

VOLUNTARY LABOR ARBITRATION  
PROCEEDING

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IN THE MATTER OF THE ARBITRATION BETWEEN:

THE STATE OF OHIO, OHIO DEPARTMENT OF YOUTH SERVICES

-AND-

THE STATE COUNCIL OF PROFESSIONAL EDUCATORS (SCOPE),  
OHIO EDUCATION ASSOCIATION (OEA) AND NATIONAL  
EDUCATION ASSOCIATION (NEA)

Grievant: Chuck Steinbower  
Grievance No.: 35-07-20100721-0087-0610

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ARBITRATOR'S OPINION AND AWARD  
ARBITRATOR: DAVID M. PINCUS  
DATE: APRIL 15, 2012

APPEARANCES

For the Association

Dominic Marsano  
Charles Steinbower  
Betsy Lavinder  
Bonnie Joseph  
Kerri Newgard

President  
Grievant  
Vice President and Grievance Chair  
LRC  
Advocate

For the Employer

Diane Luff  
Pat Mogan  
Victor Dandridge

Manager Employee Development Funds  
Second Chair  
Advocate

## INTRODUCTION

This is a proceeding under Article 6.01 and 6.02 entitled Arbitration Panel and Mediation Panel between the Department of Youth Services, hereinafter referred to as the Employer, and the State Council of Professional Educators, OEA, NEA, hereinafter referred to as SCOPE or the Union, for the period of July 14, 2009 through June 30, 2012 (Joint Exhibit 1.)

At the arbitration hearing, the parties were given the opportunity to present their respective positions on the grievance, to offer evidence, to present witnesses and to cross-examine witnesses. At the conclusion of the arbitration hearing, the parties were asked by the Arbitrator if they planned to submit post-hearing briefs. The parties agreed to submit briefs.

## STIPULATED ISSUE

Was the Grievant's request for reimbursement improperly denied, and if not what is the appropriate remedy?

## CASE HISTORY

Chuck Steinbower, the Grievant, has served as a Librarian for ten (10) years. The present dispute involves a contract interpretation matter involving Article 10.03 and selected portions of Travel Rules (Joint Exhibit 5.)

The facts for the most part are not in dispute. The Grievant wished to attend a conference in Washington D.C. He submitted an application for tuition/conference

reimbursement. He not only wished to be reimbursed for the registration fee but also for his travel, lodging and food expenses.

Prior to his departure, the Grievant was advised he would receive the conference registration reimbursement. He was also advised no other conference expense would be reimbursed.

The Grievant did, in fact, attend the conference from June 26, 2010 to June 29, 2010. Upon his return, the Grievant submitted a form for additional reimbursements for lodging and food.

The Principal, Joseph Becker, denied the request. In response, the Grievant filed a grievance with regard to the denial. It contained the following relevant particulars:

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I attended the ALA (American Library Association) conference in Washington, D.C. from June 26 – June 30. I collected all receipts and submitted them to my Principal, Joseph Becker, upon my return to work at Scioto DYS on the week of July 19. During the week of August 2, I received a denial of said requested travel reimbursement which was previously denied by Principal Becker. SCOPE bargained for travel to be included in reimbursement through Article 10.03 and should be granted per contract.

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(Joint Exhibit 2)

The parties were unable to resolve the disputed matter during subsequent stages of the grievance procedure. Neither party raised procedural nor substantive arbitrability issues. As such, the grievance is properly before the Arbitrator.

## THE MERITS OF THE CASE

### The Association's Position

The Association argues Article 10 was violated. The Grievant should have been reimbursed for travel, food and lodging while attending a continuing education conference in Washington D.C. It should be noted the Grievant did not submit for his airfare. He does, however, seek reimbursement for travel while in Washington D.C. , lodging and food.

Dominic Marsano, President of SCOPE, provided testimony regarding the intent of Article 10. When the parties negotiated this provision, the expenses in dispute were those intended for reimbursement.

The focus of the present dispute deals with the interpretation of Article 10.03. This provision does, indeed, reference the OBM Expenses and Reimbursement policy. However, the policy does not reference Article 10.03. As such, the contract provision serves as a potential bar. The provision mandates certain reimbursement requirements. Any changes in reimbursement protocols need to be discussed at the State-Wide Labor/Management Committee. When the Employer denied the reimbursement requests in question, the fund was changed without initiating the required discussion.

The Grievant was an agent of the State, even though he was not directed by the State to attend the conference. His supervisor approved the conference and the Grievant's registration fee was reimbursed. He attended the conference for continuing education credit and should have been reimbursed for all travel, food and lodging expenses. Any limitation violates Article 10.03 which states reimbursement shall be at one hundred percent (100%).

### The Employer's Position

The Employer argues it did not violate Article 10.03. The Grievant's request for reimbursement did not comply with the requirements articulated in the OBM Expenses and Travel Reimbursement policies. As such, the Employer's decision to deny certain reimbursements was proper.

The parties negotiated inclusion of the OMB policy in Article 10.03. The Union cannot attempt to limit application of this policy through the arbitration process when it failed to do so during negotiations.

### THE ARBITRATOR'S OPINION AND AWARD

From the evidence and testimony introduced at the hearing, a complete review of the record, pertinent contract provisions and the parties closing briefs, it is this Arbitrator's opinion that the Employer did not violate Article 10.03. The denials in dispute were proper and in accordance with the provision and all the particulars contained therein.

The Association has the burden of proof in a contract interpretation case.<sup>1</sup> Burden of proof means that the party who has the burden must produce more evidence than the party which does not have that burden.<sup>2</sup> Here, the Association has failed to meet its burden of proof, and thus its grievance is denied.

The language in Article 10.03 is clear and unambiguous. It states:

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<sup>1</sup> City of Springfield, 128 LA 1537 (Fullmer, 2011); Penn Union Corp., 128 LA 878 (Bell, 2010.)

<sup>2</sup> International Minerals and Chemicals Corporation, 62-1 ARB 8284 (Sears, 1962.)

Reimbursement for travel, food and lodging shall be governed by OBM Expenses and Travel Reimbursement policies.

The Association negotiated this language and nothing in Article 10.03 limits the application of this policy. Granted, this Article contains certain mandated caps and changes in the fund “shall be discussed at the State-Wide Labor/Management Committee.” The present dispute does not deal with these issues. Here, however, we have a grievance contesting the denial of certain reimbursements. The record is bare of any intention by the parties to address this matter or similar matters by the State-Wide Labor/Management Committee. It should also be noted that the Association never challenged the reasonableness of the denial.

The Employer properly applied critical features of the OMB policy (Joint Exhibit 5) when it denied the reimbursements. The policy requires an approved travel authorization prior to all travel. This requirement was never met since the Grievant was advised prior to his departure that his request for reimbursement would be denied. Two witnesses, Marsano and Luff, confirmed this fact.

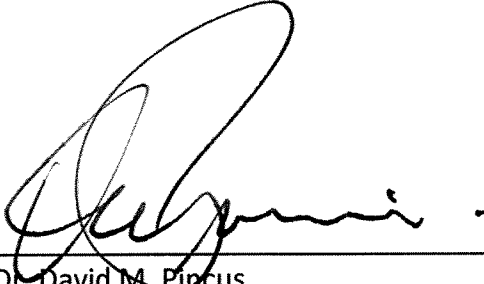
The policy (Joint Exhibit 5), moreover, requires an employee to enjoy paid travel status which “means a State agent who is traveling on behalf of the State and is in an active pay status.” Again, the Grievant’s reimbursements were properly denied because he was not acting as a State agent travelling on behalf of the State when he went to this conference.

AWARD

The grievance is denied.

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Chagrin Falls, Ohio



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Dr. David M. Pincus  
Arbitrator