increases) that equated to 3%, 3%, 3%, 2.5% (Id., RU Ex. 31). The pattern was clear and consistent. If the FOP had agreed to the University's pre-COVID bargaining proposals (as these other units did), the parties would not be in interest arbitration.

Since COVID-19, the pattern has changed. Executive Vice President Gower testified that most of the University's negotiations units have contract provisions permitting Rutgers to withhold negotiated salary increases in the event the University declares a fiscal emergency (Jul. 31 Tr., at 50:7-51:17; RU Ex. 42). Rutgers invoked this language and declared a financial emergency for Fiscal Year 2021 (Id.). In doing so, the University withheld the negotiated 3% increases (across-the-board increases plus steps) from both CWA units, both HPAE units, URA-AFT, AAUP-AFT (EOF), AAUP-AFT (Faculty), IAFF, OPEIU, IUOE, Teamsters, AFSCME (both units) and CIR (Id.).³

Three of these units have negotiated settlements concerning the University's fiscal emergency declaration: (i) the Teamsters; (ii) AFSCME, Local 888; and (iii) AFSCME Local 1761 (Jul. 30 Tr., at 118:22-127:15). During his testimony Mr.

³ Several of the Unions have challenged the University's fiscal emergency declaration. Some of those challenges are the subject of arbitrations that remain pending. However, the requests for arbitrations did not stay the withholding of negotiated increases.

Agnostak explained the parameters of those settlements, which again follow a clear pattern: 3% (FY19); 3% (FY20), 0% (FY21), 3.0% (FY22, effective October 1, 2021), 2.5% (FY23, effective October 1, 2022) (Id., Exs. 44, 45). Additionally, both Teamsters and AFSCME agreed to participate in the University's shared furlough program by taking ten unpaid furlough days between July 1, 2020 and June 30, 2021[1]. (Id.). [University Brief, pp. 32-34].

The University contends that its final offer fits within the newly established pattern:

The University's final offer in these proceedings follows the new AFSCME/Teamsters pattern. Mr. Agnostak testified that the compounded cost of the AFSCME/Teamsters settlements (on a percentage of salary basis) is approximately 10.5% over five years (FY19 through FY23) (Jul. 30 Tr., at 126:13-127:15). He further testified that the cost of the University's proposal over the same five-year period – which includes the last year of the expired contract, FY19 – is approximately 9.9% (Id.). [Footnote omitted]. While the Teamsters/AFSCME agreements contain an additional .6% in increases, those agreements also provide for ten unpaid furlough days (Id.). The University's proposal to the FOP-S contains no furloughs. Mr. Agnostak quantified the Teamsters/AFSCME furloughs as 3.8% of the Teamsters/AFSCME members' base wages in Fiscal Year 2021 (Id.).

The FOP's final offer clearly does not follow the new pattern. It does not even follow the pre-COVID pattern. It seeks salary increases over a three-year period (12.29%) that exceed what Rutgers negotiated with the other negotiations units over a four-year period (11.5%) before the Coronavirus occurred (RU Exs. 31, 34). It is ridiculous and irresponsible to attempt to force the University into a contract during an economic crisis that is richer than the contracts it negotiated before the crisis. Such an outcome would send a powerfully negative message to the thousands of University employees

who have been asked (and in some cases agreed) to make economic sacrifices during this economic crisis. [Footnote omitted]. [University Brief, pp. 34-35].

PERC's website includes the most recent salary increase analysis for interest arbitration awards for calendar years 2012 through 2017. The average increase for post-2011 2% cases was 1.71% for calendar year 2015, 1.94% for 2016, and 2.05% for 2017. The average increase for non-interest arbitration settlements in 2016 was 3.16% and 3.53% in 2017. I considered this information in rendering the Award, but I emphasize that the 2% base salary "Hard Cap" has sunset and, therefore, the awards and settlements that were sent under the cap are not dispositive as to the outcome of this matter. In addition, the salary increase analysis on PERC's website does not include summary data for awards and settlements for calendar years 2018, 2019 and 2020.

PERC's website also includes six (6) interest arbitration awards that have been issued for post-2% base salary "Hard Cap" impasses: *Hopewell Tp & PBA Loc 342*, IA-2019-016 (Osborn 2019) *appealed but affirmed* by Commission P.E.R.C. No. 2020-11 (8/15/19), *Bedminster Tp & PBA Loc 366*, IA-2019-017 (Kronick 2019) *appealed but affirmed* by Commission P.E.R.C. No. 2020-10 (8/15/19), *W Windsor Tp & PBA Local 271*, IA-2009-014 (Mastriani 2019), *Boonton & PBA Loc 212*, IA-2019-021 (Kronick 2019), *Evesham Tp Fire District & IAFF Loc 4687*, IA-2020-003 (Kronick

2019), and *Ocean Cty & PBA Loc 258*, IA-2020-005 (Gifford 2020). As to base salary, the arbitrator in *Hopewell* froze the starting salary for 2019 through 2021, increased all other steps on the 2019 guide by 2.2%, increased the top step by 2%, added one (1) step, and froze all other steps in 2020, and for 2021 increased all steps (except starting salary) by 1.8%. Step advancement was provided in each year of the contract. In *Bedminster*, the arbitrator froze the salary guide for 2019 except the top step which was increased by 2%. The arbitrator then awarded across-the-board increases of 2% in 2019, 2% in 2020, and 2% in 2021. Step advancement was provided in each year of the contract. In *W Windsor*, the arbitrator awarded across-the-board increases of 2% in 2019, across-the-board increases of 2% in 2020, across-the-board increases 2.25% in 2021, and across-the-board increases of 2.25% in 2022. Step advancement was provided in each year of the contract. In *Boonton*, the arbitrator awarded across-the-board increases of 2.25% plus a \$1,000 adjustment at the top step in 2019, across-the-board increases of 2.25% plus a \$1,000 adjustment at the top step in 2020, and across-the-board increases 2.25% plus a \$1,000 adjustment at the top step in 2021. Step advancement was provided in each year of the contract. In *Evesham Tp Fire District*, the arbitrator awarded a "static" salary guide for Steps 1 through 9 for January 1, 2019 through December 31, 2023, and a cost of living increase of 1.5% for Steps 10 and above effective January 1, 2020, 2021, 2022 and 2023. Step advance was provided in each year of the contract. Lastly, in *Ocean Cty*, the

existing salary guide, with the exception of the top step, was frozen for the duration of the contract (7/1/19 through 6/30/22). The top step was increased by \$502 effective July 1, 2020, and by \$750 effective July 1, 2021. Off-the-guide increases of 1.9% were provided in each year. Step advancement was provided in each year of the contract. In each award, the arbitrator reviewed the evidence considered to be the most unique and relevant to the parties.

All of the internal and external comparisons were considered and weighed along with all of the other statutory factors. Between the two, the internal comparisons were given greater weight than the external ones. In sum, the comparables show that bargaining unit members of the FOP have a competitive salary and benefits package that does not require significant improvement or diminution at this time. This said, I am awarding salary increases that are aligned with the emerging internal pattern within the University but also take into consideration that the salaries within this bargaining unit are at the lower end of the external comparison group provided by the FOP.

Overall Compensation

The evidence in this matter, as demonstrated by the parties' exhibits and the comparisons outlined above, shows that the overall compensation received

by members of this bargaining unit is competitive. I conclude that the evidence does not require full implementation of either party's final offer. This Award will serve the interests and welfare of the public by striking a balance between maintaining the University fiscal stability and providing bargaining unit members with measured economic improvements to base salary. This Award takes into consideration that the University established the existence of strong internal comparisons in place pre-COVID-19, an emerging pattern that has resulted from settlements reached subsequent to the University exercising its fiscal emergency powers authorized within the applicable collective negotiations agreements, as well as giving due weight to the comparisons of superior officers in other law enforcement units. Local law enforcement settlements were considered but given lesser weight than the internal comparison groups as each municipality has its own unique bargaining history, socio-economic profile and tax rate structure. This Award maintains the structural integrity of the current salary guide with some improvement to the top step only.

Stipulations of the Parties

The parties' stipulated changes to their 2014-2019 collective negotiations agreement shall be incorporated by reference herein. [See Ex. FOP-C].

The Cost of Living

The most recent statistics from the U.S. Bureau of Labor Statistics' website show the following CPI for All Urban Consumers:

Year	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	HALF1	HALF2
2010	2.6	2.1	2.3	2.2	2.0	1.1	1.2	1.1	1.1	1.2	1.1	1.5	2.1	1.2
2011	1.6	2.1	2.7	3.2	3.6	3.6	3.6	3.8	3.9	3.5	3.4	3.0	2.8	3.5
2012	2.9	2.9	2.7	2.3	1.7	1.7	1.4	1.7	2.0	2.2	1.8	1.7	2.3	1.8
2013	1.6	2.0	1.5	1.1	1.4	1.8	2.0	1.5	1.2	1.0	1.2	1.5	1.5	1.4
2014	1.6	1.1	1.5	2.0	2.1	2.1	2.0	1.7	1.7	1.7	1.3	0.8	1.7	1.5
2015	-0.1	0.0	-0.1	-0.2	0.0	0.1	0.2	0.2	0.0	0.2	0.5	0.7	-0.1	0.3
2016	1.4	1.0	0.9	1.1	1.0	1.0	0.8	1.1	1.5	1.6	1.7	2.1	1.1	1.5
2017	2.5	2.7	2.4	2.2	1.9	1.6	1.7	1.9	2.2	2.0	2.2	2.1	2.2	2.0
2018	2.1	2.2	2.4	2.5	2.8	2.9	2.9	2.7	2.3	2.5	2.2	1.9	2.5	2.4
2019	1.6	1.5	1.9	2.0	1.8	1.6	1.8	1.7	1.7	1.8	2.1	2.3	1.7	1.9
2020	2.5	2.3	1.5	0.3	0.1	0.6	1.0						1.2	

I considered this criterion but give it lesser weight than such factors as the University's ability to pay, the lack of adverse financial impact, the interests and welfare of the public, and public sector comparability.

Continuity and Stability of Employment

This criterion was considered in my review of the evidence. The evidence does not show a significant deviation in the number of Corrections Officers in the bargaining unit. As of 2019, there were 43 superior officers on the roster. As of July

1, 2020, there were 38 superior officers on the roster. However, only two (2) officers over the past six (6) years have left the department for financial reasons. I conclude that the modifications awarded herein are reasonable under the circumstances presented and will help maintain the continuity and stability of employment.

Having addressed all of the statutory criteria I now turn to the modifications/proposals that I award, modify or reject.

Awarded Modifications/Proposals

Term of Agreement

The FOP proposes a term of three (3) years – July 1, 2019 through June 30, 2022. The University proposes a term of four (4) years – July 1, 2019 through June 30, 2023. I award a term of four (4) years – July 1, 2019 through June 30, 2023, in order to provide an additional year of labor-management stability.

Salary, Salary Guide and Salary Related Items

The current salary guide contained in Appendix C of the Agreement includes 9 steps for Sergeant, Senior Sergeant, and Lieutenant. The salary for Sergeant ranges from \$64,457 at Step 1 to \$88,996 at Step 9 ("Senior Step"). The salary for Senior Sergeant ranges from \$67,678 at Step 1 to \$103,165 at Step 9 ("Senior Step"). The salary for Lieutenant ranges from \$74,989 at Step 1 to \$109,612 at Step 9 ("Senior Step"). The salaries for the rank of Sergeant on Steps 1 through 9 ("Senior Step") remained constant from July 1, 2014 through June 30, 2019. Steps 1 through 8 for Senior Sergeant and Lieutenant remained the same from July 1, 2014 through June 30, 2019. Only the Senior Steps for the ranks of Senior Sergeant and Lieutenant increased over the duration of the Agreement by approximately \$1,000-\$1,100 per year.

As referenced *infra*, Article 20 - Salaries includes "subject to" language that enables the University to withhold economic provisions in the event that University determines that a fiscal emergency exists. The "subject to" language shall remain within the body of the parties' Agreement, but the provision shall be unenforceable from July 1, 2019 through 11:59 p.m. on June 30, 2023 given that the emerging pattern of settlement that resulted from the University enforcing similar language in collective negotiations agreements with other bargaining units

at the University was thoroughly weighed and considered in conjunction with all statutory factors in rendering a final Award in this matter.

As previously indicated, having considered all of the statutory criteria, I conclude that neither party's salary proposals must be awarded and that this award represents a reasonable determination of the disputed issues. I award the following salary items that are consistent with the emerging pattern:⁴

July 1, 2019 – June 30, 2020 (Fiscal Year 2020)

Effective and retroactive to July 1, 2019, step advancement plus 0.6% increase to the top steps on the Senior Sergeant and Lieutenant Guides. (Approximate increase of 2.99%).

July 1, 2020 – June 30, 2021 (Fiscal Year 2021)

Effective July 1, 2020, step advancement only. (Approximate increase of 1.89%).

July 1, 2021 – June 30, 2022 (Fiscal Year 2022)

No step advancement and a 1.2% increase to the top steps on the Senior Sergeant and Lieutenant Guides effective October 1, 2021. (Approximate increase of 1.1%).

July 1, 2022 – June 30, 2023 (Fiscal Year 2023)

Step advancement and a 1.3% increase to the top steps on the Senior Sergeant and Lieutenant Guides effective October 1, 2022. (Approximate increase of 2.5%).

⁴ With a high degree of certainty based upon substantial evidence concerning this issue with most of the other bargaining units, to award increases in line with the pre-COVID settlements would result in the University exercising its fiscal emergency powers and placing the parties into the position of prolonging their impasse through further litigation.

The awarded salary guides are as follows:

Sergeant Salary Guide - Range 23

	FY 2020	FY 2021	FY 2022	FY 2023
Step				
1	\$64,457.00	\$64,457.00	\$64,457.00	\$64,457.00
2	\$67,708.00	\$67,708.00	\$67,708.00	\$67,708.00
3	\$70,971.00	\$70,971.00	\$70,971.00	\$70,971.00
4	\$74,226.00	\$74,226.00	\$74,226.00	\$74,226.00
5	\$77,481.00	\$77,481.00	\$77,481.00	\$77,481.00
6	\$80,741.00	\$80,741.00	\$80,741.00	\$80,741.00
7	\$83,994.00	\$83,994.00	\$83,994.00	\$83,994.00
8	\$87,254.00	\$87,254.00	\$87,254.00	\$87,254.00
9	\$88,996.00	\$88,996.00	\$88,996.00	\$88,996.00

Senior Sergeant Salary Guide - Range 24

	FY 2020	FY 2021	FY 2022	FY 2023
Step				
1	\$67,678	\$67,678	\$67,678	\$67,678
2	\$71,095	\$71,095	\$71,095	\$71,095
3	\$74,521	\$74,521	\$74,521	\$74,521
4	\$77,937	\$77,937	\$77,937	\$77,937
5	\$81,357	\$81,357	\$81,357	\$81,357
6	\$84,777	\$84,777	\$84,777	\$84,777
7	\$88,195	\$88,195	\$88,195	\$88,195
8	\$96,617	\$96,617	\$96,617	\$96,617
9	\$103,784	\$103,784	\$105,029	\$106,395

Lieutenant Salary Guide - Range 26

Step	FY 2020	FY 2021	FY 2022	FY 2023
1	\$74,989	\$74,989	\$74,989	\$74,989
2	\$78,702	\$78,702	\$78,702	\$78,702
3	\$82,420	\$82,420	\$82,420	\$82,420
4	\$86,201	\$86,201	\$86,201	\$86,201
5	\$89,980	\$89,980	\$89,980	\$89,980
6	\$93,679	\$93,679	\$93,679	\$93,679
7	\$97,454	\$97,454	\$97,454	\$97,454
8	\$101,145	\$101,145	\$101,145	\$101,145
9	\$110,270	\$110,270	\$111,593	\$113,044

In addition to the above, as expressed in their final offers, the parties seek to remove language from Article 20 that references the "155 Agreement" and the "164 Agreement". Given their mutual intent, I award the elimination of the relevant language from Article 20.

The emerging pattern of settlement includes 10 furlough days for bargaining unit members in each of the non-law enforcement bargaining units. I do not award the furlough days because the record does not establish whether the implementation of the furlough days could potentially create a negative financial impact (i.e. additional overtime) or cause operational issues for the University. This said, and in order to maintain consistency with the emerging pattern of internal settlements, I grant the University the discretion to implement

up to ten (10) furlough days between the date of this Award and June 30, 2021. In the event that the University exercises its discretion it must do so uniformly amongst the bargaining unit members.

Other Modifications/Proposals on Issues not Awarded

As to the remainder of the parties' modifications and proposals on the economic issues, including but not limited to the FOP's proposal to increase the senior superior officer differentials in Article 21, the University's proposal to eliminate automatic increments, and the University's proposal to eliminate advancement to the Senior Officer Step, I thoroughly reviewed and considered their respective positions. Having examined these items in conjunction with the supporting evidentiary submissions I do not find sufficient justification to award them in whole or in part at this time. I find that the improved economic changes that I have awarded are reasonable and inclusive of what the financial impact of the award should be while also taking into consideration that the University's overall financial obligations include having to fund the economic terms of all of its 22 bargaining units. The remaining modifications and proposals on the economic issues are therefore rejected.

CONCLUSION

I conclude that the terms of this Award represent a reasonable determination of the issues after applying the statutory criteria. I have weighed the statutory factors as more fully discussed above and conclude there is nothing in the record that compels a different result than I have determined in this proceeding.

AWARD

1. Term. Four (4) years – Effective July 1, 2019 through June 30, 2023.
2. Article 20 – Salaries & Appendix C.
 - a. The “subject to” language contained in Article 20 shall remain in the Agreement, but shall not be enforceable from July 1, 2019 through 11:59 p.m. on June 30, 2023.
 - b. Salary, Step Advancement & Salary Guides

July 1, 2019 – June 30, 2020 (Fiscal Year 2020)

Effective and retroactive to July 1, 2019, step advancement plus 0.6% increase to the top steps on the Senior Sergeant and Lieutenant Guides. (Approximate increase of 2.99%).

July 1, 2020 – June 30, 2021 (Fiscal Year 2021)

Effective July 1, 2020, step advancement only. (Approximate increase of 1.89%).

July 1, 2021 – June 30, 2022 (Fiscal Year 2022)

No step advancement and a 1.2% increase to the top steps on the Senior Sergeant and Lieutenant Guides effective October 1, 2021. (Approximate increase of 1.1%).

July 1, 2022 – June 30, 2023 (Fiscal Year 2023)

Step advancement and a 1.3% increase to the top steps on the Senior Sergeant and Lieutenant Guides effective October 1, 2022. (Approximate increase of 2.5%).

Sergeant Salary Guide - Range 23

	FY 2020	FY 2021	FY 2022	FY 2023
Step				
1	\$64,457.00	\$64,457.00	\$64,457.00	\$64,457.00
2	\$67,708.00	\$67,708.00	\$67,708.00	\$67,708.00
3	\$70,971.00	\$70,971.00	\$70,971.00	\$70,971.00
4	\$74,226.00	\$74,226.00	\$74,226.00	\$74,226.00
5	\$77,481.00	\$77,481.00	\$77,481.00	\$77,481.00
6	\$80,741.00	\$80,741.00	\$80,741.00	\$80,741.00
7	\$83,994.00	\$83,994.00	\$83,994.00	\$83,994.00
8	\$87,254.00	\$87,254.00	\$87,254.00	\$87,254.00
9	\$88,996.00	\$88,996.00	\$88,996.00	\$88,996.00

Senior Sergeant Salary Guide - Range 24

Step	FY 2020	FY 2021	FY 2022	FY 2023
1	\$67,678	\$67,678	\$67,678	\$67,678
2	\$71,095	\$71,095	\$71,095	\$71,095
3	\$74,521	\$74,521	\$74,521	\$74,521
4	\$77,937	\$77,937	\$77,937	\$77,937
5	\$81,357	\$81,357	\$81,357	\$81,357
6	\$84,777	\$84,777	\$84,777	\$84,777
7	\$88,195	\$88,195	\$88,195	\$88,195
8	\$96,617	\$96,617	\$96,617	\$96,617
9	\$103,784	\$103,784	\$105,029	\$106,395

Lieutenant Salary Guide - Range 26

Step	FY 2020	FY 2021	FY 2022	FY 2023
1	\$74,989	\$74,989	\$74,989	\$74,989
2	\$78,702	\$78,702	\$78,702	\$78,702
3	\$82,420	\$82,420	\$82,420	\$82,420
4	\$86,201	\$86,201	\$86,201	\$86,201
5	\$89,980	\$89,980	\$89,980	\$89,980
6	\$93,679	\$93,679	\$93,679	\$93,679
7	\$97,454	\$97,454	\$97,454	\$97,454
8	\$101,145	\$101,145	\$101,145	\$101,145
9	\$110,270	\$110,270	\$111,593	\$113,044

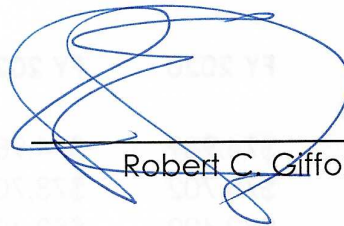
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Comm. # 50051320
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- c. Article 20 references to the "155 Agreement" and the "164 Agreement" shall be eliminated.
 - d. Furlough Days – The University the discretion to implement up to ten (10) furlough days between the date of this Award and June 30, 2021. In the event that the University exercises its discretion it must do so uniformly amongst the bargaining unit members.
3. All other modifications/proposals on economic and non-economic issues are not awarded. All provisions of the existing agreement shall be carried forward except for those which have sunset or have been modified by the terms of this Award.

Dated:

August 31, 2020

Sea Girt, New Jersey



Robert C. Gifford

State of New Jersey }
County of Monmouth }ss:

On this 31st day of August, 2020, before me personally came and appeared Robert C. Gifford to me known and known to me to be the individual described in and who executed the foregoing instrument and he acknowledged to me that he executed same.

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My Commission Expires 12/16/2021

