

ARBITRATION SUMMARY AND AWARD LOG

OCB AWARD #: 546

OCB GRIEVANCE NUMBER: 27-21-891025-0183-06-10, INTERIM DECISION

GRIEVANT NAME: COOLEY, SUE

UNION: SCOPE, DEA/NEA

DEPARTMENT: REHAB & CORRECTIONS

ARBITRATOR: DWORKIN, JONATHAN

MANAGEMENT ADVOCATE: DURKEE, TED

2ND CHAIR: SAMPSON, RODNEY

UNION ADVOCATE: STEVENS, HENRY

ARBITRATION DATE: DECEMBER 13, 1990

DECISION DATE: DECEMBER 13, 1990

DECISION: INTERIM ARBITRAL AWARD

CONTRACT SECTIONS  
AND/OR ISSUES: ARTICLE 9.05, CLASSROOM TEMPERATURE

HOLDING: ORIENT CORRECTIONAL INSTITUTION TO ASSURE ALL CLASSROOMS ARE HEATED TO A REASONABLY COMFORTABLE TEMPERATURE. "THE AGENCY SHALL COMPLETE ITS OBLIGATIONS UNDER SECTION 9.05 BY DEVELOPING AND IMPLEMENTING A TEMPERATURE POLICY NO LATER THAN FORTY-FIVE DAYS FROM THE DATE OF THIS AWARD." ARBITRATOR RESERVES ENFORCEMENT JURISDICTION, IF NECESSARY. ARBITRATOR WILL HOLD FOLLOW-UP HEARING.

ARB COST:

In The Arbitration Between:

THE STATE OF OHIO  
Department of Rehabilitation  
and Corrections

-and-

STATE COUNCIL OF PROFESSIONAL  
EDUCATORS, OEA/NEA, UniServ

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*S. Cooley*

\* Case No. 27-21(89.10.25)0183-06-10

\* Interim Decision Issued  
\* December 13, 1990

INTERIM ARBITRAL AWARD

This dispute stems from a policy complaint initiated on behalf of Bargaining Unit members who teach in the State prison system. Although the grievance was commenced in October 1989, it reaches back several months to the negotiations sessions for the current Agreement. One of the Union's missions at the bargaining table was to obtain relief for teachers who sometimes worked in environments with uncomfortable temperatures -- classrooms that were too cold in winter and too hot in summer. The problem was intrinsic to some older institutions with heating and cooling systems which were not entirely reliable, and the solution was not easily achievable. Nevertheless, the negotiators addressed the matter and fashioned a contractual provision they hoped would create a standard for dealing with and ultimately improving the adverse learning environment. The language adopted appears in Article 9, Section 9.05 of the Agreement. It provides:

### 9.05 - Classroom Temperature

The Labor/Management Committee shall meet within sixty (60) days of the effective date of this Agreement to discuss temperature extremes as affects the learning environment. The Labor/Management Committee may recommend procedures to be followed during temperature extremes and heating/cooling system failures.

Within forty-five (45) days of receipt of the Committee's recommendations, the Employer, having considered those recommendations, shall develop and implement procedures to be followed during temperature extremes and heating/cooling system failures.  
[Emphasis added.]

This grievance was initiated because Management failed to comply with the contractual time limit for implementing procedures; in fact, no procedures have been implemented as of the date of this decision, nearly fourteen months after the grievance began. The Union seeks arbitral acknowledgement that the Employer violated its responsibility and, more importantly, a measure of relief for affected employees.

The grievance was presented to arbitration in Columbus, Ohio on December 13, 1990. The Arbitrator reviewed the exhibits and received informal statements from the parties. Since there is no real dispute over pertinent facts, there was no necessity for testimony; the facts were stipulated.

Having reviewed the evidence, the Arbitrator finds that the Employer's delay in fulfilling its obligation under Section 9.05 by implementing temperature procedures has been excessive. The Union is entitled to the benefit of its bargain, and the Arbitrator has authority to enforce the entitlement. Accordingly, the following interim remedy is hereby awarded and ordered into execution:

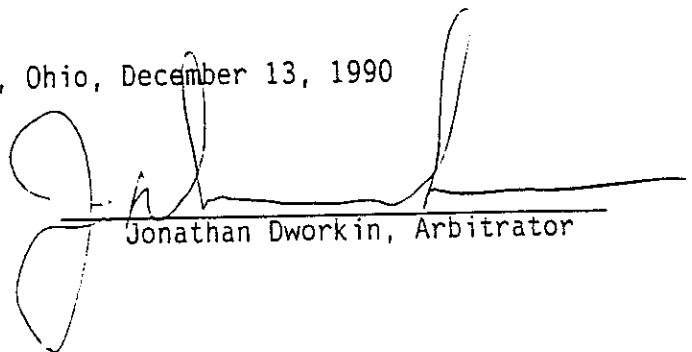
AWARD

Orient Correctional Institution is directed immediately to assure that all classrooms are heated to a temperature which will provide reasonable comfort for employees. It shall use whatever means are appropriate to comply, including but not limited to providing space heaters to classrooms as needed. This directive shall remain in effect and bind the Orient Correctional Institution until the procedures required by Article 9, Section 9.05 of the Agreement are developed and implemented.

The Agency shall complete its obligations under Section 9.05 by developing and implementing a temperature policy no later than forty-five days from the date of this Award.

The Arbitrator reserves jurisdiction of this dispute for the purpose of monitoring and enforcing compliance with the Award if necessary. Either party may invoke this retained jurisdiction by notifying the Arbitrator and the other party of its intention to do so. Upon receiving such notification, the Arbitrator will set a follow-up hearing.

Decision Issued at Franklin County, Ohio, December 13, 1990



Jonathan Dworkin, Arbitrator