

ARBITRATION PROCEEDING

In the matter of arbitration between:

Grievance No. SEI-2024-03122-0

THE STATE OF OHIO)
)
and)
)
SEIU DISTRICT 1199)

Before Mitchell B. Goldberg, Arbitrator

Appearances:

For the Union:

Joshua Norris,	Executive Vice President
Maria Kawentel,	Delegate - Second Chair
Moneecia Johnson,	Grievant
Ronald Edwards,	Juvenile Parol Officer
Danielle Custom,	Juvenile Parol Officer

For the Employer:

Bradley Nielsen,	Management Advocate
Eric Eilerman,	DAS - OCB
Anna Garver,	CFO, Dept. of Youth Services
Victor Dandridge,	OCB - Labor Relations Admin.
Leah Garber,	Chief - Depart. of Youth Services

I. Introduction and Background.

This is a labor arbitration proceeding conducted under the terms and conditions of the Parties' Collective Bargaining Agreement (CBA). Article 7 contains a multi-step Grievance Procedure leading to arbitration if the grievance is not resolved at the earlier steps. The Parties selected the undersigned as the arbitrator of this labor dispute in accordance with Section 7.07.

The Union filed this grievance on behalf of Moneecia Johnson on November 25, 2024. Grievant is an employee in the Ohio Department of Youth Services (ODYS). It alleges that the Employer (State or ODYS) violated the CBA when it required Grievant to repay \$864.00 that she properly received from the State for meal per diem expenses at a State sponsored Pre-Service Training event. The State denied the grievance throughout each step and the matter proceeded to arbitration on July 22, 2025.

The Parties presented testimonial evidence from witnesses and they submitted joint and party exhibits. Witnesses were examined and cross-examined. Post-hearing briefs were filed with the Arbitrator after all of the evidence was submitted. They submitted the following Joint Stipulations into evidence:

1. The grievance is properly before the arbitrator.
2. Moneecia Johnson attended the DYS 3-week Pre-Service Training at the Corrections Training Academy in Orient, Ohio, Monday - Thursday 7A-5P from 7/21/24 through 8/8/24.
3. Grievant Johnson stayed overnight at Drury Inn and Suites Columbus in Grove City, Ohio, 43213 for the three-week long pre-service training.
4. Grievant Johnson submitted a timely request for per diem expenses on 8/22/2024.
5. Grievant Johnson received a per diem payment of \$864 for the requested per diem.
6. Grievant Johnson was advised that DYS was requiring her to repay the \$864 per diem on 10/03/2024.
7. Grievant Johnson was required to repay the per diem to ODYS.
8. Grievant Johnson has fully repaid the per diem amount of \$864 to ODYS.

II. Contract Provisions, Rules and Law..

CBA Language

ARTICLE 1-PURPOSE AND INTENT OF THE AGREEMENT

. . . the provisions of this Agreement shall automatically modify or supersede:
(1) conflicting rules, regulations and interpretive letters of the Department of Administrative Services pertaining to wages, hours and conditions of employment; and
(2) conflicting rules, regulations, practices, policies, and agreements if or within departments/Agencies pertaining to terms and conditions of employment;
and conflicting sections of the Ohio Revised Code except those incorporated in

Chapter 4117 or referred to therein.

Section 21.04 Expense Allowances

If the Agency head or designee requires an employee to stay overnight, the Employee shall be reimbursed actual cost up to the rate set by the U.S. General Services Administration plus tax per day for actual lodging expenses Incurred. The employee shall receive a per diem rate for meal expenses and other incidentals incurred at the rate set by the U.S. General Services Administration, prorated in accordance with the regulations of the Office of Budget and Management (OBM). The Agency may require receipts or other proof of expenditures before providing reimbursement, except for meals and Incidentals

. . .

If the Employer provides lodging and/or meals, including, but not limited to pre-service, in-service and training, and the employee chooses to commute, the employee incurs any costs associated with pre-paid lodging and only receives one round trip of mileage reimbursement per week. Employees choosing to commute shall not be eligible for meal reimbursement and shall not have travel time counted as time worked. . . .

The Ohio Department of Youth Services TRAINING ACADEMY RULES AND REGULATIONS PRE-SERVICE PROGRAM states:

For trainees who are in travel status (staying overnight) Breakfast and Dinner will be provided at the hotel. All CTA participant's lunch will be provided through the CTA, in the CTA cafeteria.

The lunch break for Pre-Service participants will be forty-five minutes and will be assigned by CTA staff. If you choose to leave CTA for lunch, this will be at your own cost and you must be back and ready for class within the forty-five - minute allotted timeframe.

. . .

III. The Issues.

The Parties frame their disputed issue before the Arbitrator differently. The Union's version is whether the Agency violated the terms of the CBA when it required the Grievant to repay \$864 in meal per diem reimbursements, and if so, what shall the remedy be? The Employer's version is whether the Agency did not violate the CBA when the Grievant erroneously received \$864 for meal expenses, signed a Repayment Agreement and eventually repaid the money.

IV. Relevant Facts.

The Meals and Lodging section of the above Training Academy Rules and Regulations state that those trainees who stay overnight are served breakfast and dinner, but all trainees, including those who commute, receive lunch paid by the Academy (CTA) in the Cafeteria. If trainees wish to have lunch elsewhere, they must pay for their lunch at their own cost. Grievant stayed overnight all 3 weeks for the Pre-Service training event.

Grievant testified that she purchased meals elsewhere during the 3-week CTA Pre-Service training. She paid for the meals herself by cash and she used a credit card. It was not until later, after she completed the Pre-Service training and returned to Cleveland that she decided to complete an expense report for reimbursement of meal costs that were not provided by the CTA. She works at the Cleveland Parole Office. Another Parole Officer, Maria Kawentel, advised her to file an expense report to claim reimbursement for her paid meal costs.

The Drury Inn and Suites in Grove City provided the hotel and meeting facilities for the Pre-Service 3-week Pre-Service Training. Exhibit 6 shows the Drury Hotel meal menus for breakfast and evening snacks and drinks. The menu provides a variety of food that one would reasonably expect to find at an event such as the Pre-Service training. The Grievant had a reasonable choice of food to eat for breakfast and dinner, after the Cafeteria provided the lunches.

V. The Parties' Positions.

The Union

The Union, as the party who has the burden of proof to establish by the preponderance of the evidence that the Agency violated the terms of the CBA, contends that the Agency violated the CBA by claiming that Grievant "erroneously or fraudulently" filed a false expense report. The Agency thereafter caused Grievant to repay her claimed meal costs that were "legitimately" recoverable under the CBA.

The Grievant "shall" receive a per diem rate for meal expenses . . . incurred at the rate set by the U.S. General Services Administration, prorated at the rate set by the U.S. General Services Administration, prorated in accordance with the regulations of the Office of Budget and Management (OBM). Grievant stayed overnight at the Hotel for the 3-week long pre-service training. Grievant submitted her request on August 22, 2024. The Agency wrongfully demanded that she repay the sum she paid for meals and forced her to sign a repayment agreement in October.

Overnight trainee employees "shall" be reimbursed their actual cost up to the U.S. GSA rate plus tax per day for actual expenses incurred. Her per diem pay rate for meal expenses are

to be paid. Art. 21.04 is clear that the Agency may require Grievant to provide some receipts and other proof of expenses before being reimbursed, but not for meal expenses.

There is no requirement that the Trainees eat the meals provided by the Agency at the hotel. The CBA language provides no exceptions that would permit the Agency to deny the repayment for Grievant's expenses. The only stated exception is for commuters, who are not eligible for reimbursement. Grievant stayed at the hotel and is qualified for obtaining the reimbursement.

The per diem rate set by USGSA provides reimbursement to the Grievant and other overnight Trainees for each day. The word "shall" demands compliance. Ms. Kawentel, another bargaining unit member, stayed overnight, submitted an expense claim for meals and she received her payment. Union Exhibit 10 shows many expense reports that were accepted for meal per diem payments. The only thing that the USGSA controls is the amount of the per diem rate. The OBM addresses the pro-ratio if it is needed. The language at issue modifies or supersedes any conflicting rules, regulations or policies under Art. 1 of the CBA.

There is no language in the CBA that requires the Trainees to eat the food provided by the Hotel or the Cafeteria. The Union Exhibits show that the sole time in the past 5 years that a per diem expense was questioned was in the Grievant's claim and 2 other employees whose payments were sought for recoupment after the Grievant's recoupment claim. The Agency in fact has not been consistent in its recoupment claims.

Moreover, the Agency does not have the authority to recoup money from the Grievant under the terms of the CBA. The Ohio Revised Code Section 131.02 provides for legal recourse, but the procedure requires intervention by the Attorney General. The Agency did not forward Grievant's alleged debt for repayment to the AG for collection.

The Employer

The Agency (DYS) provides lodging, transportation and meals to overnight attendees to ensure the 3 week training does not burden any new staff with logistical or monetary concerns. Under this arrangement, the overnight attendees should have a minimal amount of out-of-pocket expenses. All employees receive the DYS-Training Academy Rules and Regulations (TARR), which provides for lodging and meals. Each staff member acknowledges and certifies that they read and understand those rules and regulations. They acknowledge that they are accountable for adhering to the rules and regulations. Grievant signed her certification on July 22, 2024.

The "Meals and Lodging" section of the TARR provides the attendees overnight stays with breakfast and dinner at the hotel, paid by the Agency. The attendees are responsible for the cost of lunch purchased outside the CTA cafeteria. Grievant read this section and the Training Staff covered this specific language. She testified that she read this section of the TARR and understood the terms.

Grievant only became aware of the meal per diem after she completed her training and returned to Cleveland. Ms. Kawentel advised Grievant that she was entitled to receive the meal per diem and assisted her in completing her expense report. This advice was inaccurate and resulted in an erroneous payment to Grievant. She testified that she purchased dinner at a steakhouse with other attendees who were staying overnight. None of the others submitted reimbursement requests.

Grievant never produced evidence of her meal purchases that were claimed in her expense report. She stated that she purchased the meals by paying cash and using her credit card. If so, there would be evidence in her credit card payment bills that would show her meal purchases. Grievant never complained to the hotel or to the Agency about the food choices that were available to her.

The Agency interprets Art. 21.04 language as stating that Grievant, as an overnight employee, is entitled to a meal per diem, but provides an exception. The per diem rate for meal expenses must first be "incurred" before it is prorated in accordance with OBM. Grievant provided no evidence of her meal purchases.

The Ohio Administrative Code, Rule 126-1-02, referred to as the OBM Travel Rules states under section (G)(2) that when a conference or event provides meals, the attendee (state agent or employee) shall not be reimbursed for meal expenses related to work. They are entitled to the per diem "for any meals not provided by the event and incidentals at the rate prescribed by the U.S. general services. The Pre-Service 3-week training is within the definition of a "conference" under this Code and its rules.

The Union has not met its burden of proof that the Agency violated or breached the CBA. Overnight attendees for conference/trainings are entitled to a meal per diem unless the conference/training provides the meals. The overnight attendees, including Grievant, are not entitled to receive meal per diems under the OBM Travel Rules in Art. 21.04.

The only attendees who submitted expense reports for reimbursement while attending CTA Pre-Service were the three JPO's at the Cleveland office. They received erroneous advice from their Union Local leadership. Grievant voluntarily repaid the expense money she received and her grievance for reinstatement of her claim must be denied.

VI. Arbitration Awards

The Union submitted an arbitration award by Arbitrator Pincus in support of its position. The Award was issued in 1997. It decides a claim or grievance by the Ohio State Troopers Association against the Highway Patrol for reimbursement for an officer's meal expenses under their CBA. The CBA language authorizes the right of employees to recover work related "personal funds expended" in performance of duties. The grievant submitted a request for reimbursement of his lunch expenses when he attended an employer training program. He

attended the program and drove his own vehicle. He acknowledged that he was advised that “lunch was on his own.” He commuted back and forth for the 2-day training program.

The Arbitrator found that the CBA was violated by clear language that provided for reimbursement for his lunch expenses. There was nothing in the CBA language that required his overnight stay as a prerequisite for meal payments during non-travel status without a stay overnight. He did not agree with the Employer’s reliance upon CBA language that required it to promulgate a uniform reimbursement procedure in accordance with OBM policies and procedures. It complied with an OBM procedure for travel expense reports.

The Arbitrator acknowledged the OBM procedures and their inclusion in the work rules, standards and procedures. Notwithstanding that the Employer promulgated an OBM procedure that provided reimbursement only for overnight stays, the CBA failed to preclude the payment of meal expenses during non-travel status periods where no overnight stay was required. The Employer was required to pay the grievant’s lunch expenses when he was assigned to work away from his regular work station, except for one specified exception that was not applicable to his situation.

The Employer argued that the issue was covered by a past practice that only reimbursed employees for overnight stays. The past practice, however, was not a substitute for clear mutually agreed upon CBA terms that were unambiguous.

The Agency submitted an arbitration award by Arbitrator Buettner. The award was between the Department of Rehabilitation and Correction and SEIU 1199, and was issued in 2021. The issue was whether the Agency violated the CBA when it required the grievant to reimburse monies due to an alleged overpayment of public funds. The overpayment involved a payroll error made by the Employer that resulted in the grievant’s underpayment. Overpayment mistakes are recoverable by the State under ORC Section 131.02.

The Arbitrator addressed the CBA language regarding his jurisdiction. He limited his role to the interpretation of the CBA language and decided that he did not have the jurisdictional power to rule that the Employer violated the ORC statutory process. The CBA did not address this procedure of recovery since the Employer had a statutory process to recover taxpayer dollars.

VII. Contract Construction Principles.

The Union must meet its burden to prove that its interpretation of the disputed contract language better reflects the parties’ intent when the terms were agreed upon. The arbitrator must first attempt to find the parties’ intentions from the written contract language. Unambiguous language must be given its plain meaning. This is derived from the document by using ordinary dictionary definitions and other well known and accepted maxims or rules of contract construction. Only when an ambiguity is found can arbitrators consider and rely upon extrinsic evidence such as: (1) the parties’ bargaining history; (2) contemporaneous notes; (3)

statements made by the parties, or their representatives or agents in communications during negotiations; (4) usages of custom and trade; and (5) the parties' actions and practices relative to the implementation and the use of the disputed provisions. "But, after the transaction has been shown in all its length and breath, the words of the integrated agreement remain the most important evidence of intention."

VIII. Evidence, Discussion and Findings.

The language in 21.04 is clear that Grievant, as an overnight attendee, is reimbursed at the USGS pay rate for expenses "incurred." Grievant did not incur this expense because her hotel stay was paid by the Agency. She did not make that claim.

The following language states when the attendees are staying overnight they may recover a per diem rate for meal expenses and other incidentals at the USGSA/OBM prorated rate. Proof of payments are required for lodging expenses, but not for meals and incidentals. This part of 21.04 does not address situations when lodging, meals and other expenses are paid by the Agency. That subject is covered by the later language that specifically refers to pre-service and in-service training of the type involved in this matter.

The clear language focuses upon those attendees who commute, not overnight attendees. However, since the language negatively impacts the overnight attendees, it is reasonable to interpret the language as granting the overnight attendees what is being denied to the commuters. The Agency provides lodging and meal expenses for the overnights.

The Agency (ODYS) created specific Training Academy Rules and Regulations (TARR) that are applied to the training that was administered in this case. These rules and regulations are within the stated management rights under Art. 5 in the CBA. It has the right to determine employee qualifications, the right to determine the work standards and the quality of the work produced, which are subjects addressed in training programs. Specifically, the Agency has the right to make any and all rules and regulations. The Meals and Lodging section of TARR states that Breakfast and Dinner will be provided at the hotel, and that lunch will be provided through the CTA in the CTA cafeteria.

Grievant was provided with the Rules and Regulations, reviewed them and signed them on July 22, 2024 with her certification. There is no requirement within the Rules and Regulations that provides overnight attendees with meal reimbursements if they choose to eat elsewhere.

Rule 126-1-02 of the Ohio Administrative Code was provided as an Exhibit. Section 2(D) authorizes the State to provide state agents (employees) to receive per diem pay rates for meals established by the USGSA "only" when overnight stays are required. Section (G)(2) states: "If the event (Conference) includes or provides a meal, the state agent shall not be reimbursed for that same meal . . . State agents shall receive per diem for any meals 'not' provided by the event . . . at the rate prescribed by [USGA]. I find that there is nothing in these code sections or in the TARR that conflicts with the CBA language under Art. I.

There is a rational basis for the Agency to not reimburse attendees who decide to obtain their meals from restaurants outside of the hotel or the cafeteria where the meals are at no cost to the attendees. There are business or administrative judgments made by the Agency when it spends money from taxpayers that support the Agency. A budget is needed to prepare for the services provided to the attendees. The meal budget includes the money that would be charged for the meal costs for the number of attendees who participate in the 3-week training event. If a significant number of attendees decide to eat elsewhere and thereafter incur expenses that are not budgeted for, the entire budget would be adversely affected due to the increased costs that were not accounted for when the monies were set aside for the event.

The Agency's demand for repayment of the expenses that were submitted is authorized by Section 131.02 of the ORC. The Agency does not need to file the claim for reimbursement with the Attorney General before obtaining the repayment if the Agency first requests the repayment and Grievant complies with the request. The Attorney General process would only be required if she denied the request.

IX. Award.

The grievance is denied for the above reasons.

Date of Award: October 7, 2025

Mitchell B. Goldberg
Mitchell B. Goldberg, Arbitrator

