

# **Vacating an Arbitration Award**

**Michael Duco, Deputy Director**  
Office of Collective Bargaining  
Department of Administrative Services

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## **Standards for Vacating an Arbitration Award**

Once an arbitration award has been issued, it is considered final and binding. A court is permitted to vacate an arbitration award, but the reasons for doing so are very narrow. Ohio Revised Code (O.R.C.) § 2711.10 provides that the court of common pleas, “upon the application of any party to the arbitration,” may vacate the award if certain standards are met. An arbitration award may be vacated if:

- (A) The award was procured by corruption, fraud, or undue means.
- (B) There was evident partiality or corruption on the part of the arbitrators, or any of them.
- (C) The arbitrators were guilty of misconduct in refusing to postpone the hearing, upon sufficient cause shown, or in refusing to hear evidence pertinent and material to the controversy; or of any other misbehavior by which the rights of any party have been prejudiced.
- (D) The arbitrators exceeded their powers, or so imperfectly executed them that a mutual, final, and definite award upon the subject matter was not made.

Upon vacating, the court may order a new hearing.

If you are interested in exploring the option of vacating an award and you believe that it fits within one of the above reasons, contact the Office of Collective Bargaining for assistance. The standards for vacating an arbitration award are purposely high. The policy of Ohio’s law and its judicial system favor and encourage arbitration. Allowing awards to be easily vacated would undermine the important role of arbitration in labor-management relations.

## **Who May Move to Vacate an Arbitration Award**

Please be advised that only parties to an award may move to vacate. The Ohio Supreme Court has determined that individual aggrieved employees do not have standing to move to vacate unless the parties’ collective bargaining agreement expressly gives the employee an independent right to submit disputes to arbitration. *Leon v. Boardman Twp.*, 100 Ohio St.3d 335 (2003).

## **The Procedure for Vacating an Arbitration Award**

If you have received an arbitration award and you believe it meets the standards for vacating, contact the Office of Collective Bargaining. A motion to vacate may be filed in the court of common pleas. Jurisdiction is determined by O.R.C. § 2711.16 as the location designated by the parties in the arbitration agreement or, whether or not so designated, the court of common pleas of any county in which a party resides or may be summoned.

O.R.C. § 2711.13 provides a time limit on filing the motion. Notice of a motion to vacate must be served upon the adverse party within three months after the award is delivered to the parties. There are also specific requirements for filing documents with the motion to vacate listed in O.R.C. § 2711.14. Among other things, a copy of the award must be filed with the clerk.

### **Other Options**

If the arbitration award does not meet the standard for vacating, it may be possible to have the court modify the award. Modification is only an option if the mistakes in the award do not seriously affect the merits. Through modification, the court merely corrects the award; it does not throw the award out.

Modification also requires that a motion be filed in the court of common pleas. O.R.C. § 2711.11 provides that an award may be modified if:<sup>1</sup>

- (A) There was an evident material miscalculation of figures or an evident material mistake in the description of any person, thing, or property referred to in the award;
- (B) The arbitrators have awarded upon a matter not submitted to them, unless it is a matter not affecting the merits of the decision upon the matters submitted;
- (C) The award is imperfect in matter of form not affecting the merits of the controversy.

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<sup>1</sup> The order shall modify and correct the award, so as to effect the intent therefor and promote justice between the parties.

If you believe that an arbitration award meets one of these standards, contact the Office of Collective Bargaining for assistance.