

IN THE MATTER OF AN ARBITRATION
BETWEEN:

SENECA COLLEGE

("the College")

and

ONTARIO PUBLIC SERVICE EMPLOYEES UNION

("the Union")

AND IN THE MATTER OF A CLASSIFICATION GRIEVANCE OF ELAINE
FENNER (# 2008-0561-0005)

ARBITRATOR: Ian Springate

APPEARANCES:

For the College: Daniel Michaluk, Counsel
Kavita Chhiba
Maria Borg-Olivier

For the Union: Janice Hagan, President Local 561
Hadi Maszoulo
Elaine Fenner

HEARING: In Markham on April 15, 2010

AWARD

INTRODUCTION

The grievor is employed by the College as Co-op Coordinator for the School of Aviation and Flight Technology and also for the School of Electronics and Computer Engineering Technology. She reports to Ms. Maria Borg-Olivier, Manager of Cooperative Education, Faculties of Technology.

The relevant position description form ("PDF") summarizes the overall purpose of the grievor's position as follows: "promotes, develops, coordinates and implements cooperative education programs (for the two schools), instructs and counsels students to facilitate their entry into the workplace; assesses student coop experiences which occur during a succession of work terms; liaises regularly with employers." The Union contends that the PDF does not accurately reflect the grievor's position. In its written brief it indicated that it disagreement with the PDF primarily relates to additional material that it believes should be added to the document.

The College rates the grievor's position at payband J. On March 4, 2008 the grievor submitted a grievance which contended that her position was incorrectly evaluated and should be at payband L. During the grievance procedure the grievor amended this to claim payband K.

Initially it appeared that five of the eleven job factors identified in the job evaluation manual would be in dispute. At the hearing, however, the College raised its rating for the factor of physical effort to match the rating proposed by the Union. With this change the College's ratings for all eleven job factors totalled 688 points, within the 640 to 699 point range for payband J. The ratings proposed by the Union would result in a total of 749 points, within the 700 to 759 point range for payband K.

The four job factors remaining in dispute are addressed below.

ANALYSIS AND PROBLEM SOLVING

The job evaluation manual notes that this factor measures the level of complexity involved in analyzing situations, information or problems of varying levels of difficulty and in developing options, solutions or other actions. The College rated the grievor's position at level 4 worth 110 points. The Union accepts that a level 4 rating on a regular and recurring basis is appropriate but contends that a level 5 rating on an occasional basis would also be appropriate. This would be worth an additional nine points. The job evaluation manual sets out the following relevant factor level definitions:

4. Situations and problems are not readily identifiable and often require further investigation and research. Solutions require the interpretation and analysis of a range of information according to established techniques and/or principles.
5. Situations and problems are complex and multi-faceted and symptoms are vague or incomplete. Further investigation is required. Solutions require the interpretation and analysis of information within generally accepted principles.

The job evaluation manual defines the terms “established techniques and/or principles” and “generally accepted principles” used in the factor definitions as follows:

Established techniques and/or principles – recognized guidelines and/or methods to accomplish a desired outcome. Can be defined as an individualized way of using tools and following rules in doing something; in professions, the term is used to mean a systematic procedure to accomplish a task.

Generally accepted principles – more general statements or parameters used to describe the required outcome. Can be defined as the collectivity of moral or ethical standards or judgments.

The manual contains a note to raters to clarify the differences between levels 1, 2 and 3. It does not, however, contain any guidelines respecting the proper application of levels 4 or 5.

In support of its claim for a level 5 rating on an occasional basis the Union relied on several aspects of the grievor’s work. One concerned problems that can arise in a coop student’s workplace. The Union asserted that at times such problems will meet the requirements for a level 5 rating. In its written brief the Union argued that situations where a student is not “fitting in” in the workplace are multi-faceted and could involve cultural barriers, self-esteem issues, relationship problems in the pre-existing workplace, unrealistic expectations, bad past experiences and misunderstandings. The Union argued that the symptoms presented to the grievor in these types of cases would be vague and incomplete since students would often not be aware that their conduct is the cause of a problem or the employer might not have advised them that there is a problem.

At the hearing the grievor indicated that once she becomes aware of a problem, which might be during an on-site visit, she will question the student and the employer to discover the cause. She said that in one situation she ascertained that the cause of a problem was that College networking courses were not meeting industry standards. She indicated that she passed this information along and it resulted in certain course changes. The grievor said that another cause of a placement problem might be a manager failing to give sufficient time to a coop student.

The grievor testified that when she ascertains that either a student or employer is unhappy with a placement she talks to them about how the situation might be improved, which could involve the student asking the employer for more help, searching out a mentor or perhaps asking another coop student with more experience for assistance.

The grievor testified that she tries to conduct mock interviews in advance of real interviews for all students. She said that students are often unaware of how they come across in an interview. She added that aviation students tend to be assertive, even aggressive, whereas electronics students tend to be more introverted and may need "building up."

The grievor noted that she keeps track of the number of interviews each student attends. She said that she asks for feedback from employers with respect to unsuccessful students. She indicated that based on what she learns she might call a student in for another mock interview and ask a colleague who does not know the student to assist her with the interview. She indicated that in situations where there are more applicants than positions she might advise an unsuccessful applicant that they did not do anything wrong during the interview process.

The grievor said that she addresses student self-esteem issues in one-on-one exchanges and in coop preparation classes which she teaches by stressing to the students that they have the skills employers are looking for. She indicated that she has also addressed cultural issues. She gave the examples of a male student who had made eye contact with a male interviewer but not a female interviewer and female students who would not make eye contact with any interviewer.

The grievor said that at times she has dealt with human rights issues. She referred to the situation of an IT student in a wheelchair which required that she look at information respecting his desk requirements and at a work schedule that would allow him time to get ready for work and be transported to the workplace. The grievor also referred to a situation where an employer had advised her that he preferred male coop students. She said that in a non-confrontational way she explained to the employer that female students also have the requisite skill set and he subsequently hired both a male and a female coop student.

As touched on above, the grievor teaches coop preparation courses to students. During these classes she teaches them how to write a resume and covering letter and also teaches them interview skills, workplace ethics and employee rights. She said that for aviation students she also touches on financial issues, including dangers related to credit card use, because of the low pay they will receive as coop students and when initially employed following graduation. The grievor noted that she rates the performance of students who take her courses as either satisfactory or unsatisfactory.

In its brief the Union contended that the grievor's role in analyzing her own potential short comings when teaching employment preparation classes and providing employment coaching can be complex and multi-faceted with vague or incomplete symptoms. At the hearing the grievor noted that for a large number of students English is not their first language and she must know whether they understand what it is she is saying, including her use of workplace terminology. The grievor indicated that it can at times be difficult for her to find out how successful her teaching has been, although if a student produces a poor resume she will know that they did not understand her.

The grievor indicated that during her classes she seeks to disabuse students of the common belief that experience not directly related to the position they are applying for should not be included in a resume. She further indicated that she ascertains whether this message has been understood by asking students probing questions.

The grievor said that she must ensure that what she teaches about resume writing is appropriate for the industry involved. In addition, she said that she is required to learn about current hiring techniques. She referred in this regard to the aviation industry's increased use of personality testing during the hiring process.

The Union contended that on occasion the grievor will think outside established coop schedules in order to secure placements for students. At the hearing the grievor noted that a coop work term needs to be 14 consecutive weeks. She said that she often negotiates an arrangement whereby a student will be available to an employer either earlier or later than this on a part time basis, which involves her working with the Chair of the Program and also the Flight Line at the Buttonville Airport which actually teaches flying to students. At the hearing the grievor referred to a situation where an employer aggressively took up a student's case after he had been removed from the Aviation program. The grievor said that the issue was resolved when she ascertained that the student had taken private instructions which enabled him to pass a required test and she passed this information on to Flight Line.

Each student the grievor deals with is obviously a complex and multi-faceted individual. The grievor, however, deals only with those aspects of their training and behaviour relevant to them obtaining and successfully completing a coop work period.

A problem might not be readily identifiable, such as the grievor not knowing whether a student understood what she told them in class or whether a student is progressing appropriately in a placement. Accordingly an investigation might be required, including checking student resumes, obtaining feedback from interviews or asking questions of the student and employer. There was no indication in the evidence that the results or symptoms that the grievor obtains through such an investigation would be vague or incomplete. Presumably a poorly written resume would indicate that the student had failed to grasp what it was they should be writing, a student unable to locate a coop position after attending a number of interviews might lack interview skills and if a student or employer raised a concern relating to a placement there would be a workplace issue that needs to be addressed. The nature of the situations faced by the grievor better fit a level 4 than a level 5 rating.

In the various situations discussed above it appears that an investigation by the grievor would reveal the nature of the problem and then by a process of analysis and elimination she could determine what would likely be the most appropriate solution. To qualify for a level 5 rating the interpretation and analysis of information must be within generally accepted principles. The manual defines these as the collectivity of moral or ethical standards or judgments. This suggests that the full scope of a problem will remain unclear and there will not be a standard systematic procedure available to resolve the issue. Instead one is left to reach a solution through the interpretation and analysis of available information guided in large measure by broad principles respecting what is morally and ethically acceptable. This does not describe the types of situations that the grievor encounters.

Having regard to these considerations I find that the level 4 rating on a regular and recurring basis assigned by the College appropriately captures the analysis and problem solving associated with the grievor's position.

PLANNING/COORDINATING

This factor measures the planning and/or coordinating requirements of a position. The job evaluation manual states that the factor relates to the organizational and/or project management skills required to bring together and integrate activities and resources needed to complete tasks and organize events.

The College rated this factor at level 3 worth 56 points. The Union submits that a level 4 rating worth 80 points, the highest rating possible, would be more appropriate. At the hearing College counsel said that the College had conceded that a level 3 rating applies to this case but it had done so without prejudice. He asked that I not conclude

that level 3 is in fact the right rating but instead find that a level 4 rating is not warranted.

The definitions for level 3 and level 4 ratings as well as terms employed in these definitions are as follows:

3. Plan/coordinate activities, information or material to enable completion of tasks and events, which affect the work schedule of other employees.

4. Plan/coordinate and integrate activities and resources for multifaceted events, projects or activities involving other employees. This typically involves modifying these individuals' priorities for activities/projects to meet objectives.

Affect – to produce a material influence upon or alteration in.

Other employees - includes full-time, part-time, students, contractors.

Modify – to make basic or fundamental changes to give a new orientation to or to serve a new end.

The job evaluation manual contains the following notes to raters designed to clarify the differences between levels 3 and 4:

Level 3 - the position decides the order and selects or adapts methods for many work assignments. Typically the planning and coordination at this level, which affects the work schedule of others, is requests by the position for materials/information by specific deadlines in order for the position to plan events or activities (e.g. conferences, research projects, upgrading hardware or software).

Level 4 – typical planning and coordination at this level involves multiple inputs and complex tasks, frequently requiring the coordination of activities or resources of a number of departments, such as a major campus renovation or major technology upgrade. The position could be responsible for multiple concurrent projects at the same time. At this level, the position would have the authority to require others to modify their schedules and priorities.

The grievor in her evidence relied on her role in coordinating coop operations, including recruiting and selecting students, dealing with employers to develop coop

positions, conducting orientations, doing class work, evaluating class work and evaluating work placements. As the Union noted out in its brief the grievor's title is that of "Coordinator." The Union contended that the grievor plans, coordinates and integrates activities related to providing students with an effective coop employment opportunity.

In her evidence the grievor said that she views her activities outlined above as each being a major project. She also noted that she deals with two schools, her department, registration staff and other groups. The Union in its brief contended that the grievor's role in coordinating different phases of the coop program for different groups of students at the same time meets the reference in the level 4 note of "could be responsible for multiple concurrent projects at the same time."

At the hearing the Union spokesperson contended that the manner in which the College set up the grievor and other Coop Coordinators serves to demonstrate that the College views their activities as a project with one person being in charge of a whole experience for a group of students. She submitted that each coop coordinator is responsible for a group of programs and industries and these different industries could be viewed as being in the nature of different departments. She described the two types of coordination referred to in the level 4 note, namely a major campus renovation or major technology upgrade, as involving physical activity and compared this with the different type of work performed by the grievor, who she described as a knowledge worker.

At the hearing the grievor indicated that she can alter student priorities in terms of the timing of their interviews and that she defines student priorities in terms of what she teaches in class. The spokesperson for the Union pointed out that the grievor assigns homework to students and can decide that certain students need to spend more time on particular issues such as resume writing. She contended that students have their own priorities, objectives and workloads and the grievor's ability to require that they take extra coaching or redo a resume multiple times involves her requiring that they modify their schedules and priorities.

The Union spokesperson argued that the reference to "other employees" in the level 4 definition includes students. She noted in this regard that the manual defines other employees as follows: "Other employees - includes full-time, part-time, students, contractors." She contended that the terms "full-time" and "part-time" are adjectives which refer to employees whereas "students" and "contractors" are not adjectives but rather stand alone. She also submitted that modifying student priorities comes within the spirit of a level 4 rating.

College counsel submitted that the definition of "other employees" in the manual consists of a list of persons who work for the College and does not include students other than to the extent they are employed by the College. He argued that the manner in which the term "others" is defined for the factor of guiding/advising others demonstrates how the drafters of the job evaluation plan included students when that was their intent. He also submitted that the note respecting level 4 refers to work projects undertaken by paid employees and not by students.

For the factor of guiding/advising others the manual defines the term "others" as follows: "others – College employees (FT or PT), students, clients." This definition is worded in a way that clearly includes both full time and part time employees as well as two non-employee groups, namely students and clients. The language of the planning/coordinating factor is very different. The level definitions do not refer to "others" but rather more restrictively to "other employees." It defines this term as: "other employees - includes full-time, part-time, students and contractors." This wording appears designed to clarify that the term "other employees" is to be interpreted broadly so as to include full time employees, part time employees, student employees, contractors' employees and, presumably, any individual independent contractors. This language serves to make it clear that students who hold part-time jobs at the College are, in their role as employees, encompassed by the definition.

Given these considerations I conclude that in order to justify a level 4 rating the grievor would have to be involved in integrating activities for events, projects and activities involving other employees, including student employees, and typically would modify priorities for these other employees. It is apparent that the grievor is not involved with other employees in such a manner. I note also that the evidence does not demonstrate that the grievor is engaged in the type of planning and coordination that the level 4 note indicates would be typical at that level, namely coordinating the activities or resources of a number of departments.

Having regard to the foregoing I am not prepared to disturb the level 3 rating assigned by the College.

GUIDING/ADVISING OTHERS

The job evaluation manual states that this factor refers to any assigned responsibility to guide or advise others, including other employees, students or clients in the area of the position's expertise. The manual notes that college support staff cannot formally supervise others in the sense of hiring, firing or handling first step grievances but staff may be required to guide others using specific job expertise.

The College rated this factor at level 4 on a regular and recurring basis worth 41 points. The Union argues for a level 5 rating, the highest rating possible, worth 53 points. The job evaluation manual contains the following factor level and term definitions:

4. Guide/advise others with ongoing involvement in their progress.
5. Responsible for allocating tasks to others and providing guidance and advice to ensure completion of tasks.

Others – College employees (FT or PT), students, clients.

Guide – demonstrates correct processes/procedures for the purpose of assisting others with skill development and/or task completion.

Advise - has the authority to recommend, or provide knowledgeable direction regarding a decision or course of action.

Notes to raters designed to clarify the differences between the two levels in issue provide as follows:

Level 4 – this may be a position that, while not responsible for formal supervision, is assigned to assist less experienced staff and is expected to actively contribute to their ongoing skill development.

Level 5 – while not a formal “supervisor”, the position has the assigned responsibility for allocating tasks and using its expertise to assist others and ensure that the tasks are completed satisfactorily.

In its brief the Union contended that the grievor assigns tasks to students and ensures that they are adequately completed, including the writing and re-writing of resumes and cover letters, employment research, journal exercises and the preparation of scenarios for employment interview practice. The grievor said that she is responsible for evaluating students’ progress and giving them a mark and if they do not satisfactorily complete a coop course they cannot proceed to the next stage, presumably meaning that they would be ineligible for a coop placement.

In its written brief and at the hearing the College acknowledged that the grievor is responsible for assigning tasks to students and giving them advice in order to enable

them to complete the tasks. The College, however, disputed the Union's assertion that the grievor is responsible and accountable for ensuring completion of these tasks. It contended that students are accountable for their non performance through their grades. Counsel for the College described the grievor's role as being to provide education to students. He submitted that this does not mean that the College has assigned to the grievor or to anyone else responsibility to ensure the completion of tasks by students since this would be contrary to the idea of adult education. He submitted that whether a student passes or fails the student is accountable. He noted that the College can only enable a student to succeed.

The College submitted that a level 5 position is similar to that of a lead hand. It argued that this accords with the removal of a lead hand designation from the collective agreement when the new classification system was implemented. In reply the spokesperson for the Union contended that if a level 5 rating is meant to refer only to lead hands the definition of "others" would be limited to employees and not also include students.

At the hearing Ms. Borg-Olivier, the grievor's supervisor, described the grievor's courses as pre-work programs following which the grievor assigns a satisfied or not satisfied rating to each student's performance. Counsel for the College asked Ms. Borg-Olivier if she would evaluate the grievor's performance based on the percentage of students who had successfully completed the coop program. She said no, that while a high percentage of students not completing the program might raise questions a whole range of factors other than what the grievor had taught them could have had an impact on the situation.

As touched on above, the key issue with respect to this factor concerns the grievor's responsibility for ensuring the completion of tasks by others. The wording of the level 5 definition indicates that someone at this level meets these criteria by "providing guidance and advice to ensure completion of tasks." The term "guide" is defined as "demonstrates correct processes/procedures for the purpose of assisting others with skill development and/or task completion". The grievor does this when teaching and assisting students with matters such as interview techniques and resume writing. She also offers students "advice" in terms of having the authority to recommend or provide "knowledgeable direction" to them with respect to a course of action, including having them attend a second mock interview or re-draft a resume. Given these considerations I conclude that the grievor provides guidance and advice to ensure the completion of tasks.

The note in the manual concerning level 5 is worded somewhat differently than is the level 5 definition. It speaks of someone in the position having the responsibility of "using (their) expertise to assist others and ensure that the tasks are completed

satisfactorily.” This wording indicates that an employee ensures that tasks are completed satisfactorily through use of their expertise. Taking both the definition and the note into account I conclude that at level 5 an employee is responsible to ensure that tasks are completed satisfactorily by use of their expertise and by providing guidance and advice to others to ensure they have the necessary knowledge and skill to complete the task.

The note respecting level 5 states that an incumbent will not be a formal “supervisor.” This suggests that a person at level 5 will not have the ability to discipline someone as a means of convincing them that they should complete tasks satisfactorily or the ability to take non-disciplinary action should an individual not be able to complete tasks for non-culpable reasons. Instead the note states that they are to use their expertise to assist others and ensure that tasks are completed satisfactorily.

An employee exercising the typical authority of a lead hand would meet the criteria for a level 5 rating. A lead hand will typically assign work and, if necessary, work with an employee to impart the skills and knowledge required to complete assigned tasks. If, despite the lead hand’s best efforts, an employee is not able to satisfactorily complete the tasks the lead hand would typically not have authority to discipline or take non-disciplinary action against the employee but instead would be limited to reporting the matter to the appropriate supervisor. Likewise in the instant case the grievor can assign tasks to students and provide them with guidance and advice that should provide them with the skills and knowledge to successfully complete the assigned tasks. The grievor can through a non-satisfactory rating report that a student has been either unwilling or unable to use her assistance to successfully complete the assigned tasks, which would apparently bar the student from a coop placement.

It is apparent that the drafters of the manual were primarily concerned with college employees who guide and advise other college employees. As noted above, the manual states that support staff cannot formally supervise other staff. The note respecting a level 4 rating refers to an incumbent being assigned to assist “less experienced staff” and being expected to assist their ongoing skill development. The level 5 note also uses employment terminology when it states that a person at this level is not a formal supervisor. Notwithstanding that the primary focus is on employees assisting other employees, the express reference to students in the definition of “others” indicates that an employee’s role with respect to students must also be taken into account.

Having regard to the considerations discussed above, I conclude that a regular aspect of the grievor’s job involves her being responsible to assign tasks to students and to provide guidance and advice to them to ensure, to the extent that guidance and advice can do so, that the students will complete tasks satisfactorily. This meets the criteria for a level 5 rating and accordingly a level 5 rating is appropriate.

SERVICE DELIVERY

This factor looks at the service relationship that is an assigned requirement of a position. It considers how a request for service is received and the degree to which the position is required to design and fulfil the service requirement.

The College rated this factor at level 3 on a regular and recurring basis, worth 51 points, as well as a level 4 rating on an occasional basis worth an additional 6 points. The Union contends that the appropriate rating would be level 4 on a regular and recurring basis worth 73 points. The relevant level definitions and applicable word definitions are as follows:

3. Tailor service based on developing a full understanding of the customer's needs.
4. Anticipate customer requirements and proactively deliver service.

Tailor - to modify or adapt with special attention in order to customize it to a specific requirement.

Anticipate – give advance thought, discussions or treatment to events, trends, consequences or problems; to foresee and deal with in advance.

Proactive – to act before a condition or event arises.

A note to raters states that the term "customers" refers to the people or groups of people who receive the services delivered by a position, and this can include students and persons external to the College. Another note to raters includes the following comments designed to clarify the differences between levels:

Level 3 refers to the need to "tailor service". This means that in order for the position to provide the right type of service, he/she must ask questions to develop an understanding of the customer's situation. The customer's request must be understood thoroughly. Based on this understanding, the position is then able to customize the way the service is delivered or substantially modify what is delivered so that it suits the customer's particular circumstances.

Level 4 means that the position designs services for others by obtaining a full understanding of their current and future needs. This information is considered in a wider context, which is necessary in order for the position to

be able to structure service(s) that meet both the current stated needs and emerging needs. The position may envision service(s) before the customer is aware of the need.

The Union argued that the grievor's involvement with students meets the requirements for a level 4 rating. It submitted that when students have difficulty obtaining a coop position the grievor must determine how they might better present themselves or better answer a difficult question and she also provides a student with individual coaching to improve their employment chances and experience. The Union contended that a student will not be aware of what their needs are for training and coaching or what will enable them to perform better at interviews or be more successful in the workplace.

One of the grievor's roles is to help individual students obtain coop positions through counselling, assistance in resume writing and interview techniques. If required she also addresses work place difficulties that could prevent a student from successfully completing a coop placement. The definition for a level 4 rating requires that a position "pro-actively deliver service" and defines proactive as "to act before a condition or even arises." The grievor, however, addresses students' current situations, including behaviours which might impede their hopes of obtaining and successfully completing a coop position. To do so does not require that she obtain a full understanding of each student's current and future needs, as contemplated by the note respecting a level 4 rating. Rather, her role involves developing a thorough understanding of a student's current situation and then customizing her assistance to them to meet their particular circumstances. This is precisely what the level 3 note and the level 3 definition address.

The Union argued that the grievor must fully understand the current and emerging needs of the industries and workplaces that employ graduates and coop students in order to develop job opportunities and prepare students for these jobs. Employers of coop students as well as the students themselves can reasonably be viewed as "customers" who receive services from the grievor. The grievor's involvement with employers does not, however, extend to the grievor structuring services to meet their future needs. Apart from facilitating the availability of a student on a part time basis prior to or following a normal coop period the grievor does not design new or different coop programs for individual employers. Certainly she can not alter a student's academic program so that it more closely matches a prospective employer's needs.

The Union relied on the grievor's activities in keeping abreast of issues, including changes in the industries that she deals with as well as employment trends and changing interview techniques. The Union spokesperson noted that the grievor attends conferences and networking events, interviews employers and visits employers and

students at job placements. The grievor said that she uses the Flight Line pilots who train College aviation students but also work for commercial airlines to gather information about the industry and, in addition, she reads journals and trade magazines. The Union spokesperson suggested that all of this time should be counted as the grievor anticipating customer requirements and proactively delivering services.

The information obtained by the grievor through her activities discussed above can be used by the grievor when assisting students to address current issues and, as discussed below, also in structuring classes to meet current and future needs. The grievor's attendance at networking events and discussions with employers and reading literature, however, is not by itself a form of proactively delivering service.

The grievor is engaged in organizing and providing feedback to faculty and management. Some of this information comes from post coop courses she runs in which she assists students to assess their coop experiences. Other information comes from the grievor's interactions with employers. In its brief the Union contended that there is a proactive element to the grievor interviewing employers about their coop experiences and organizing that feedback to share with faculty, the Coop Manager and program chairs. The brief stated that the grievor considers the experiences of many employers and identifies trends that might indicate issues that should be shared with faculty.

As indicated above, the gathering of information by the grievor, including from students and employers, does not in and of itself constitute proactively delivering service or structuring service to meet current and future needs. Providing this and other information to management and faculty is, however, a form of service that can reasonably be said to involve a tailoring of service in terms of the grievor deciding what information would be of assistance to management and faculty. This information can then be used by management and faculty to plan ahead in terms of structuring courses differently. The PDF refers to this when it describes one of the grievor's duties as: "Provides feedback to the Manager with regard to suggestions made by the employers that will impact on curriculum in terms of content or sequencing of subjects taught." Material proposed to be added to the PDF by the Union refers to the grievor identifying barriers or shortcomings in the program or schedule. Presumably this is to allow managers and faculty to adjust the academic program and academic schedule. The grievor's own role does not, however, involve her in planning ahead and structuring services.

The College acknowledges that the grievor does anticipate customer requirements and proactively delivers service when she updates and adjusts the content of the courses she teaches. This is because she takes into account what she has learnt about changes in industries, the workforce and interview techniques. College counsel further

acknowledged that when the grievor redesigns a course she is involved in designing services for others by obtaining a full understanding of current and future needs and she also considers this information in a wider context. This meets the criteria for a level 4 rating. At issue is whether the grievor is engaged in this type of activity on a regular and recurring basis or on an occasional basis.

The PDF indicates that the grievor spends 40% of her time on classes. This, however, includes the post coop classes, actual teaching time and the grievor subsequently assisting students to identify what they had learnt from their program of study. The one aspect of this 40% grouping that relates to developing and updating courses is the PDF statement that the position "adapts the content (of classes) from given concepts based on the changing demands of the workplace and changing needs/demographics."

In its brief the Union indicated that it views all of the grievor's class preparation time as her providing services proactively. It included in this what it described as the grievor developing lesson plans that are interesting, memorable and easy to understand and her creating learning exercises that will open students' awareness of workplace behaviours. Preparing how to deliver material in class in an interesting manner, however, is an aspect of the communication responsibilities associated with the grievor's job. It does not logically involve her structuring services to meet emerging needs.

The grievor offers pre coop courses which she said last for either seven days or, in the case of degree students, fourteen days. As noted above, Ms. Maria Borg-Olivier is the grievor's supervisor. She testified that at one time she performed the grievor's job although this was prior to the introduction of degree programs. She indicated that in terms of redesigning courses she would expect the grievor to spend two days on each of four course offerings or eight days per year. The grievor responded that it takes her longer than two days to prepare for a fourteen day class. She did not, however, give any specific estimate of the time involved. In the circumstances I accept Ms. Borg-Olivier's estimate with respect to non-degree courses that she was familiar with, namely two days. I infer that degree courses, which are twice as long in length, could each take four days in terms of thinking ahead and incorporating new materials to address changes in industry and employer approaches.

Ms. Borg-Olivier said that there are two different courses which precede a coop placement that the grievor teaches, namely one for degree programs and one for diploma programs. She indicated that both courses are taught each semester. From this it appears that when degree courses are factored in the grievor could spend a total of twelve days per year in updating courses, which would represent about 5% of her time.

The manual does not specify a dividing line between what is regular and recurring as opposed to what is occasional. The instructions for using the manual describe occasional as something that can happen once or twice a month or three or four times per year but also state that a specific task which occurs once or twice a year and takes up 25% of the work year should be recognized as regular and recurring. The manual subsequently discusses how a skill used 5% of the time that is a notable element should be captured at the occasional level whereas a skill used 5% of the time that is not a significant differentiating element should not be assigned a separate occasional rating. In the instant case the grievor's role in adjusting pre-placement course content to take into account external changes is a significant differentiating element. Given that it takes up about 5% of the grievor's total time the references in the manual touched on above suggest that an occasional rating is appropriate for this function.

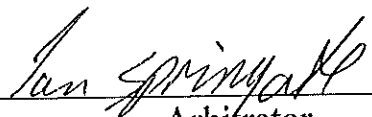
Having regard to these considerations I affirm the level 3 rating assigned by the College on a regular and recurring basis and the level 4 rating assigned by the College on an occasional basis.

CONCLUSION

As noted above, at the hearing the College accepted the Union's position with respect to the factor of physical effort. This served to bring the total points associated with the College's various ratings to 688 points. The additional 12 points associated with a level 5 rating for guiding and advising others raises the total to 700 points. This is sufficient to bring the position within the 700 to 759 point range for payband K.

Having regard to the above, I find that the grievor's position should appropriately be rated at payband K. I retain jurisdiction to address any issues that might arise directly out of this finding that the parties are unable to resolve.

Dated this 27th day of May 2010.


Arbitrator

College: DENECO Incumbent: ELAINE FENNER Supervisor: M. BORG-OLIVER

Current Payband: J Payband Requested by Grievor: K

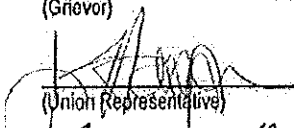
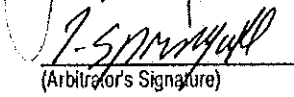
1. Concerning the attached Position Description Form:

- The parties agreed on the contents The Union disagrees with the contents and the specific details are attached.

2. The attached Written Submission is from: The Union The College

Factor	Management				Union				Arbitrator			
	Regular/Recurring		Occasional		Regular/Recurring		Occasional		Regular/Recurring		Occasional	
	Level	Points	Level	Points	Level	Points	Level	Points	Level	Points	Level	Points
1A. Education	4	48			4	48			4	48		
1B. Education	1	3			1	3			1	3		
2. Experience	5	69			5	69			5	69		
3. Analysis and Problem Solving	4	110			4	110	5	9	4	110		
4. Planning/Coordinating	3	56			4	80			3	56		
5. Guiding/Advising Others	4	41			5	53			5	53		
6. Independence of Action	4	110			4	110			4	110		
7. Service Delivery	3	51	4	6	4	73			3	51	4	6
8. Communication	4	110			4	110			4	110		
9. Physical Effort	1	5	2	6	1	5	2	6	1	5	2	6
10. Audio/Visual Effort	2	35			2	35			2	35		
11. Working Environment	2	38			2	38			2	38		
Subtotals	(a)	676	(b)	12	(a)	734	(b)	15	(a)	688	(b)	12
Total Points (a) + (b)		688				749				700		
Resulting Payband		J				K				K		

Signatures:

(Grievor) _____ (Date) _____ (College Representative) _____ (Date) _____
 (Union Representative) Jun 11, 2010 (Date)
 (Arbitrator's Signature) APRIL 15, 2010 (Date of Hearing) MAY 27, 2010 (Date of Award)