IN THE MATTER OF A CLASSIFICATION GRIEVANCE

BETWEEN:

OPSEU LOCAL 731

-and-

GEORGIAN COLLEGE

Regarding the Classification of Financial Aid Officer, OPSEU #2007-0349-0006

BEFORE: Kathleen G. O'Neil, Single Arbitrator

For the Union: Jillian Peacock, President, OPSEU Local 349

Carol Bird, Jennifer Feggi (Bouvier), Sydney King, Grievors

For the College: Lori Bell, Human Resources Consultant

Stephen Junkin, Registrar

Cathy Brown, Director, Human Resources Joyce Goheen, Human Resources Services

A Hearing was held in Barrie, Ontario on March 9, 2010

AWARD

This decision deals with the classification grievance submitted on June 7, 2007 claiming that the position entitled Financial Aid Officer, currently held by grievors Carol Bird, Jennifer Feggi, and Sydney King, is incorrectly classified at Payband G and asking that it be reclassified upward to pay band H. The employer maintains that the job is properly classified.

This grievance arises under the new classification system, which is the result of a thorough overhaul of the support staff job evaluation plan by the provincial parties. The new CAAT Support Staff Job Evaluation Manual (referred to below simply as "the Manual"), is a negotiated document which came into effect March 1, 2007.

The provisions of the Manual detail a job evaluation system aimed at providing an objective basis for the placement of a very large variety of jobs across the college system on the common salary grid in the collective agreement. To this end, the Manual provides a method of evaluating the job duties, which are formally set out in the Position Description Form (referred to below as the PDF). It is important to underline that it is the basic requirements of the job that are evaluated in this system, and not the performance, qualifications or worth of incumbents, even if they perform at a level or possess skills that surpass the requirements of the job. My role as an arbitrator in dealing with this grievance, in which the PDF is not in dispute, is limited by Article 18.4.5.1 of the collective agreement to determining whether the job is properly evaluated pursuant to the Manual. The exercise is somewhat technical, and the outcome does not depend on the value of any incumbent's work to the College community in terms of personal effort or in the sense of how much his or her contribution to the College's work is appreciated by colleagues and those who rely on the incumbent's work.

Overview of the Position

The incumbents in the position of Financial Aid Officer report to the Registrar, and are responsible for the delivery, coordination and implementation of all Financial Aid Programs, in respect of which they have delegated signing authority for the College. The incumbents are responsible to advise students and their families on a wide range of issues related to financial aid, but the parties are agreed that this is not a counselling position, per se.

A. THE PDF

The parties have agreed to the content of the Position Description Form (PDF), but disagree on the rating for four factors, which will be discussed below.

B. FACTORS IN DISPUTE

The four factors still in dispute will be discussed in turn. They are:

- i. Education 1A
- ii. Experience
- iii. Independence of Action
- iv. Audio Visual Effort

i. Education 1A

The College proposes that the minimum educational requirement should be a two-year college diploma rather than the three years proposed by the union.

The college notes that it is the employer's right to set the qualifications for positions, and underlines that in doing so, the College considered the Education and Experience levels in combination, given a history of trading off formal education for higher experience in hiring and promoting candidates. In their view, if they were to increase the minimum education levels, they would need to reduce the experience factor accordingly. Further, the minimum educational requirement for this position has been at the two-year level for several years. The College stresses that, as part of the transition to the new evaluation system, they reviewed all the minimum education levels across the bargaining unit to ensure consistency. Having reviewed the course offerings for the two-year business diploma at Georgian College for instance, they are satisfied that the learning outcomes are sufficient for a minimum educational requirement for this position. Further, they have not heard anything specific lacking in the current situation which would require the additional level of education.

The union bases its claim for a higher level of minimum education on the fact that the responsibility of the job has increased in recent years, especially since the elimination of the position of Assistant Manager. They also submit that the provincial standard is a minimum of a three year post-secondary diploma/degree for jobs such as this one. In this regard they included in their brief job descriptions and information about other jobs than the ones in issue, some from other colleges. The College queried how this fit with the accelerated process, and whether this meant that further evidence was needed, which would be more appropriate to a full board procedure. Neither party took the position that a full board was required, and it was not my view that one was necessary. In the circumstances, I view the information provided about other jobs

as background narrative to the union's presentation, and as a statement that it is not out of the ordinary to require more years of experience, rather than something creating a need for formal evidence in this regard.

The union submits that counselling in the sense the word has usually been used in association with this position, as well as troubleshooting, crisis intervention, interviewing, statistical and office management skills are essential to the position. As well, a level of maturity, diplomacy, tact and knowledge, including awareness of issues of Freedom of Information and Privacy are required. In the union's view this warrants a requirement for a three-year degree, which would give an incumbent a better idea of how the government works at its various levels, as well as a broader knowledge of the diverse society from which the students come, and a deeper understanding of statistical and business applications.

In this area, it is important to stress that the Manual is very clear that what is being measured is the *minimum* level of formal education required to perform the responsibilities of the position. In the circumstances, and in the absence of evidence that there has been a problem in having the job performed satisfactorily with a two-year rather than a three-year educational requirement, I am not persuaded that the College's stated level of minimum educational level is inadequate to the job as described. Although a higher level of education will no doubt be an asset to an incumbent, there is not sufficient reason in the material before me to raise the level, especially as doing so would have the potential to unnecessarily put the job beyond the reach of people who would be able to function well in the job without this level of formal education.

In the result, the College's rating of the factor Education is confirmed.

ii. Experience

The Manual provides the following as to what is being measured by this factor:

This factor measures the typical number of years of experience, in addition to the necessary education level, required to perform the responsibilities of the position. Experience refers to the time required to understand how to apply the knowledge described under "Education" to the duties of the position. It refers to the minimum time required in prior positions to learn the techniques, methods and practices necessary to perform this job. This experience may be less than the experience possessed by the incumbent, as it refers only to the time needed to gain the necessary skills.

The positions of the parties are as follows:

College: Level 4 Minimum of 3 years experience Union: Level 5 Minimum of 5 years experience

In proposing that the required level of experience be five years, rather than three, the union stresses that the greater level of experience is appropriate given the amount of judgment and understanding that is necessary to understand how to apply all the rules involved with the work of this position. The union maintains that for over five years the incumbents have inherited many of the job functions of a position known as a Support Services Officer, for which the experiential requirement was five to eight years. The incumbents underline that they used to be submitting recommendations to someone else to make decisions, whereas they are now making such decisions themselves.

The employer notes, as with the Education factor above, that the College underwent a process to calibrate the Experience factor, again a minimum requirement, for all support staff positions. As well, the employer mentioned that the most recent job description for this position after the Support Services Officer left required three years experience, and that five years have never been required for this position. Further, the two years of educational experience, which includes the potential of cooperative work experience, together with three years relevant experience is a level the College is satisfied is adequate to the assigned duties of the position.

I am not persuaded on the evidence that the current requirement of three years as a minimum experiential requirement, combined with two years education, would be insufficient preparation for a new hire into this position. Although a greater amount of experience would be an asset, the information before me does not establish that an applicant with this combination of education and experience would not likely have had sufficient time to learn the techniques, methods and practices necessary to learn the job, which is what this factor measures. Nonetheless, I accept without hesitation that anyone beginning in the job, especially without previous experience in financial aid, would have a significant learning curve given all the detailed information with which the job deals.

Accordingly the College's rating for this factor is confirmed.

ii. Independence of Action

The manual provides that:

This factor measures the level of independence or autonomy in the position. The following elements should be considered:

- the types of decisions that the position makes
- what aspects of the tasks are decided by the position on its own or what is decided by, or in consultation with, someone else, such as the supervisor

- the rules, procedures, past practice and guidelines that are available to provide quidance and direction.

These considerations, when taken as a whole, will define the parameters and constraints of the position within which the incumbent is free to act.

The dispute between the parties is between Level 2, with occasional duties at Level 3, attributed by the College, and Level 3, with occasional duties at Level 4, sought by the union.

The Manual describes those three levels as follows:

Level 2:

Position duties are completed according to established procedures. Decisions are made following specific guidelines. Changes may be made to work routine(s).

Level 3:

Position duties are completed according to general processes. Decisions are made following general guidelines to determine how tasks should be completed.

Level 4:

Position duties are completed according to specific goals or objectives. Decisions are made using industry practices and/or departmental policies.

"Process" from Level 3 and "Industry Practices" and "policies" from Level 4 are defined terms, whose definitions read as follows:

Process – a series of activities, changes or functions to achieve a result.

Industry Practices – technical or theoretical method and/or process generally agreed upon and used by practitioners to maintain standards and quality across a range of organizations and settings.

Policies - broad guidelines for directing action to ensure proper and acceptable operations in working toward the mission.

In the Notes to Raters the following appears:

- 2. When determining the guidance and direction provided also consider the checks and balances that are in place to verify the work. This includes activities, such as feedback by end users, computer system verification routines, other employees reviewing the work, work checked or verified during the next step of a process, supervisor reviews the work.
- 3. To clarify the differences between levels 2 and 3:

Level 2 - duties are completed based upon pre-determined steps. Guidelines are available to assist, when needed. The position only has the autonomy to decide the order or sequence that tasks or duties should be performed.

Level 3 - specific results or objectives that must be accomplished are pre-determined by others. The position has the ability to select the process(es) to achieve the end result,

usually with the assistance of general guidelines. The position has the autonomy to make decisions within these parameters.

4. To clarify the differences between levels 4 and 5:

Level 4 - the only parameters or constraints that are in place to guide the position's decision-making are "industry practices" for the occupation and/or departmental policies. The position has the autonomy to act within these boundaries and would only need to consult with the supervisor (or others) on issues that were outside these parameters.

Level 5 - the only parameters or constraints that are in place to guide the position's decision-making are College policies. The position has the autonomy to act within these boundaries and would only need to consult with the supervisor (or others) on issues that were outside these parameters.

There are two parts to the dispute over the rating for the Independence of Action factor. Firstly, as the parties are agreed there are some level 3 duties, the dispute is limited to a disagreement over what the correct category is for the Level 3 duties – regular and recurring, or occasional? Secondly, it must be determined whether there are any functions that warrant the Level 4 occasional rating claimed by the union.

Starting with the dispute over the level 3 duties, the College says that the example which was the basis for the points attributed for occasional Level 3 duties is the situation where the incumbents would be judging whether a student fits the "family breakdown" exemption, and has proven need, so that they would be awarded additional monies. The employer considers this to occasionally require decisions with the use of general guidelines. However, they note that not every decision about an emergency situation requires decision-making that they would consider to be at level 3-that there is not unlimited discretion as to the amount of money the incumbents can award. The incumbents' decision will depend on what is left in the budget, the time of year and how much they think will be needed for the rest of the year based on history, and what parameters have been established for providing funding.

The primary focus of the College's argument is that the main thrust of the job is a Level 2, as the incumbents follow established procedures, with only occasional Level 3 duties. The College's brief stresses that financial aid programs all have specific rules which govern the incumbents' decision-making. As stated in the PDF, the position is governed by Student Support Branch Policy Manuals, OSAP rules, College policies and procedures and past practices. In addition, regular weekly meetings are held with the Registrar to de-brief and to discuss financial aid issues and college initiatives. The incumbents also consult with OSAP program administrators regarding OSAP program clarification. The employer argues that most decisions are reviewed with the manager or the other incumbents who routinely share information and discuss cases to ensure

consistency and ensure they are all staying within the established parameters. Although a manager's style may allow them to work on issues and make recommendations, the College emphasizes that this does not make them the decision maker.

The College's presentation underlines as well that the incumbents do not determine the funding underlying the financial aid programs. For instance, the finance department determines the amount for the tuition set-aside program, based on a percentage set by the province. The incumbents have no authority to go beyond the criteria of the programs. Any major change, such as a transfer of funds from one program to another requires the Registrar's approval. Further, past practice covers most of the circumstances encountered.

The union agrees that the emergency financial aid situation requires at least Level 3 functions from the incumbents, and notes that it is listed in the section of the PDF reserved for "regular and recurring" decisions made by the incumbents, in the words: "Approval to disburse "tuition set-aside" funds or other emergency money for students in crisis...". The union goes further, though and says that the majority of the incumbents' daily schedule is devoted to meeting with atypical clients either by appointment or emergency referral and that the emergency aid situations should be treated as occasional Level 4 duties. It is their position that these situations require the incumbent to listen, reflect, analyze and offer insight, advice and direction on a wide range of topics. For instance, as the incumbents need personal information to make a judgment as to whether it is a true family breakdown, the incumbents must foster an atmosphere of trust and maintain the dignity of the client in order to encourage the student to share personal and often painful details.

The union submits that the incumbents have the responsibility to make many important decisions independently. The union maintains that the incumbents are solely responsible for decision making in situations such as family breakdown appeals, where the incumbents work independently and do not consult about specific cases or their decision to accept or deny the appeal. The union also stresses that the overall objective that they are pursuing is student retention, and that in considering the situation of the students whom they interview, they are selecting the best process to achieve student retention. They note that when the Financial Aid Manager/Supervisor is absent, they are responsible for facilitating not only the administration of OSAP and Georgian financial aid programs, but all those from Barrie and satellite campus locations. They acknowledge that they are under the direction of Government policies and legislation but stress that they are self-directed in administering those policies. The union submits that the incumbents have autonomy to select processes and tailor services for students. Reference is made to an occasion when the incumbents decided that it was obvious that a

portion of a program needed to be cancelled; they advised the Registrar of this before the cancellation, and he agreed. The registrar replied to this by giving an example of a recommendation from the incumbents to cancel the entrance bursary, to which he did not agree.

There was discussion in the briefs and at the hearing concerning the Notes to Raters in relation to Level 3, which indicates that "the position has the ability to select the process(es) to achieve the end result, usually with the assistance of general guidelines". The College argued this was not a good fit for this position, as the Registrar is the decision maker in regards to matters concerning what processes are used by the incumbents. In the section of the PDF reserved for decisions that would be decided by the incumbent, one finds the entry "Designing internal program delivery processes, procedures, deadlines and TSA [Tuition Set Aside] budget analysis and recommendations for approval by Registrar/manager".

The College also argues that the incumbents do not develop new programs. For instance, government programs are developed at the Ministry level and administered at the College level. Regarding OSAP appeals, the College submits that the incumbents do not approve or deny appeals. Rather, in the employer's view, they have been assigned computer system access to the OSAP system which gives them access to update student information when the student's circumstances have changed. If a student's circumstances change enough, the OSAP formula may change which will result in a different award for the student. In executing this process, the incumbents are not approving a change to OSAP policy in the College's view. Rather, they are updating information in a system which generates a different award based on a well defined OSAP formula.

As to OSAP appeals, the union underlines that the incumbents are engaged in live updating which has immediate potential effect on the student's award. Moreover, although there are criteria, there is some discretion, investigation and interpretation as to whether it goes forward. As well, the incumbents' decisions on how to handle the OSAP appeals are not reviewed other than through self-audit by incumbents or by student support branch investigators, in the union's submission. For disability bursaries, there are set budgets allotted at the beginning of the school year, which are monitored carefully by the incumbents. Based on usage, the incumbents can contact the Ministry and request additional money. The incumbents also mentioned reviews for parents whose estimated income, based on previous income tax returns has changed for the worse because of exceptional circumstances. The incumbents have to interpret the term "exceptional", and establish that it is non-recurring. The union also notes that, although the incumbents provide the numbers to the Registrar, the incumbents do not meet with him on

specific allocation decisions. The union underlines that OSAP itself is a wide and encompassing program, which is very varied.

In determining which is the better fit for the designation of Level 3 duties -occasional or regular and recurring - there are a number of helpful indicators in the Manual. Most importantly is the general direction as to the interpretation of the distinction between "regular and recurring" and "occasional" to be found in the section entitled "How to Use the Manual". Paragraph 4a of this portion of the Manual indicates that "regular and recurring" may not be readily identified as a quantitative amount of time, and that any task or responsibility that is an integral part of the position's work and is expected or consistently relied on should be considered "regular and recurring". The application of this directive to the function of deciding on emergency funding requests supports a "regular and recurring" designation since it is clear that the incumbents are consistently relied on for this function. Furthermore, the PDF indicates that this is among the "regular and recurring" functions of the position.

The other particularly relevant indicator is the Note to Raters concerning Level 2 which states that the position only has the autonomy to decide the order or sequence that tasks or duties should be performed. This is not an adequate description of a job in which the incumbents have, according to the PDF, direct signing authority for the College for the disbursal of emergency funds, as well as the approval or rejection of applications to financial aid programs and significant latitude in developing and designing internal processes. The PDF states at the outset of the section on Independence of Action, "The incumbent works independently but as part of a group of three Financial Aid officers working as a team which requires high degree of cooperation", which is a general statement of a substantial level of autonomy, which goes beyond level 2, which focuses on pre-determined steps, as elaborated in the Notes to Raters, set out above. The PDF also provides that they are required to exercise independent judgment and discretion to assess the needs of individuals and develop strategies to resolve issues and crises. Any financial program has many constraints, and guidelines, but the incumbents are responsible for making assessments about the bona fides and level of student need and life situations on a regular basis which cannot be prescribed within the financial guidelines as to the range of amounts of possible awards, and are not well described by the factor description at Level 2 referring to specific quidelines. Rather, this essential assessment function is better described as a general process. which appears at Level 3. Although, as emphasized by the College, there are obviously many specific guidelines directing the incumbents' work, the fact that Level 2 does not adequately reflect the critical assessment function makes Level 3 a better fit.

Turning to the union's request for an occasional rating at level 4, the employer argues that the position is constrained by much more than "industry practices" and therefore it would be inappropriate to grant this request. They do not see level 4 to be warranted, even occasionally, as decisions are not made according to a professional body of knowledge, but rather according to many criteria and past practice.

On the subject of Level 4 duties, the incumbents cite the process for emergency assistance, where there is a budgeted amount of money, which is distributed on the basis of the situation, and is not set in stone. As to the reference in the Level 4 factor description to specific goals, the incumbents submit that the specific goal is to assist students to stay in school. Further, they note that it was the incumbents who set up the specific criteria, such as whether they asked for supporting documentation or not, and what the method of payment would be. They also arrived at a method to eliminate the processing of thousands of monthly checks, freeing up the office for other work. This involved setting a deadline for applications each semester, a decision they said did not require them to go to the Registrar for prior approval, although they reported the action taken. They also stress that they have signing authority, not just for the tuition set-aside programs, and that their name is on the combined loan/grant documents issued by the government. They have also become Commissioners of Oaths, on their initiative, so that they can facilitate certain documentation needed by the students. They say the level of the loan typically is not as important as the authority to make the decision on the basis of due diligence and responsibility to other students.

The union also indicated that the incumbents go to conferences where industry practices are discussed. The fact that there is a department policy which has been set about how to disburse certain envelopes of money, which the incumbents follow, indicates at least some Level 4 responsibilities in their view. As to the weekly meetings, the incumbents submit it is usually a discussion of general matters which impact the work, such as whether they need more help. The union underlines overall that the incumbents' job is complex and varied, and that they play many different roles, including negotiator and planner, in the process of administering all the financial aid programs of the College. Further, they have to exercise leadership in the administration of these programs at all the college's campuses. They must safeguard public funds, ensure the integrity of the OSAP program, albeit with ministerial supervision, all of which warrants a higher rating, in the union's submission.

In considering the request for attribution of points at Level 4, I note that the factor descriptions for the different levels use terms that overlap in meaning, so that the choice of factor level has to be made in light of the overall structure and intent of the descriptions and Notes to Raters. Although there are definitely College policies involved in the incumbents' work, and the use of policies is highlighted in the Level 4 factor description, the Notes to Raters make it clear that, in order to attract points at that level, it is intended that College policies and/or industry practices are the *only* constraint. The information before me does not persuade me that this is the best fit for the incumbents' functions, even occasionally. Although the incumbents keep up with industry practices, in the general sense of that term, I am not persuaded that this is what was intended by the Manual's mandatory definition set out above, involving as it does "a technical or theoretical model or process used to maintain standards..." Further, there are always specific guidelines concerning the components of the financial plans underlying the incumbents' work, the aspect of the job that fits with Level 2, which means that departmental policies and industry practices are not the only parameters in place to guide the incumbents, which is what is required for Level 4, according to the Notes to Raters set out above. Specifically focusing on the task of assessing emergency appeals for funds, which was the main example given as a basis for the request for the Level 4 rating, I find Level 3 to be the best fit, as discussed above.

In the result, the rating for Independence of Action should be amended to Level 3, regular and recurring.

III. Audio/Visual Effort

The College rates this factor at level 2, focus maintained, which reads as follows:

Regular and recurring long period of concentration; or occasional extended periods of concentration.

The union argues for Level 2 – focus interrupted. The dispute is over whether the rating should be "Focus Maintained" or Focus Interrupted", both of which are defined terms, as follows:

Focus Maintained - concentration can be maintained for most of the time.

Focus Interrupted - the task must be achieved in smaller units. There is a need to refocus on the task at hand or switch thought processes.

Concentration is defined as undivided attention to the task at hand.

The compulsory Notes to Raters include the following directions:

4. Few interruptions or disruptions generally means that an appropriate level of concentration can be maintained for the duration of the task being performed. Where there are many disruptions, concentration must be re-established and the task completed in smaller units or steps.

Raters are also directed to consider the impact of the disruption on the work being done and whether the incumbent can pick up where she left off or whether the interruption causes a disruption in the thinking process and considerable time is spent backtracking to determine and pick up where she left off.

The only example given in the PDF for this factor concerns dealing with students with serious, often multiple problems, where intense listening skills and tactful probing are required. It is described as occurring monthly and the indication is that focus is maintained.

The union's brief mentions the fact that there was an example in an earlier version of the PDF which indicated that concentration could not be maintained during budget reconciliation and management of OSAP applications as there is a drop-in element to the Financial Aid Office. Although this was not contradicted by the employer, it is my task to focus on the agreed PDF which is before me for decision, rather than earlier versions.

The discussion at the hearing persuaded me that, although there is a drop-in component to the Financial Aid Office, concentration can usually be maintained when required. There is a receptionist in the area, and an appointment schedule among the three incumbents. They each have offices with doors, and a schedule that allocates which half-days they will meet with students, and which incumbent will deal with walk-in students. It was clear from the discussion that when speaking to students, the incumbents are for the most part concentrating on them. There are regular periods when each incumbent is not on the schedule to see students leaving time for other duties. As well, the employer made it clear that it is permissible to close doors, put phones on call-forward, and defer checking e-mail when necessary to deal with students in crisis or other pressing duties.

The incumbents mentioned budget tracking, and said that it is hard to stay focused working on that with students coming in and out. Further, with increased demand it is harder to find the blocks of time necessary to do this work. However, the incumbents were unable to be specific about the frequency of interruptions, and in the end, the information before me did not persuade me that even with tasks such as budget tracking, focus cannot be maintained most of the time. I appreciate and accept that there may be times when a task needs to be interrupted or postponed, but the manual's definition of "focus maintained" indicates that focus can be maintained for "most of the time", which allows for some interruptions. The incumbents also mentioned communications from the satellite offices who might need answers immediately. However, the evidence did not go so far as to convince me that this happens so often that appropriate focus cannot be maintained a majority of the time.

In the result, the employer's rating for the factor Audio-Visual effort is confirmed.

* * *

To summarize, the College's ratings for the factors Education, Experience 1A and Audio Visual Effort are confirmed, while the rating for the factor Independence of Action should be raised to Level 3. This brings the point rating to 502, which still falls within the current Payband G.

In the result, the grievance is allowed to the extent of the raised rating for the factor of Independence of Action, but the Payband remains unchanged. The arbitration data sheet reflecting this is attached to this decision.

I will remain seized to deal with any issues of implementation of this award which the parties are unable to resolve themselves.

Dated at Toronto this 5th day of April, 2010.

Original signed by Kathleen G. O'Neil

Kathlana C O'Nail Cinala Adituatan

Kathleen G. O'Neil, Single Arbitrator

Arbitration Data Sheet - Support Staff Classification

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18	Education	1	3			1	3			1/	3		
2	Experience	4	54			5	69			4	54		
3	Analysis and Problem Saving	3	78			3	18			3	18		
4	Planning! Coor divising	3	56			3	56			3	56		
5	Guiding-Advisting Others	4	41			4	41			4	41		
5	Independence of Action	2	46	3	9	3	78	4	9	3	18		
7	Service Delivery	~2	29			2	29			2	29		
9	Communication	3	18	4	9	3	18	4	9	3	18	4	9
ģ	Fhysical Effort	1	5			1	5			1	5		
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