

STATE COUNCIL OF PROFESSIONAL EDUCATORS OEA/NEA

-and-

STATE OF OHIO, DEPARTMENT OF REHABILITATION AND CORRECTION

In the Matter of Arbitration) <u>OPINION AND DECISION</u>
)
Between) OCB Grievance No:
) 27-20-880413-0003-06-10
STATE COUNCIL OF PROFESSIONAL EDUCATORS)
OHIO EDUCATION ASSOCIATION) Dilip K. Ghosh,
NATIONAL EDUCATION ASSOCIATION) Grievant
)
-and-)
)
STATE OF OHIO, DEPARTMENT OF)
REHABILITATION AND CORRECTION)

SAMUEL S. PERRY, IMPARTIAL ARBITRATOR

The Impartial Arbitrator, Samuel S. Perry, was appointed by the Ohio Department of Administrative Services, Office of collective Bargaining to hear and decide this matter.

The oral hearing was held on Monday, July 18, 1988 in a Conference Room at the Offices of Collective Bargaining, 65 East State Street, 16th Floor, Columbus, Ohio 43215.

The following appearances were made for each of the Parties:

FOR THE ASSOCIATION

<u>NAME</u>	<u>POSITION</u>
Henry L Stevens	O.E.A. Representative
Dilip K. Ghosh	Grievant
Wayne McDowell	O.S.R. Teacher
Carrie Smolik	Grievance Chairperson
David A. Goldsmith	Marion C.I. Librarian

FOR THE STATE

<u>NAME</u>	<u>POSITION</u>
Meril J. Price	Chief, Admin Support OCB
Gail I. Lively	Administrator, Class & Comp
Robert E. Race	Regional Ed. Administrator
Alan E. Toops	Assist. Ed. Administrator
Ted Durkee	Observer
Jennifer Dworkin	Labor Relations Specialist

The Parties agreed the matter was properly before the Arbitrator for a decision on the merits. The Parties requested a separation of witnesses and requested that the oath be administered to each person called to testify.

The Association requested one (1) copy of this Opinion and Decision and the State has requested two (2) copies of this Opinion and Decision.

At the conclusion of the oral hearing, each Party stated they would file a post-hearing brief. The oral proceedings in this matter were concluded on July 18, 1988. The Arbitrator received the post-hearing brief of the State was received on August 16, 1988 and the post-hearing brief of the Association was received on August 18, 1988.

The Arbitrator declared the hearing closed as of July 19, 1988, and shall render his Opinion and Decision pursuant to Article 6, Section 6.07 of the Agreement (Joint Exhibit #1) existing between the Parties.

THE GRIEVANCE

The Grievance and related documents (Joint Exhibits #2, #4 and #5) were offered and admitted into evidence and state as follows:

SEE NEXT SEVEN (7) PAGES

Joint Exhibit #2

Joint Exhibit #4

Joint Exhibit #5

An affiliate of the National Education Association
FRANKLIN COUNTY METRO UNISERV OFFICE
5026 Pine Creek Drive, Westerville, Ohio 43081
Phone (614) 895-1041 or 1-800-221-2530 (in Ohio)

Don Wilson, President
Marilyn Cross, Vice President
Rod Hineman, Secretary-Treasurer
Glenn D. Darr, Executive Director

oea

April 12, 1988


Mr. N. Eugene Brundige
Office of Collective Bargaining
65 E. State Street - 16th Floor
Columbus, OH 43266-0585

Dear Mr. Brundige:

As a follow up to site representative, Wayne McDowell's letter, this letter will request the scheduling of Dilip Ghosh's job audit to the arbitration panel.

Thank you.

Sincerely,


Henry L. Stevens
UniServ Consultant

HLS/asw

JOINT
EXHIBIT

2



**Ohio Department of
Administrative Services**

OFFICE OF COLLECTIVE BARGAINING

65 E. STATE STREET, 16TH FLOOR

COLUMBUS, OHIO 43215

RICHARD F. CELESTE, GOVERNOR

April 25, 1988

Dilip Ghosh
96 West 2nd Street, Apt. 4
Mansfield, Ohio 44902

RE: Step 4 Grievance Review
OCB Grievance #27-20-880413-0003-06-10
Department of Rehabilitation and Correction

Dear Mr. Ghosh:

The Office of Collective Bargaining concurs with the Department of Administrative Services' decision. Therefore, the above grievance is denied.

Sincerely,

Dick Daubenmire
Contract Compliance Chief

DD:FS:cc

cc: Nicholas Menedis, Labor Relations Coordinator
Department of Rehabilitation and Correction

Henry Stevens, Uniserve Consultant
Ohio Education Association

Carrie Smolik, SCOPE Grievance Chairperson
Ohio Education Association

JOINT
EXHIBIT

2



Ohio Department of Administrative Services

30 EAST BROAD STREET
COLUMBUS, OHIO 43215

RICHARD F. CELESTE, Governor

WILLIAM J. FLAHERTY, Director

March 15, 1988

Dilip K. Ghosh
96 W. 2nd St. Apt. 4
Mansfield OH 44902

Dear Mr. Ghosh:

This department has completed a job audit on your position at R&C Ohio State Reformatory. Based on the duties performed, we have determined that the proper classification for this position is 64311, Librarian 1.

Your appointing authority is also being notified of the audit results. In the event either party disagrees with the decision rendered, pursuant to the Collective Bargaining Agreement currently in effect for Unit 10, an appeal may be filed, with the approval of the Association, by writing to the Deputy Director of the Office of Collective Bargaining, 65 East State Street, 16th Floor, Columbus, Ohio 43266-0585 within thirty (30) days of receipt of this letter. The appeal process begins with Step Four of the grievance procedure as outlined in the Collective Bargaining Agreement.

If you have any questions about our decision, please contact your Union Representative, Personnel Officer or address them in writing to the Department of Administrative Services, Job Audit Unit, 30 East Broad Street, Columbus, Ohio 43266-0405.

Sincerely,

William J. Flaherty
Director

Fedelma Dixon
For the Director

WJF:FD:

JOINT
EXHIBIT

2

**CLASSIFICATION
& SPECIFICATION**

Developed for Equal Opportunity

CLASS TITLE:

Librarian 1 (Degreed)

MAJOR AGENCIES:

All Agencies

NEW

02 AUG 1987

DE: 64312

JURISDICTION: State

FUNCTION: Under general supervision from Librarian supervisor, principal, teaching supervisor 2 or other administrative position, coordinates activities of general library service program, selects, catalogues & classifies books & materials & provides reference services & research information to general public, patients, inmates &/or professional staff personnel may prepare budget requests for library services or grant application requests for additional funding; may act as lead worker over non-professional library personnel but not to exceed 15% of time;

PERFORMS RELATED DUTIES AS REQUIRED

RANK	% OF TIME	JOB DUTIES	MAJOR WORKER CHARACTERISTICS
1	42-62	In State Library Board, acts as reference librarian & provides research information in response to requests from public or institutional libraries, or coordinates activities of general library service program (i.e., offers materials on specific area or variety of subject areas) for assigned agency, correctional facility or mental health institution or hospital (e.g., selects, classifies & catalogues books, documents, pamphlets, newsclips, microfiche, slides, films & other library service materials; reviews printed & non-printed library materials & recommends acquisition of new &/or updated materials, supplies &/or equipment; screens materials to insure subject matter is appropriate for & pertinent to needs & interests of assigned library service area; coordinates library services with other departments, libraries or agency divisions; assists in development & implementation of programs for furnishing library materials to segregated units, infirmaries, dormitories &/or other units removed from library itself; maintains running inventory of library service materials & equipment & coordinates use & scheduling of audio-visual equipment & supplies).	Knowledge of (1) library science & technology, (2) public relations, (3) supervision*; skill in (4) operation & maintenance of microfiche reader/printer, audio-visual equipment & CRT terminal; ability to (5) interpret extensive variety of technical material, (6) calculate fractions, decimals & percentages, (7) use proper research methods in gathering data, (8) gather, collate & classify information about data, people or things, (9) cooperate with others on group projects.

123:1-7-22 (10)

JOINT
EXHIBIT
4

UNUSUAL WORKING CONDITIONS:

MINIMUM CLASS REQUIREMENTS: *(including license, if any.)*
Master's Degree in library science from accredited college or university.

**Developed after employment*

TRAINING & DEVELOPMENT

CLASS TITLE

Librarian 1 (Degreed)

CODE: 64312

NEW

02 AUG 1981

OIIIO
CLASSIFICATION
SPECIFICATION
Developed for Equal Opportunity

CLASS TITLE:

Librarian 1 (Degreed)

MAJOR AGENCIES:

All Agencies

CODE:
64312

JURISDICTION:
State

RANK	% OF TIME	JOB DUTIES	MAJOR WORKER CHARACTERISTICS
2	26-36	Provides basic research & reference services to patrons (e.g., prepares bibliographic searches through available sources including computer terminal, provides reader guidance service & assists patrons in using library facilities for education & recreation).	Knowledge of 1; skill in 4; ability to 7, 8, 9.
3	8-14	Maintains & updates specialized information services, maintains card files (i.e., titles, authors, subject, shelf list, publishers), performs &/or arranges for repair of materials & audio/visual equipment, records expenditures & prepares reports.	Knowledge of 1; skill in 4; ability to 6, 7, 8.
4	3-9	Performs clerical tasks (e.g., completes correspondence, types requisitions, types catalogue cards, reviews & updates files, records circulation of books & materials, maintains bulletin board, checks books in & out, mails overdue notices, circulates books, periodicals & audio-visual materials & equipment) & attends variety of meetings (e.g., staff meetings, conferences, workshops).	Knowledge of 1, 2; skill in 4; ability to 9.

123:1-7-22 (11)

MINIMUM CLASS REQUIREMENTS: (including license, if any.)

**Developed after employment*

JOINT
EXHIBIT

4

CLASS TITLE

Librarian 1 (Degreed)

CODE:

64312

OHIO
CLASSIFICATION
SPECIFICATION:

CLASS TITLE:

Librarian 2 (Degreed)

E:

64314

MAJOR AGENCIES:

Attorney General, Industrial Commission, Mental Health

JURISDICTION:

State

Developed for Equal Opportunity

FUNCTION: Under general supervision from Librarian supervisor or other administrative supervisor, provides specialized library services &/or serves as lead worker for specialized library program restricted to one specific field or one subject area (e.g., mental health; health/safety/rehabilitation; law library in Attorney General's Office);

Note: Classification is not for use by State Library Board.

PERFORMS RELATED DUTIES AS REQUIRED

JOB DUTIES

MAJOR WORKER CHARACTERISTICS

RANK % OF TIME

1 46-66

Provides specialized library services &/or serves as lead worker (i.e., provides training & work direction to lower-level professional &/or non-professional library employees) in providing specialized library services (e.g., participates in overall policy & procedure development of specialized library; plans & assists in coordination of library budget; prepares daily & monthly statistics on library usage, circulation & special statistical studies; completes literature searches & handles reference requests from agency staff &/or other interested parties; scans all journal book reviews & core lists; prepares bibliographies on specialized subjects for projects &/or speeches; prepares monthly newsletter on new books, journals & relevant announcements; visits other libraries to obtain useful information &/or contacts from field sources).

Knowledge of (1) library science & technology, (2) public relations, (3) supervision*, (4) budgeting; skill in (5) operation & maintenance of microfiche reader/printer, audio-visual equipment & on-line computer systems; ability to (6) interpret extensive variety of technical material, (7) calculate fractions, decimals & percentages, (8) uses proper research methods in gathering data, (9) gather, collate & classify information about data, people or things, (10) cooperate with others on group projects.

2 25-45

Develops & maintains uniform standard of record keeping in accordance with agency standards & maintains compliance in all record keeping practices; reviews & selects materials to be purchased for audio/visual equipment; selects, acquires, classifies, catalogues & indexes material relating to specialized program & answers questions & provides appropriate research material & reference information for public & private use.

Knowledge of 1; skill in 5; ability to 6, 8, 9.

UNUSUAL WORKING CONDITIONS:

May include some evenings.

MINIMUM CLASS REQUIREMENTS: (including license, if any.) Master's degree in library science from accredited college or university plus: 1 course in library organization &/or administration (or 1 month experience).

TRAINING & DEVELOPMENT:

CLASS TITLE

Librarian 2 (Degreed)

CODE:

64314

Page 1 of 2

JOINT
EXHIBIT

NEJ

02 AUG 1987

OHIO CLASSIFICATION SPECIFICATION <i>Developed for Equal Opportunity</i>		CLASS TITLE: Librarian 2 (Degreed)		CODE: 64314
		MAJOR AGENCIES: Attorney General, Industrial Commission, Mental Health		JURISDICTION: State
RANK	% OF TIME	JOB DUTIES		MAJOR WORKER CHARACTERISTICS
3	6-12	<p>123; 1-7-22 (15)</p> <p>Completes routine clerical tasks associated with library procedures (e.g., files cards, types catalogue cards, processes mail & correspondence, completes inter-library loan requests, processes film requests, checks in periodicals, prepares reports); attends in-service meetings & conferences concerned with planning, reorganization &/or special research problems; attends meetings held by State Library of Ohio.</p>		<p>Knowledge of 1, 2; skill in 5; ability to 6, 8, 9, 10.</p>

MINIMUM CLASS REQUIREMENTS: (including license, if any.)

*Developed after employment

JOINT
EXHIBIT

CLASS TITLE

Librarian 2 (Degreed)

CODE:

64314

THE ISSUE

The issue as framed by both the Association and the State is as follows:

What is the appropriate classification for Dilip Ghosh, Librarian 1, (Degreed), 64312, specification date, August 2, 1987 or Librarian 2, (Degreed), 64314, specification date August 2, 1987.

PERTINENT PROVISIONS OF THE AGREEMENT (Joint Exhibit #1):

Article 16 - Section 16.02, Position Audit Appeals

FACTS AND BACKGROUND:

The Parties to this Arbitration are the State Council of Professional Educators, Ohio Education Association, National Education Association (hereinafter referred to as the Association) and the State of Ohio, Department of Rehabilitation and Correction (hereinafter referred to as Management). The Grievant in this matter is Dilip K. Ghosh, a member of the bargaining unit.

The Grievant has been employed at the Ohio State Reformatory as a Librarian since 1982. The Grievant has several degrees including a Masters Degree in Library Science.

This Arbitration is a result of an appeal from an audit which took place on March 7, 1988, performed by Cathy Saunders, Personnel Technician, Department of Administrative Services. Ms. Saunders did not testify. The audit was a result of a previous Arbitration Decision, Grievance No. 86-0414, dated November 17, 1987 (Joint Exhibit #6), which determined that Mr. Ghosh was to be paid for a ten (10) week period as a Librarian II and that the determination of his job classification was to be made by the Ohio Department of Administrative Services.

The Department of Administrative Services conducted their audit via the telephone by interviewing the Grievant, Dilip Ghosh, and also his immediate supervisor, Dolores Kolic,

Facilitator. As a result of their input, the evaluator completed the Employees Audit Report Form (State Exhibit #3-G) and also the Supervisor's Audit Report Form (State Exhibit #3-G). Ms. Saunders then completed her decision based upon a comparison of the input from both the Grievant and his supervisor to the Classification Specifications for Librarian 1 (Degreed) and Librarian 2 (Degreed). Her assessment of the duties Mr. Ghosh were performing were then the basis for the following recommendation (Company Exhibit #3-G):

Documentation does not substantiate the duties of the higher level in directing/supervising in a specialized subject area.

It is recommended that the incumbent, at this time, remain classified as Librarian 1, 64311, as that specification best describes this position.

The input from both the Grievant and his supervisor indicated that Mr. Ghosh supervised 28 inmate workers in general library services and that he additionally supervised two inmate workers, clerks in legal library services. There was no indication nor mention on the input forms of guidance or direction given to the corrections officer who is assigned to the library during hours when inmates may visit the library. The duties reported by the Grievant and his supervisor were not disputed and were the same except for slight variations in percentage of time spent in some categories.

The audit by Cathy Saunders determined that the Classification Specification for Librarian 1 (Degreed) best described the position of the Grievant, Dilip Ghosh. As a result of the determination of that audit, a grievance was filed on April 12, 1988, at Step 4 (Joint Exhibit #2), in accordance with Article 16, Section 16.02 of the bargaining agreement. Article 5, Section 5.05, (E) Grievance Procedure, states:

If the grievant or the Association is not satisfied with the written answer received at Step 3, within seven (7) days after receipt thereof, the Association may file the grievance and any supporting documentatin with the Director of the Office of Collective Bargaining. No hearing shall be held at this Step. The Director of the Office of Collective Bargaining shall review the documents submitted, issue a decision in writing and return copies to the grievant, the Association, and the Director within twenty (20) days after receipt of the grievance.

The Ohio Department of Administrative Services, Office of Collective Bargaining, denied the grievance at Step 4 on April 25, 1988 (Joint Exhibit #2). As a result of the denial at Step 4, the Association submitted the grievance to Arbitration, as directed in Article 5, Section 5.05 (F), thus leading to this Arbitration hearing.

POSITION OF THE ASSOCIATION

The Association argues that the Department of Administrative Services erred when Mr. Dilip Ghosh was placed in the classification of Librarian 1 instead of Librarian 2. The Association requests that Mr. Ghosh be assigned to the classification of Librarian 2 (Degreed).

POSITION OF MANAGEMENT

Management contends that the duties of the Grievant must substantially statisfy the function statement and the job duty ranks of the classification specification. It further contends that the Ohio Department of Administrative Services, as the result of their audit of the duties of the Grievant, has properly classified Mr. Dilip Ghosh as Librarian 1 (Degreed) and asks that the grievance be denied.

DISCUSSION AND OPINION

This hearing, on the surface, appears to center on whether the Grievant, Dilip Ghosh, should be classified as Librarian 1 or Librarian 2. Upon close examination of the extensive testimony during this hearing, however, the main issue really seems to be twofold. The first issue is the definition of the term "specialized library services" and the second issue is the definition of "non-professional library employees". Each of these terms appear in the Rank 1 job duties for Librarian 2 (Degreed) and are crucial in determining whether an employee is indeed performing the duties of Librarian 2 (Degreed).

The State presented most of its testimony from the standpoint of explanation of the audit process and the interpretation of specialized library services and legal services. It presented as its main witness, Gail Lively, Ohio Department of Administration Services, Division of Personnel, Classification and Compensation Section. Ms. Lively is the administrator of this section and has worked there in several capacities since 1972. She stated that the library at the institution was considered a general library and that she considered this library as having a legal reference section, as opposed to having a library which dedicated all activities and materials to one subject area or in one field. She stated that the Specification for Librarian 2 (Degreed) referenced only three agencies which qualified as having a law library in which one would find a Librarian 2 (Degreed). The Classification Specification states the following for Function:

Under general supervision from librarian supervisor or other administrative supervisor, provides specialized library services &/or serves as lead worker for specialized library program restricted to one specific field or one subject area (e.g., mental health; health/safety/rehabilitation; law library in Attorney General's Office);

The Specification for Librarian 2 (Degreed), further states, in part, under Rank 1, 46-66 (% of time):

Provides specialized library services &/or serves as lead worker (i.e., provides training & work direction to lower-level professional &/or non-professional library employees) in providing specialized library services (e.g., participates in overall policy & procedure development of specialized library; plans & assists in coordination of library budget; * * *

Ms. Lively further testified that "There are no lower level professional/non-professional employees being provided work direction to or being trained, therefore the higher level classification of Librarian II (Degreed) is not warranted (verbal testimony).

Upon close examination of the Classification Specification for Librarian 2 (Degreed) (Joint Exhibit #5) and the exhibits submitted, mainly the Job Audit Report (Company Exhibit #3-G), as well as consideration of the testimony by Gail Lively for the State concerning the audit, it is this Arbitrator's opinion that the State erred in several instances in performing the audit.

The testimony, which is undisputed, shows that the Law Library was once separately located from the general library until a few years ago. When both libraries were located in the same area, the law library continued to be somewhat separated from the rest of the general library by a wall, as opposed to being on open shelves among the rest of the general library books and materials. There was some disagreement as to whether the institution now has a "law library" or whether it is just reference material on law, as there are other reference materials on other subjects in the library. The specification does not refer to the location materials used in a specialized service, it states only "provides specialized library services". Almost every witness had their own interpretation of what this term meant, as well as what legal services meant, in relation to

a "specialized service." Webster's Unabridged Dictionary defines "specialized" as "highly developed; extremely differentiated esp. in a particular direction or for a particular end - compare generalized." It further defines "service" as "to perform services for; meet the needs of". Lastly, Webster defines "legal" as used in this manner as "of or relating to law". Several witnesses testified to the fact that as a result of a court or several courts decisions, the library was required to furnish legal services to inmates. The Grievant's undisputed testimony shows that this requires specialized knowledge in order to provide forms for inmates to use in their legal requests to the courts, such as motions, writs, and petitions of various kinds. This is a service that is not provided for in any other reference materials in the library, it is exclusive for the legal portion of the library. Further, the Grievant testified that he selected and maintained legal materials over and above the minimum requirements handed down from the administration to the institution. Testimony shows that a sample of the various forms and requests for legal assistance were submitted for the audit; however, it does not appear that this information was taken into consideration as substantiating the fact that the Grievant was performing specialized services. It is this Arbitrator's opinion that the services provided by the Grievant would meet the definition of specialized library service, in light of the above definitions given. This is the first error in the audit.

The Grievant testified that he trained two inmates as clerks to aid other inmates in finding the proper legal material and forms. The Job Audit Report (Company Exhibit 3-G) also reflects the following questions and answers: "Do you supervise other employees?"; answer "Yes". "If so, please check type of supervision exercised: "(a) Functional (work direction, training of others)." This is marked in the affirmative on the supervisor's job audit form also. The Grievant further marked the second section under this question "(b) direct (evaluates,

approves/disapproves sick leave requests, disciplinary action, make work assignments)." This is not checked off on the supervisor's input sheet. The Grievant testified and also stated in the audit that he supervised 28 inmate workers in general library services and supervised two inmate workers, clerks in legal library services. These two particular inmates apparently functioned as law clerks, working under the direct supervision of the Grievant. Ms. Lively testified, however, that the Classification Specification states "professional or non-professional library employees" and stated that the term employee was defined as meaning civil services employees. She stated that if they meant inmates, it would specifically state "inmates." Testimony shows that at one time there were civil services employees who functioned as law clerks. For various reasons, they are no longer located at the institution; however, it appears that the Grievant has been directed to train inmates to perform the same function as the civil service employees had done previously. Thus, although the inmates are not civil service employees in the true sense of the word, they still are functioning as employees. This Arbitrator looks at supervision as just that, no matter what title or status the person(s) being supervised holds. This is the second error in the audit.

There was much discussion about a corrections officer who was located in the library. The Grievant testified that he gave directions to the officer and was responsible for filling out reports on his performance. The Grievant also testified that although he could not directly reprimand or discipline the officer, he could make recommendations to the corrections officer's immediate supervisor to do so. Evidently, this information was not conveyed during the audit, either for lack of knowledge on the Grievant's part that it may be a significant factor in the determination of the higher classification, or it was due to a lack of thoroughness on the part of the investigator doing the audit. From the testimony of Ms. Lively, it would appear that the Grievant acts as "lead worker" for the

corrections officer while he is stationed within the parameters of the library. It also appears that the Grievant acts as lead worker for the other 28 inmate workers in the general library area. Ms. Lively testified that the lack of being considered a "lead worker" and/or supervising employees in a specialized area were the determining factors that prevented Mr. Ghosh from being classified as Librarian 2 (Degreed). It appears that the Grievant meets both requirements, that of being a lead worker and also supervising employees in a specialized area, although Ms. Lively testified that it could be either/or and the Grievant did not necessarily have to meet both requirements to be classified as Librarian 2. This is the third error in the audit.

Further testimony by Ms. Lively reveals that each individual agency can develop what is known as preferred qualifications and are beyond those that are stipulated by the Department of Administration (which stipulates minimum qualifications). She stated that some institutions can also have job requirements of which her office would have no knowledge. Likewise, the State's other two witnesses, who are in administrative jobs overseeing the institution's library functions, stated that it was possible that the Grievant was performing work that they knew nothing about. Ms. Lively testified that the institution may not always follow the specifications and that was the reason for the job audit. In referencing the purpose of the job audit, Ms. Lively stated, "You are only considering the duties of the individual employee who is requesting the job audit. You cannot look at the job duties of other positions and use that to assign the classification. You can only look at those duties of the incumbent position against the existing state specifications." (verbal testimony) On cross examination, however, Ms. Lively testified that at present, there were no Librarian 2 (Degreed) employed by any correctional institution. When asked, "Did that have any impact on the determination that was made by your

department?", she answered, "Yes, when we write classification specifications, you contact the operating agencies that currently have vacancies and fill positions for that particular classification. Yes." This is in direct conflict with the procedures to follow in looking only at the encumbent's position and not at whether or not there are others classified at other correctional institutions. This is the fourth error in the audit.

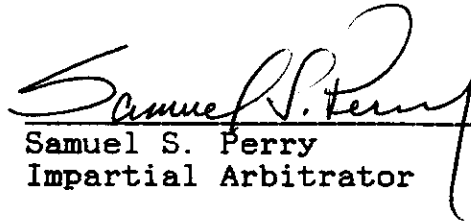
This Arbitrator finds it unfortunate that the audit was not conducted on site, as perhaps, the relationship between the Grievant and the corrections officer may have been clear, as well as the supervision over the two inmate law clerks and other library inmate workers. It is quite apparent that these four errors in the audit are serious enough to have altered the final result of the audit which rendered the Grievant a Librarian 1 (Degreed).

Article 16, Section 16.01 - Position Audit Appeals, states the following:

The position audit determination rendered by the Ohio Department of Administrative Services is subject to appeal by either the Appointing Authority or the employee with the approval of the Association beginning at Step 4 of the Grievance Procedure. An appeal from a position audit determination shall be filed no later than thirty (30) days after a party has notice of the audit determination. The State Personnel Board of Review shall lose its jurisdiction to hear position audit appeals from determinations made after the effective date of this Agreement.

The Association states that the Department of Administrative Services erred in the desk audit of Dilip Ghosh and asks that he be assigned the classification of Librarian 2 (Degreed). After close examination of the exhibits and testimony given, it is

this Arbitrator's opinion that management erred in conducting their audit on Dilip Ghosh, and that those errors are serious enough to have altered the audit and prevent the Grievant from being classified as Librarian 2 (Degreed). As this Arbitrator has pointed out, there are at least four serious errors which appear to have a direct bearing on the outcome of an audit. It is this Arbitrator's opinion that management should proceed to correct the errors contained above in the Discussion and Opinion. After completion of the audit, management should again review it's findings as to whether or not the Grievant's duties should be classified as Librarian 2 (Degreed). This second audit should be conducted on-site, as it appears that this institution may be unique in its functions as compared with other institutions, and the audit must be conducted based upon the operations at this particular corrections insitution.



Samuel S. Perry
Impartial Arbitrator

STATE COUNCIL OF PROFESSIONAL EDUCATORS OEA/NEA

-and-

STATE OF OHIO, DEPARTMENT OF REHABILITATION AND CORRECTION

In the Matter of Arbitration

Between

STATE COUNCIL OF PROFESSIONAL EDUCATORS
OHIO EDUCATION ASSOCIATION
NATIONAL EDUCATION ASSOCIATION

-and-

STATE OF OHIO, DEPARTMENT OF
REHABILITATION AND CORRECTION

) DECISION AND AWARD
)
) OCB Grievance No:
) 27-20-880413-0003-06-10
)
) Dilip K. Ghosh,
) Grievant
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DECISION OF ARBITRATOR

The Impartial Arbitrator, Samuel S. Perry, having been duly appointed by the Parties, in accordance with the Agreement entered into by and between the Parties, and having duly heard the allegations and proofs of the Parties, decides as follows:

Management is instructed to perform an audit to correct ther errors indicated in the Discussion and Opinion herein. This audit shall include a visit to the Institution for an on-site audit of the position and the job duties of the position.

Management is directed to complete the audit within thirty (30) days after receipt of this Opinion and Decision.

Opinion rendered, Decision signed, Issued and Dated at Beachwood, Cuyahoga County, Ohio this 26th day of October, 1988.



Samuel S. Perry, Impartial Aribtrator
Four Commerce Park Square, #600
23200 Chagrin Blvd.
Beachwood, OH 44122-5468
216/292-8220