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In the Matter of Arbitration	*	
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Between	*	Case Number:
	*	
State Council of Professional	*	32-00(10-01-90)207-06-10
Educators/OEA	*	
	*	
and	*	Before: Harry Graham
	*	
The State of Ohio, Ohio	*	
Veteran's Children's Home	*	
	*	

Appearances: For State Council of Professional Educators:

Henry L. Stevens
 Labor Relations Consultant
 Ohio Education Association
 5026 Pine Creek Dr.
 Westerville, OH. 43081

For Ohio Veteran's Children's Home:

Lou Kitchen
 Office of Collective Bargaining
 106 North High St.
 Columbus, OH. 43215

Introduction: Pursuant to the procedures of the parties a hearing was held in this matter before Harry Graham on May 13, 1993. At that hearing the parties were provided complete opportunity to present testimony and evidence. Post hearing statements were filed in this dispute. They were exchanged by the Arbitrator on May 24, 1993 and the record was closed.

Issue: At the hearing the parties agreed upon the issue in dispute between them. That issue is:

Did the Employer violate Section 10.04 of the Agreement?
 If so, what shall the remedy be?

Background: There is no dispute over the events that give rise to this proceeding. The Grievant, Barbara Mills, was initially employed at the Ohio Veteran's Children's Home (OVCH) on March 26, 1990. When she was employed Ms. Mills possessed a Bachelor's degree in Agriculture from The Ohio State University. She had worked in various capacities in agriculture for some years prior to assuming her duties at the Ohio Veteran's Children's Home. At the time of her hire Ms. Mills was to teach horticulture in the Vocational Education Program offered by the Home. Ms. Mills was not entirely qualified for that position. She lacked the requisite teaching certificate to teach in Ohio. In order to retain her position at OVCH it was necessary that Ms. Mills secure the required certificate. In due course it was determined that only The Ohio State University offered the necessary program and Ms. Mills enrolled at that institution. In accordance with her understanding of the Agreement between SCOPE and the State she came to submit her expenses to OVCH for reimbursement. That was denied by the Home. In order to protest that denial Ms. Mills filed a grievance. That grievance was processed through the procedure of the parties without resolution and they agree that it is now properly before the Arbitrator for determination on its merits.

Position of the Union: The Union points to Section 10.04 of the Agreement and insists that it was violated when the

Employer refused to reimburse Ms. Mills in this situation.

The language found at Section 10.04 provides that:

If the employing agency requires the employee to attend training sessions, conferences etc. the employee will be reimbursed as stipulated by existing OBM regulations.

When Ms. Mills was initially employed by OVCH the Employer was aware that she did not have a certificate to teach. Her employment was conditioned upon her securing such a certificate. She was directed to do so by officials at OVCH. In fact, she believed she could attend Wright State University in Dayton, OH. which is near to her home. She came to learn that Wright State was not able to provide the sort of credential required for her position at OVCH. Only at The Ohio State University was such a program available. It was required that she attend at that institution and secure the requisite stamp of approval from that University. Ms. Mills enrolled at The Ohio State University pursuant to the explicit directives she received. She was "required" to do so under the provisions of the Agreement. Hence, reimbursement is due according to the Union.

When teachers employed in other State institutions are required to secure additional education they are reimbursed. For instance, teachers who work in facilities under the auspices of the Department of Rehabilitation and Corrections routinely attend courses for which they are reimbursed. No difference between them and Ms. Mills exists in the Union's

view. Hence, reimbursement is due to her it insists. In addition, various other teachers employed at OVCH have received reimbursement in order to attend classes at Ohio State. For instance, teachers Allen, Knisley and Keim have had use of a State car to drive to Columbus in order to attend classes at Ohio State. Ms. Mills should be treated no differently. The Agreement requires that reimbursement be made and the Union insists that that occur. It urges the grievance be sustained and that the State be directed to reimburse the Grievant for tuition and expenses associated with her course of study at The Ohio State University.

Position of the Employer: The Employer points out that the requirement that teachers at OVCH be certified is imposed upon OVCH by the State. It is not a requirement established by the Home. As that is the case, it did not "require" the Grievant to attend OSU in order to receive certification. That was done by some other entity. Hence, no reimbursement is due to her.

As the State reads the text of the Agreement the reimbursement provisions of Section 10.04 do not apply and were not intended to apply to situations such as this. Rather, they were to provide reimbursement for employees who were required to attend conferences. The situation in this dispute is not a conference. The Grievant is seeking reimbursement for a course of study which OVCH did not

require her to take and which is well beyond any concept of a conference. Thus, no reimbursement is in order in this situation according to the State.

In the Employer's opinion the relevant contractual section for this dispute is Section 10.03. It deals specifically with "employee-initiated training" and provides that an employee "may be" reimbursed for that training. In this situation the Employer determined not to reimburse. It may do so under the clear terms of the Agreement it asserts. Moreover, no payment of the sort desired by the Union has ever been made before. No history of payment exists. As that is the case and the language of the Agreement does not provide for it, the State urges the grievance be denied.

Discussion: Section 10.03 of the Agreement is inapplicable to this dispute. It provides that the employee may be reimbursed for "employee-initiated training and/or an educational program." Ms. Mills did not participate in a training or "educational program" that she initiated. To the contrary, her course of study at Ohio State was initiated by the Employer.


When Ms. Mills came to be employed at OVCH she possessed a degree in the subject matter in which the employer sought to secure expertise: horticulture. In addition, her work history to the time of her employment with the Home was in horticulture as well. No doubt exists but that she was well

qualified by education and experience for the position she came to assume at the Home. That education and experience notwithstanding, Ms. Mills was required to secure the appropriate certificate in order to retain her teaching position at OVCH. It is a mischaracterization to assert as the Employer does in this instance that it did not require Ms. Mills to secure that credential in order to continue in employment. The Home is not autonomous in this respect. It must conform to the relevant requirements of the Department of Education. That entity requires that teachers possess the appropriate certificate in order to teach in Ohio. In this case the Grievant was employed with the full and complete knowledge of the Home that she did not possess the requisite certificate. She was informed that in order to continue in the position it was necessary that she secure the appropriate teaching certificate. That represented a condition of employment imposed by the Employer. Under the plain terms of the Agreement at Article 10, Section 10.04 it was the "employing agency" which required the Grievant to secure the certificate. She possessed the necessary subject matter expertise upon employment. Possession of the certificate was an additional requirement for employment imposed upon her by the Employer. As such, it must be reimbursed by the explicit provisions of Section 10.04 of the Agreement.

In this situation Ms. Mills was desirous of attending a

nearby institution of higher education, Wright State University. She was not permitted to do so. In order to secure the teaching certificate required by the Employer she was directed to the one institution in the State which offers the necessary course work, The Ohio State University. In this case not only did the Employer direct that Ms. Mills secure a teaching certificate as a condition of employment, it directed that she secure it from a specific university. It is beyond question that Ms. Mills was required to attend "training sessions" in order to continue her employment with OVCH. The Agreement confers upon the Employer discretion under the terms of Section 10.03 to pay or not to pay for training that is initiated by the employee. Under the terms of Section 10.04 no such discretion is allowed to the Employer. When it "requires" an employee to attend training sessions it must reimburse the employee. That is what occurred in this situation. Hence, payment must be made to Ms. Mills. Award: The grievance is sustained. The grievant is to be reimbursed for her expenses in connection with her course of study at The Ohio State University "as stipulated by existing OBM regulations."

Signed and dated this 5th day of June, 1993 at South Russell, OH.



Harry Graham
Arbitrator