

# GOLDSTEIN DECISION

This decision deals with the definition of a work area. The definition of a work area governs the rights of employees to transfer and rotate within the work area. The case is limited to direct care employees. These employees work in State institutions and are employed full-time, custodial and security positions. The institutions covered by this decision are Rehabilitation and Correction, Youth Services, Mental Health and Mental Retardation/Developmental Disabilities, Ohio Veterans Home, and the Ohio Veterans Children's Home. Rehabilitation and Correction was separated from the other agencies in the decision. The Union and the State each submitted proposals to Mr. Elliott Goldstein, the arbitrator. The Union argued for strict seniority bidding, for work selection in the smallest feasible unit, post, ward or cottage, with unlimited selection rights and no limitations on the "ripple effect." The ripple effect is the bumping and confusion caused by constant reassignments. This proposal is feasible and is working in other AFSCME represented institutions and facilities.

The State argued that the Union's proposal was impossible. The Union agreed to negotiate on several points. The Union could establish a waiting period before seniority can be exercised, limit the frequency of exercising seniority rights and limit the number of times an employee could be reassigned. The arbitrator awarded the following:

1) In all Agencies except for Rehabilitation and Correction the arbitrator found that the work area is defined as the smallest subdivision of regular work assignment in the physical setting wherein an employee performs his or her assigned work on a regular basis. Seniority is to be one of the criteria utilized in the selection of work area; other criteria are skills and abilities and the professional needs of the facility. If the latter two factors are equal, seniority shall control. Employees are limited to exercising their right to select a post to twice in one year. Job reassignments resulting from a selection are limited to two in number.

2) In the area of Rehabilitation and Correction the arbitrator urged the parties to come to an agreement. The arbitrator retained jurisdiction that if the parties could not come to an agreement Arbitrator Goldstein would accept the last best offer.

The Union and the State could not reach an agreement. The arbitrator accepted the State's last best offer. The Union argued that the key distinction between work areas was stress level and not physical location. The Union proposed that employees should be rotated among the most and least desirable

positions in an even-handed and structured way. The Union's plan would result in an individual Correction Officer being required to spend no more than one six month period out of every eighteen months in a high stress position. The State contended that the Union's proposal did not follow the actual manner in which jobs are actually categorized. The State offered four designated zones of rotation - Housing A, Housing B, Non-Housing and Relief. The arbitrator rejected the seniority principle and the "Pick a Post." A reservation of some discretion in the employer to assign work duties in an institutional structure must be recognized. There is a need for rotation that provides a mix of experienced personnel and there is a need for training opportunities. The arbitrator found that the Union's proposal did not consider geographical or physical location, concerns for training, and security created by a mix of experienced and inexperienced employees. The State's proposal considered these factors and also included in their plan certain stress levels. The Union's proposal would not solve the problem of work area, but rather would fracture the institutional work area.

With reference to Rehabilitation and Correction, a rotation is to occur every six months. There will be four different types of work to be defined by the parties and the rotation shall include one job assignment in each over the course of two years.