IN THE MATTER OF AN ARBITRATION

BETWEEN:

THE COLLEGE COMPENSATION AND APPOINTMENTS
COUNCIL (FOR COLLEGES OF APPLIED ARTS AND
TECHNOLOGY)

-AND-

ONTARIO PUBLIC SERVICE EMPLOYEES' UNION (FOR
SUPPPORT STAFF EMPLOYEES)

EXPEDITED ARBITRATION FOR JOB EVALUATION
GEORGE BROWN COLLEGE, TORONTO
ALEXANDER TODOROV
OPSEU File 755701

<u>Appearances</u>:

Christine Legault, Marilou Martin and Alexander Todorov for
OPSEU

Dan Michaluk, Alfred Carr, Regina Lapworth, Dave Ivany and
Joane Chicoine for George Brown College

Hearings held March 6, May 5, and June 13, 2008 at Toronto,
Ontario

Award released January 11, 2009 at Georgetown, Ontario

AWARD

1.   I was appointed by the parties pursuant to Article 18.4.3.1 of their collective agreement to hear and determine on an expedited basis, a dispute concerning the job evaluation of Alexander Todorov, Systems Analyst.

2.   There are two areas of disagreement. Mr. Todorov and OPSEU disagree with the contents of the Position Description and they disagree about the job evaluation results on four subfactors, Planning/Co-ordinating; Guiding/Advising Others; Service Delivery and Communication.

3.   The hearing was held over three days. The first day was adjourned after some useful exchanges among the parties in which it became clear that OPSEU sought to challenge the contents of the Position Description, which the employer had not addressed in its brief. I hasten to add that no one was to blame for this misunderstanding, and it made sense to adjourn the proceedings to permit everyone to come back prepared to address all of the issues.

4.   Although I received information both about the disagreement around the contents of the Position Description and about the disagreement around the evaluation itself at the same time, as I explained to the parties, it makes logical sense to first determine whether the Position Description is accurate or not. I will then review the disputed evaluation, having regard to any findings I have made about the accuracy of the Position Description.

Accuracy of the Position Description

5.   Having reviewed the information provided by the parties, there are fundamental disagreements that have a significant impact on how they view the job content of the Systems Analyst. There have been changes in how the department is organized, with the result that tasks and responsibilities that Mr. Todorov might have performed prior to March 2007, before the new job evaluation system was introduced are no longer performed by his position. In the course of the hearing, it became clear that, from the employer's perspective, Mr. Todorov is performing tasks that he ought not to do and has been told not to do. But I think it is also fair to say that until the hearing, Alfred Carr, Mr. Todorov's manager, did not fully appreciate all the work that Mr. Todorov was performing that Mr. Carr believes he ought not to do.

6.   Article 18.4.5.1 of the collective agreement requires me to determine "whether the grievor's PDF accurately reflects his/her assigned job content…." The Introduction to the Support Staff Job Evaluation Manual explains that the Position Description Form (PDF) "…describes the position as it now exists, not as it ought to be or will be in the future".

7.   The PDF, it follows then, is not meant to describe the job as the incumbent would like it to be, nor the job as it was performed at some point in the past. It is acknowledged in the collective agreement that the employer maintains the right to determine the content

of jobs by assigning tasks, which also includes the decision to assign some tasks to one job and other tasks to another job. Of course, the employer is not able to ignore that an employee is regularly doing more, and then deny that the work was assigned when the employee seeks to have that work included in a PDF. But, it is important to recall the basic principle that the employer assigns work and that the PDF is intended to reflect the assigned tasks.

Overview of the department

8.   Mr. Todorov works in a department called Information Technology Services (ITS). The department is responsible for development, maintenance and support for George Brown College's core information technology system, called Banner. Banner is proprietary software, provided by an external vendor. Banner supports a number of applications that are central to the College's information infrastructure, such as student records, course selection, and course payments. ITS is responsible for the maintenance of Banner on a daily basis, which includes implementing updates required by Banner's vendor. In addition, every three years or so, Banner's vendor requires a major updating, which becomes the priority for ITS for many months. ITS must implement the updates, resolve any conflicts that are created with changes George Brown had previously made to Banner to suit its needs. ITS will also consider whether the Banner updates provide opportunities for new applications to suit its client groups.

9.   Banner is the "backbone" of the College's information technology systems. The College can develop new uses and applications to suit client needs that use information and functions found in Banner. The role of the ITS is to develop the new uses, and implement them in a way that suits the client, but that does not compromise or alter Banner.

10.   Albert Carr is the department manager. After he was hired, he saw two significant problems that needed to be addressed. He wanted to ensure that proposals for new or changed functionalities to Banner were brought to him and approved by him before any work was undertaken. He wanted this control so that he knew what was going on and who did what. He also wanted to be able to assign tasks to the right person based on their skill sets. He also wanted to be sure that the baseline code in Banner was disturbed as little as possible because the department had learned that unless the Banner baseline code was maintained, any subsequent updates required by Banner's vendor were difficult to implement.

11.   The employer introduced a document, which Mr. Carr said was discussed many times, but in particular, was introduced at a staff meeting on May 8, 2006. That document indicated that requests for new or changed functionality were to be submitted to Mr. Carr, who would be the project manager and create the project plan for the changes. The roles of others in the department were also set out. The Business Analyst is to act as the project co-ordinator, identifying the subtasks required to undertake the project plan, and developing time requirements. The Business Analyst may consult with the Systems Analyst for technical views. The Business Analyst, according to this

document, is to determine which Programmer Analyst can perform the tasks, based on their skill sets and workload. But the Business Analyst may not alter existing assignments to Programmer Analysts, without Mr. Carr's agreement.

12.   The role of the Systems Analyst, Mr. Todorov's position, according to this document is to receive the change request from the Business Analyst, "examine user requirements and technical specs to create a technical design document based on areas of code and functionality (create the structure of these changes)", then "inform Programmer Analysts what needs to be done to create the changes in code". Mr. Carr characterized the Systems Analyst as the technical expert in the department on the Banner software. The Systems Analyst must look at the business requirements, provided by the Business Analyst, and determine what areas of Banner code need to be changed. Mr. Carr said that the Banner code is large and complex and the Systems Analyst has to figure outwhat code has to be changed, and communicate that technical information to the Programmer Analysts.

13.   The May 8, 2006 document and Mr. Carr's view of the different roles of positions in his department is important to the dispute between the parties. Mr. Todorov asserts that although Mr. Carr may be the overall project leader, the Systems Analyst plans and co-ordinates the work of the Programmer Analysts. Mr. Carr asserts that the co-ordination is performed by the Business Analyst, not by Mr. Todorov. Mr. Todorov said that he does not recall the May 8, 2006 document and does not recall any discussion about it. He says that he has not been told not to co-ordinate and plan the work of the Programmer Analysts. Mr. Carr asserts that Mr. Todorov has been told, but prefers to continue to do things as they were done in the past.

14.   In my view, the differences between the parties can be reconciled. A number of the examples relied on by Mr. Todorov to show his planning and co-ordination role with the Programmer Analysts arose during the roll out of Banner 7, the last major upgrade to Banner. That project occurred in late 2005 and early 2006. Most significant, that project occurred before Mr. Carr imposed his new directives, before the new job evaluation system was implemented and before Mr. Todorov's new PDF was prepared and evaluated. It may well be that Mr. Todorov was required to play a more significant role in planning and co-ordinating the work of Programmer Analysts, but that work has now been assigned to the Business Analyst (or the new Assistant Manager), under the direction of Mr. Carr. I believe that Mr. Carr has implemented a new process for assigning and overseeing tasks, as is the employer's right.

15.   Mr. Carr said that there is a good deal of discussion, even arguments, between the Systems Analyst and the Programmer Analyst about how the code can be re-written to meet the functional requirements. Mr. Carr acknowledged that the Systems Analyst is the source of considerable technical advice to the Programmer Analysts, but they are ultimately responsible for the coding work they perform; the Systems Analyst is not accountable for the programming work.

16.   The May 8, 2006 document has not just affected the relationship between the Systems Analyst and the Programmer Analyst, but also made clear that requests for changes to functionality must be approved by Mr. Carr and that he will generally be the project leader.   It is the Business Analyst who is responsible for determining user requirements and it is the Quality Assurance Analyst who is responsible for communicating to the users about testing and implementation. The flow of work and assignment of responsibilities does not require the Systems Analyst to communicate with users, either at the beginning, the middle of the process, nor at the end. Mr. Todorov identified at least two instances where he had worked directly with users to either convince them to alter their business needs, because the functionality could not be achieved in the way they wanted, or because better functionality could be accomplished, without creating future problems, by a different approach. Mr. Carr said that he did not have direct knowledge of the situations but in at least one (the Advanced Standing issue) a Business Analyst was also involved in working with the users to figure out how to best achieve their needs. I understood Mr. Carr accepted that the Systems Analyst might have to meet with the users and the Business Analyst to provide technical advice about how to meet the business needs. In respect of the second instance (Concurrent Curriculum issues in the Registrar's area), Mr. Carr was aware that Mr. Todorov and the Assistant Manager met with the users to discuss the impact of changes to Banner on their work.

17.   Mr. Carr said that he cannot control who users choose to contact within his department, but that he has made it clear to his staff that users are to contact him, the Assistant Manager or the Business Analyst. He confirmed that he has communicated the same message to the Systems Analysts.

18.   As the examples provided by Mr. Todorov indicate, the divisions among the positions in ITS are not as clear as Mr. Carr might wish or can be practically achieved. There are situations in which it makes sense for the Business Analyst to involve the Systems Analyst in its communication and problem-solving with users. I note that the PDF prepared by the College acknowledges in the Position Summary that the Systems Analyst "…provides advice to business users in other departments on how to resolve technical issues with the Banner application." The difference between the parties is one of degree and perception. I am satisfied that the Business Analyst and Manager or Assistant Manager are primarily responsible for the communication and problem-solving with users. The Systems Analyst can and does play a role, which is acknowledged in the PDF, but it is in technical advice and support, not the broader analysis of the business needs and how to accomplish them.

Conclusions about the PDF

19.   I have spent a significant amount of time reviewing the information I received, both orally and in documents at the hearing, and in preparing my award. The work performed by ITS is complex, and it has been challenging to convey in writing. Going back to look at the PDF, I am struck by how succinctly it captures what has been expressed to me as the important aspects of the job of Systems Analyst, with relevant examples of how that work is performed, the challenges that are presented, how the tasks

relate to the work of others, and its importance to the work of the College. I am more than satisfied that the PDF accurately reflects the duties assigned to Mr. Todorov.

The disputed subfactor ratings

20.   The union and Mr. Todorov challenge the ratings on four subfactors, Planning/Coordinating; Guiding/Advising Others; Service Delivery and Communication. I will address each in turn and to avoid repetition, may make reference to findings already made in the part of this award that addressed the adequacy of the PDF. Excerpts from the parties' job evaluation manual are set out in italics.

Planning/Coordinating

21.   This subfactor reads as follows;

This factor measures the planning and/or coordinating requirements of the position. This refers to the **organization and/or project management skills** *required to bring together and integrate activities and resources needed to complete tasks or organize events. There may be need to perform tasks with overlapping deadlines (multi-tasking) to achieve the decided results.*

The employer assigned Level 2, which reads, *Plan/coordinate activities and resources to complete own work and achieve overlapping deadlines.* The union and Mr. Todorov advocate that Level 3 is more appropriate. It reads *Plan/coordinate activities, information or material to enable completion of tasks and events, which affect the work schedule of other employees.*

22.   I find that the language of Level 3 better captures Mr. Todorov's responsibilities. As the PDF indicates, the Systems Analyst writes technical specification to tell the programmer analysts what modifications to make and how they should be carried out. The Systems Analyst will not only advise about how to solve the problem, but will be helping the Programmer Analyst to learn why one method is better than another, thus improving his or her programming skills. Although the Systems Analyst does not assign work to the Programmer Analyst, the PDF makes clear that the Systems Analyst must assess the skills of the assigned Programmer Analyst to properly estimate how much time the Programmer Analyst will need to execute the technical plan the Systems Analyst develops. The Systems Analyst creates the detailed work plan for the Programmer Analyst, taking into account the sequence of tasks that must be undertaken, the skills of the programmer and the time that will be required. Those job requirements are best reflected at level 3.

Guiding/Advising Others

23.   This subfactor reads as follows;

*This factor refers to any **assigned responsibility** to guide or advise others (i.e. other employees, students) in the area of the position's expertise. This is over and above communicating with others in that the position's actions directly help others in the performance of their work or skill development.*

24.   The College suggests Level 3, *Advise others to enable them to perform their day-today activities*, with additional points for an "occasional" Level 4. The union proposes Level 5, *Responsible for allocating tasks to others and providing guidance and advice to ensure completion of tasks* is more appropriate.

25.   I conclude that Level 4 *Guide/advise others with ongoing involvement in their progress* is most appropriate. The relationship between the Systems Analyst and the Programmer Analysts that I have described in paragraph 15 is best captured by these words. The PDF, in the section about Guiding/Advising Others recognizes an ongoing technical role for the Systems Analyst in the work of the Programmer Analyst, providing advice and training, with the dual goals of project completion and an improvement in skills. The Note to Raters is particularly helpful in this case. In respect of Level 4, it reads *this may be a position that, while not responsible for formal supervision, is assigned to assist less experiencd staff and is expected to actively contribute to their skill development.* The information I heard established that this requirement is a regular and recurring aspect of the Systems Analyst job, not an occasional aspect. I conclude that Level 4 is appropriate.

Service delivery

26.   This subfactor is described as follows:

This factor looks at the service relationship that is an assigned requirement of the position. It considers the required manner in which the position delivers service to customers and not the incumbent's interpersonal relationship with those customers.

All positions have a number of customers, who may be primarily internal or external. The level of service looks at more than the normal anticipation of what customers want and supplying it efficiently. It considers how the request for service is received, for example directly from the customer, through the Supervisor or workgroup or project leader; or by applying guidelines and processes. It then looks at the degree to which the position is required to design and fulfil the service requirement.

27.   The employer evaluated this factor at level 3, *Tailor service based on developing a full understanding of the customer's needs.* The union argues for level 4, *Anticipate customer requirements and pro-actively deliver service*. I find that level 3 is appropriate. As set out above, requests for changes or new functionality come from users, through the Manager or Assistant Manager. In the course of meeting those requests for change, the Systems Analysts, like the Business Analyst, must ensure that they fully understand the user's needs, must contemplate how meeting those needs affects the function of Banner overall, and think about the consequences of making changes, an element that the user

may not consider. I think that level 3 includes the step of thinking about the user's request and applying expertise to see if there is a better way to accomplish the task. That is part of "tailoring service", particularly where there is a need to think of the impact of change on overall Banner functionality. But the Systems Analyst is not required, nor permitted, to seek out projects or anticipate future needs of its customers and design projects to meet those future needs.   That is the difference between Level 3 and Level 4

Communication

28.   This factor reads as follows:

*This factor measures the communication skills required by the position, both **written and oral** and includes:*

- *communication to provide advice, guidance, information and training*
- *interaction to manage necessary transactions*
- *interpersonal skills to obtain and maintain commitment and influence the actions of others*

The Notes to Raters provides the following to clarify:

*'Explain' and 'interpretation' in **level 3** refers to the need to explain matters by interpreting policy or theory in such a way that it is fully understood by others. The position must consider the communication level/skill of the audience and be sensitive to their abilities and/or limitations. At this level, if the exchange is of a technical nature, then usually the audience is not fully conversant or knowledgeable about the subject matter. Unlike communicating with people who share an understanding of the concepts, in this situation the material has to be presented using words or examples that make the information understandable for non-experts or people who are not familiar with the intricacies of the information.*

'Gaining cooperation' refers to the skills needed to possibly having to move others to your point of view and gaining commitment to shared goals. The incumbent works within parameters determined by the department or College and usually there is a preferred outcome or goal. The audience may or may not have divergent views.

29.   The employer rated the position at level 3, *Communication involves explaining and/or interpreting information to secure understanding. May involve communicating technical information and advice.*   The union and Mr. Todorov argue for level 4, *Communication involves explaining and/or interpreting information to instruct, train and/or gain the cooperation of others.*

30.   On the basis of the information I have heard, I conclude that it is not up to the Systems Analyst to gain the cooperation of others, such as users, who may have to be convinced that the initial functionality change they wanted cannot be implemented

exactly as requested. It is up to the Manager and Business Analyst to manage the relationship with the users and convey what ITS proposes. The Systems Analyst contributes to that communication, by providing explanations of technical information, and ensuring understanding, but those qualities are captured at level 3. The communication that the Systems Analysts carry out with the Programmer Analysts is captured at level 2. Although the information exchanged and explained may be of a more complex technical nature, since all the parties are technically competent, the communication is not as challenging as it would be with, for example, customers or users. Level 3 is appropriate.

Summary

31.   On the disputed subfactors, I make the following determinations for the reasons set out above:

Planning/Coordinating	level 3	56 points
Guiding/Advising others	level 4	41 points
Service Delivery	level 4	51 points
Communications	level 4	78 points

When those points are added to the points for the undisputed subfactors, the result is 677 points, which places the Systems Analyst at pay band J.

Dated at Georgetown, Ontario, this 11th day of January, 2009.

QuickTime™ and a
TIFF (Uncompressed) decompressor
are needed to see this picture.

Mary Ellen Cummings