

United States of America

BEFORE THE FEDERAL SERVICE IMPASSES PANEL

In the Matter of

DEPARTMENT OF THE ARMY  
ARMY DENTAL ACTIVITY  
FORT CARSON, COLORADO

and

LOCAL 1345, AMERICAN FEDERATION  
OF GOVERNMENT EMPLOYEES, AFL-CIO

Case No. 06 FSIP 68

**DECISION AND ORDER**

Local 1345, American Federation of Government Employees, AFL-CIO (Union) filed a request for assistance with the Federal Service Impasses Panel (Panel) to consider a negotiation impasse under the Federal Service Labor-Management Relations Federal Service Labor-Management Relations Statute (Statute), 5 U.S.C. § 7119, between it and the Department of the Army, Army Dental Activity, Fort Carson, Colorado (Employer or DENTAC).

After investigation of the request for assistance, which concerns the Employer's desire to eliminate mandatory performance awards, the Panel determined that the dispute should be resolved through single written submissions. The parties also were advised that, after considering the entire record, the Panel would take whatever action it deems appropriate to resolve the matter, which could include the issuance of a binding decision. In accordance with the Panel's procedural determination, the parties submitted their final offers and written statements of position. The Panel has now considered the entire record.

**BACKGROUND**

The mission of DENTAC is to provide clinical dental services for active-duty soldiers. The Union represents a bargaining unit consisting of approximately 1,200 employees at Fort Carson; however, this dispute affects approximately 75 non-professional employees within DENTAC, the majority of who hold

the position of dental assistant. The parties' current collective-bargaining agreement (CBA) is in effect until October 2007.

During the past 5 years, the Commanding Officers (CO) at the Employer's facility have issued annual "policy letters" on performance awards that have included mandatory awards for employees who receive Level 1 and Level 2 ratings of "excellent" on their performance appraisals; one such award grants an employee 10-hours time-off for every rating element checked "excellent" on the employee's annual performance appraisal. Other COs have authorized a choice of either time off or \$100 for every element rated "excellent" on an appraisal, although that option has not been available since 2003. In 2005, the current CO for DENTAC notified the Union that he was rescinding the latest policy letter that mandated time-off awards for certain ratings on annual performance evaluations because the policy was contrary to an Army directive. In this regard, Army Regulation 672-20, "Incentive Awards," (January 29, 1999), provides in Chapter 5-2(c) that:

Employees will not be nominated automatically for a performance award based on their rating. Performance awards should be used both to reward past performance and as an incentive to stimulate future high-level performance of the awardees and their peers.

The dispute arose when the Union objected to the elimination of mandatory time-off awards for employees.

#### **ISSUE AT IMPASSE**

The parties disagree over whether mandatory time-off awards should be granted to employees who receive Level 1 and Level 2 ratings of "excellent" on their annual performance appraisals.

#### **POSITIONS OF THE PARTIES**

##### 1. The Employer's Position

The Employer proposes that supervisors nominate employees for monetary and non-monetary awards in a fair and equitable manner based on performance and achievement when they are judged to deserve special recognition. While no specific criteria would be established, all awards are to be justified in writing and approved by the DENTAC Commander or, in the Commander's absence, a designee. A panel would review the nominations for performance awards and make recommendations based upon the

justifications and current budget. A Union official would be invited to serve on the panel. Recommendations of the panel, including any dissenting opinions, would be forwarded to the Commander for final approval.

The current policy should be eliminated because it is inconsistent with Army Regulation 672-20, which prohibits employees from being nominated automatically for performance awards based on their ratings. Its proposal, therefore, would align DENTAC with the Army's practice.<sup>1/</sup> Moreover, the elimination of mandatory awards would give the Employer greater control over the management of its budget.<sup>2/</sup> Furthermore, the proposal would allow the Union a degree of oversight in the awards process because it authorizes the Union to have a representative on the panel that reviews award nominations; thus, the Union would have the ability to voice its opinion concerning award nominations and help to ensure that the process is fair.

## 2. The Union's Position

The Union proposes, essentially, to maintain the *status quo*; that is, if the Employer determines that performance awards are to be given, employees would receive 10 hours time off for each block on a performance appraisal where they are rated as having "exceeded" the performance standard. Additional awards may be granted above this amount at the Employer's discretion. In support of its position, the Union maintains that since 2001, four DENTAC COs have authorized mandatory time-off awards notwithstanding Army Regulation 672-20. The practice of authorizing mandatory awards may have motivated employees to perform at the highest levels of achievement to the benefit of the mission and the soldiers they serve. In addition, the award policy allows employees to be "recognized equally by a

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1/ During the course of the Panel's proceeding, the Department of the Army did not claim that there is a "compelling need" for the Army regulation which, otherwise, may have required resolution of the matter by the Federal Labor Relations Authority under 5 U.S.C. § 7117(a) (2).

2/ Although the Employer claimed, for the first time, in its written submission to the Panel that retaining a policy for mandatory awards would interfere with management's right to determine its budget, the Employer provided no evidence or case law to support the assertion.

measurable scale" (i.e., through the performance appraisal process), "and not by any hidden agendas." Further, under the current practice, there have not been any grievances over performance awards for the past 4 years, demonstrating that employees view the process by which time-off awards are granted as fair and equitable. Finally, employees are able to use the time off they receive on military training holidays when they otherwise would have to use annual leave to take the day off.<sup>3/</sup>

### **CONCLUSIONS**

Having carefully considered the evidence and arguments presented by the parties, we shall order the adoption of the Employer's proposal to resolve the impasse. In this regard, it is consistent with our view that limitations on the discretion to distribute performance awards should not be unilaterally imposed upon management. The Employer's proposal also balances the interests of both sides by permitting the Union to play a role in overseeing the process to ensure that awards are distributed fairly and equitably.

### **ORDER**

Pursuant to the authority vested in it by the Federal Service Labor-Management Relations Statute, 5 U.S.C. § 7119, and because of the failure of the parties to resolve their dispute during the course of proceedings instituted pursuant to the Panel's regulations, 5 C.F.R. § 2471.6(a)(2), the Federal Service Impasses Panel, under § 2471.11(a) of its regulations, hereby orders the following:

The parties shall adopt the Employer's proposal.

By direction of the Panel.

H. Joseph Schimansky  
Executive Director

December 22, 2006  
Washington, D.C.

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<sup>3/</sup> A "training holiday" is a day when civilian employees are encouraged to use their annual leave because operations cease as the result of military co-workers being scheduled for training.