**OCB AWARD NUMBER: 2706**

SUBJECT: Arb Summary # 2706

TO: All Advocates

FROM: Kate Nicholson

OCB GRIEVANCE NUMBER: DRC-2021-02478-10

DEPARTMENT: Department of Rehabilitation & Correction

UNION: OEA

ARBITRATOR: Robert Stein

GRIEVANT NAME: Shawn Masters

MANAGEMENT ADVOCATE: James Adkins

UNION ADVOCATE: Kerri Hoover

OCB REPRESENTATIVE: Kate Nicholson

ARBITRATION DATE: October 31, 2022

DECISION DATE: December 9, 2022

DECISION: Grievance denied.

CONTRACT SECTIONS 13, 13.01, 13.02, 13.03, 13.04

OCB/BNA RESEARCH CODES:

KEYWORD SEARCH TERMS: Loss of Licensure, Substantive Arbitrability

**HOLDING: Grievance Denied**

**Facts:** In DRC and DYS, all credentialed staff must possess licensure and shall have valid teaching credentials (two (2) years or more) on July 1 of each year as defined by ODE for their specific parenthetical subtitle. Any employee who fails to comply with these provisions by July 1 of each year (as referenced above) is subject to termination and shall only be able to grieve such action through the Agency Step of the grievance process.

**The Union argued:** Grievant met his responsibility “to maintain current certification(s) required for his/her present classification and parenthetical title,” and to do so “by July 1” as required by Section 10.01 of the CBA. A review of Grievant’s licensure at ODE shows that he currently holds a 5 Year Professional Career Technical license. This licensure was issued to him on July 6, 2021, with an effective date of July 1, 2021. At no time did the Grievant teach without a license. Grievant was on an approximate 2-week inter-session (vacation) prior to his return to work on July 6, 2021, when the inter-session ended. Grievant was advised by ODE on July 6, 2021, that his licensure renewal has been issued and he at no time taught without licensure.

**The Employer argued:** By the express terms of the parties’ negotiated collective bargaining agreement, this grievance is not arbitrable. A ruling in the Union’s favor would result in a direct violation of the contract. Other arbitrators have said that when language is unambiguous it must be upheld.

**The Arbitrator found:** Grievance Denied. The arbitrator, adhering to the Agreement, must yield to the “bright line rule” language in Article 10.1 that limits a bargaining unit member’s grievance appeal rights to the Agency step as agreed to by the parties.

**Grievance DENIED.**