

IN THE MATTER OF AN ARBITRATION
BETWEEN:

FANSHAWE COLLEGE
("the College")
and

ONTARIO PUBLIC SERVICE EMPLOYEES UNION
("the Union")

AND IN THE MATTER OF A CLASSIFICATION GRIEVANCE OF AARON
HINDERMEIER (# 710909)

ARBITRATOR: Ian Springate

APPEARANCES:

For the College: Sheila Wilson, Manager, Labour Relations
Jimmy Tom, Manager, Network Services and
Computer Operations
Julie McQuire, Human Resources Consultant

For the Union: Harold Sobel, Chief Steward - Classification
Marg Rae, Advisor
Aaron Hindermeier, Grievor

HEARING: In London on January 12, 2009

AWARD

INTRODUCTION

The grievor is employed as a Senior I.T. Infrastructure Specialist in the College's Network Services and Computer Operations business unit. This is one of five business units within the College's Information Technology Services Division.

There are two major aspects to the grievor's duties. One involves addressing problems that various levels at the Helpdesk have not been able to resolve. The other involves project work, notably designing and planning installations for new buildings and renovations. The grievor coordinates the number of drops and switches, determines where cables will run and decides what equipment will be used. The grievor gave the example of a new residence. He indicated that a project coordinator from the Facilities Department had advised him that each bedroom was to have a connection and he then designed and planned the network. The grievor also does related installation work on projects, including configuring the equipment and doing any necessary troubleshooting. He does not run cable. As part of his project work the grievor is at times involved in upgrading equipment.

At the hearing the grievor was asked about the split in his time between the two aspects of his work. He replied that it varies over time and he could not give a percentage estimate. Mr. Jimmy Tom, the College's Manager of Network Services and Computer Operations, is the grievor's immediate supervisor. He said that the grievor's duties are split 50:50 between troubleshooting and project work.

By way of a grievance dated August 28, 2007 the grievor contended that his position should be evaluated at payband L, which is the highest possible payband under the applicable job evaluation system. When he filed his grievance his position was classified at payband I. Subsequent to the filing of the grievance the College raised this rating to payband J retroactive to March 2007.

The College's current ratings for all eleven job factors identified in the job evaluation manual result in a total of 650 points for the grievor's position. This is within the 640 to 699 point range for payband J. The ratings proposed by the Union would result in a total of 844 points, within the 760 or more points required for payband L. The intervening payband K covers the range of 700 to 759 points.

The parties disagree on the ratings for seven of the eleven job factors, namely: education, analysis and problem solving, planning/coordinating, guiding/advising others, independence of action, service delivery and communication. Each of these factors is addressed separately below.

The Union proposed a number of changes to the wording of a position description form (“PDF”) adopted by the College.

As noted above, Mr. Tom is the grievor’s immediate supervisor. He reports to the College’s Chief Information Officer. Both the grievor and Mr. Tom gave evidence at the hearing.

THE FACTOR OF EDUCATION

The job evaluation manual notes that the factor of education has two components. The first, which the job evaluation manual labels as factor “1A”, identifies the minimum level of formal education required for a position. The parties agree on a level 4 rating for this component worth 48 points. This rating is appropriate when a position requires a three year diploma or degree or equivalent.

The second component, labeled factor “1B”, considers whether in order to perform the responsibilities of a position the incumbent requires a specific course, certification, qualification, formal training or accreditation in addition to the educational level in 1A. The College assigned a level 2 rating to this component worth 12 points. The Union argues for a level 4 rating worth 30 points.

The factor level definition for a level 2 rating states that this rating is appropriate for “additional requirements obtained by course(s) with a total of 100 hours or less”. A level 3 rating would apply to additional requirements that are obtained through a course or courses of between 101 and 520 hours. The level 4 rating argued for by the Union would require additional courses in excess of 520 hours.

In their submissions the parties made reference to the factor of experience. According to the manual, “experience refers to the time required to understand how to apply the knowledge described under ‘Education’ to the duties of the position”. The parties agree on a 5 rating for this factor, reflecting a minimum of five years of experience. The College PDF and the PDF language proposed by the Union both note that experience is to involve “installing and maintaining network devices and related technologies in a large enterprise environment”.

The parties are in agreement that in addition to a three year degree or diploma someone in the grievor’s position requires: “Cisco training in network infrastructure design & operation”. The College contends that the required training can be obtained through courses with a total of 100 hours or less. The Union contends that it requires courses with more than 520 hours.

The job evaluation manual contains the following statement with respect to the 1B education factor:

1B In order to perform the responsibilities of the position, is there a requirement for specific course(s), certification, qualification, formal training or accreditation in addition to and not part of the educational level noted above in 1A. Include only requirements prior to commencement that would typically be included in the job posting/PDF as a mandatory requirement.

The manual also contains the following notes to raters:

1. Course(s) or certification that are part of the formal education referenced in 1A are not to be included. For example, if the PDF states a 1-year certificate in Section 1A and in 1B asks for additional computer courses, such as electronic spreadsheet, raters need to determine whether that skill or knowledge would be part of the 1-year certificate before rating.

2. Use today's educational levels and standards to determine whether the additional requirement is included in the formal education referenced in 1A or should be listed in 1B.

3. Do not include any sessions, seminars or training that are required/or conducted after an incumbent is hired. For example, familiarization sessions on internal processes, email, or computerized record systems. Also exclude any courses that are designed to bring a particular employee's skills up to required levels, courses for general personal development (e.g. interpersonal skills, leadership) or courses for general skills development, unless completion of that course would be mandatory.

4. If, after an incumbent is hired, job responsibilities change so that there is a requirement for additional education (as defined by 1 B above) and that change would subsequently be included in the job posting/PDF, then those additional educational requirements must be considered.

5 There are many professions that require an individual to renew his/her licence on a regular basis (e.g. nursing). Courses to maintain a professional designation are not considered under this factor.

In a written brief that he prepared on behalf of the Union the grievor stated that he had started working in the Network Services Department as a Technical Support Specialist in 2002. He said that over the years his responsibilities had increased. He

indicated that prior to working full-time for the College he had been a co-op student at the College's Helpdesk for two terms of four months each and between the two co-op terms he had worked as a part-time employee.

The grievor noted that for operational purposes the College uses Cisco equipment. He said that when he started as a student at the College all of the teaching was done on Nortel equipment but after his first year the College switched to Cisco systems. He said that this resulted in him and eight other students having to fast-track through two semesters on Cisco equipment, although any students who subsequently started in the program were trained on Cisco equipment from the outset. This indicates that today's educational standards encompass training on Cisco equipment.

The grievor stated that while a full-time employee at the College he attended eight different week-long training sessions in six years. He said that most of these courses were between 40 to 50 hours. In the brief that he prepared the grievor made the following comments concerning the benefits to the College of providing additional education to its IT staff:

IT is constantly changing and with that you must update your skills to be able to perform your duties and be a useful contributor to Fanshawe College. It is in the best interests of the College to provide Additional Education to IT staff, in order for Fanshawe to be a leader in Education. I have been to 8 different week-long training sessions in the 6 years I have been a full-time employee of Fanshawe College.

The third note to raters above indicates that training received after an incumbent is hired is generally not to be taken into account. Accordingly, to the extent the training sessions which the grievor attended were designed to update his skills in light of on-going changes in the IT field (as opposed to training to allow him to perform his expanding job duties) they are not to be taken into account. This, however, appears to be the type of training addressed by the grievor in the excerpt from the Union brief that is set out above.

The spokesperson for the Union asked the grievor if an individual with a three year diploma who graduated this year would have sufficient training to run the equipment and understand the needs of the future. The grievor replied that they would need additional training. The Union representative suggested to the grievor that given the changes in the field over the past five years and projecting the changes into the future two training sessions per year would be the absolute minimum requirement. The grievor replied that this would be reasonable but he could not say it was a minimum requirement given the need for time off from work. The Union spokesperson later

asked the grievor if an employee with a three year diploma and help desk experience would be able to perform his job without at least 520 hours of training. The grievor replied that they could not. He noted in this regard that the college is offering remote courses using audio visual hookups and such offerings will continue to grow. He added that in order to keep up with the technology “we” would need training.

These questions put to the grievor related to training that would be required by someone without the now required level of experience for the grievor’s position and training that would be required in the future by a current employee to keep up with technological changes. The 1B aspect of the education factor, however, is not designed to measure either of these issues. Instead, it addresses only the amount of additional pre-hire training required of an employee who already has the listed experience and formal education.

The spokesperson for the Union asked Mr. Tom if he would be qualified for the grievor’s position if he has the same formal qualifications as the grievor as well as 50 hours of continuing education on Windows Vista and 50 hours on medical related IT. Mr. Tom replied no, he would not be qualified. The Union spokesperson subsequently suggested that this demonstrated that management would not actually hire someone with the requirements listed in the College’s PDF. In fact, however, the Union spokesperson did not refer to having five years of experience in installing and maintaining network devices and related technologies or possessing the type of training referred to in both the PDF and the PDF language proposed by the Union, namely Cisco training in network infrastructure design and operation.

At the hearing the grievor indicated that he and Mr. Tom had agreed that his position would require “additional requirements obtained by course(s) of a total of more than 520 hours”. In the Union brief he said that this language had been included in an original PDF. When the relevant College Officials finalized the PDF, however, they concluded that 100 hours or less of Cisco training in network infrastructure design and operation was what was required for an individual hired into the position. At the hearing Mr. Tom indicated that he had been involved in deciding on the 100 hours or less figure. He said that the biggest piece for him was the additional training provided to employees in Network Services and Computer Operations. He noted that his Department has a substantial training budget, including for training, workshops and conferences, and the budget is usually depleted by the end of each fiscal year. At the hearing the spokesperson for the College suggested to Mr. Tom that PDF entries respecting factors 1A and 1B for education and the factor of experience list what are required for the grievor’s position. Mr. Tom agreed, adding that they are what are required to minimally perform the role.

There seems to have been some confusion on the part of the grievor and Mr. Tom about what factor 1A is meant to measure and they initially took into account training that would normally be provided on an on-going basis to an IT employee after they had been hired into a position. As noted above, however, that type of training is not to be counted.

The job evaluation manual states that the College structures a position by identifying the tasks to be performed, assigning a level of responsibility to the position and “determining the qualifications and skills needed to do the job”. Logically when determining required qualifications and skills the College will be guided by what it is willing to accept as a minimal level of acceptable performance. In the circumstances I accept the College’s claim that an individual with a three year degree or diploma and five years previous experience in installing network devices and related technologies in a large enterprise environment would be able to start in the grievor’s position and meet the minimal requirements of the job with additional Cisco training in network infrastructure design and operation of 100 hours or less.

Both the grievor and Mr. Tom indicated that someone employed in the IT field for five years while gaining the amount of experience now required for the grievor’s position would during those five years receive additional training in order to remain current. As already noted, courses taken by a College employee to remain current after being hired are not to be taken into account when assessing the 1B education factor. The job evaluation manual does not directly address whether similar training with a previous employer should be taken into account. It appears that such training would not be aimed at expanding an individual’s skill set but rather at keeping them current with evolving technology. In my view this type of on-going training, whether received while working at the College or with a previous employer, is not meant to be counted.

Having regard to the above considerations I confirm the level 2 rating assigned by the College.

ANAYSIS 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 submits that level 5 worth 142 points would be more appropriate. The job evaluation manual sets out the following 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 and incomplete. Further investigation is required. Solutions require the interpretation and analysis of information within generally accepted principles.

The manual contains the following definitions of terms that are used in the above definitions:

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 desired outcome. Can be defined as the collectivity of moral or ethical standards or judgments.

Both parties accept three examples listed in the PDF as involving regular and recurring issues which require analysis and problem solving on the part of the grievor. They are application and network slowdowns, connectivity issues affecting specific college areas and web pages being unreachable. The PDF indicates that all three of these situations require an investigation into the cause of the problem in order to determine the scope and depth of the issue and to isolate possible contributing factors.

The grievor contended that he works with symptoms that are vague and incomplete in that people come to him with problems which others have been unable to resolve. He agreed with a suggestion from the Union spokesperson that it is reasonable to say that any problem that could not be resolved at three levels at the Helpdesk is complex and multi-faceted. The grievor noted that he is the top troubleshooting level at the College.

Mr. Tom said that problems come to the department via the Helpdesk with reported symptoms such as someone not being able to print or a slowdown in an application. He said that the process followed involves an initial investigation, a duplication of the issue, isolation of the problem and then determining a resolution. He

noted that the cause of problems can be quite different. He also noted that Helpdesk employees might not have the access required to ascertain why something is not working. In terms of project work, such as a new residence, Mr. Tom said that by way of blueprints and specifications the Facilities Department provides the grievor with information such as room layouts and proposed network jacks and the grievor will then decide what equipment will be used and its configuration.

The evidence suggests that symptoms presented to the grievor are not in fact vague and incomplete. He will have a specific project to carry out or be advised of a specific problem, such as a network slowdown. An investigation is inevitably required to fully understand the details of a project or the cause of a problem, which meets the criteria for a level 4 rating. While technical issues and problems differ, the grievor employs a systematic procedure to achieve a required outcome. This corresponds with the reference to established techniques and/or principles in the level 4 definition.

For a level 5 rating to apply a solution must require the interpretation and analysis of information within generally accepted principles. This is clearly meant to require something other than following a systematic procedure. This is particularly so given that the manual defines generally accepted principles as general statements or parameters that describe a desired outcome and which can be defined as the collectivity of moral or ethical standards or judgments. While the grievor interprets and analyzes information both when troubleshooting and when performing project work he does so in the context of a specific technical problem or situation and not in the context of general statements or parameters or in the context of moral or ethical standards or judgments.

Having regard to the foregoing I affirm the level 4 rating assigned by the College.

PLANNING/COORDINATING

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

The College rates this factor at level 3 worth 56 points. The Union argues for a level 4 rating worth 80 points. The definitions for these two ratings and some of the utilized terms 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 Union spokesperson suggested that a relevant consideration is the grievor's involvement with Helpdesk employees who contact him about problems. In many instances the grievor does not actually fix a problem that is presented to him by the Helpdesk but instead he advises a Helpdesk employee of the steps required to resolve the problem. The Union spokesperson contended that this involves a modification of the priorities and schedule of the Helpdesk employee. He raised a similar submission with respect to the grievor's role in assigning work to a co-op student. In my view, however, the grievor's interactions with Helpdesk employees and the co-op student are better captured by the factor of guiding/advising others.

The Union spokesperson relied on the grievor's involvement with Technical Support Specialist Mr. Bryan Shoebottom. The grievor's evidence was that if he is busy he might ask Mr. Shoebottom to take over certain tasks from him. The grievor indicated that Mr. Shoebottom will usually agree to do so but if he says he cannot then the grievor will raise the situation with Mr. Tom. The grievor's role in this regard does not involve the type of organizational or project management skills contemplated by the factor of Planning/Coordinating.

The grievor testified that if he is not present to install equipment in a new building it would be difficult for offices in the building to start functioning. He also said that he coordinates equipment purchasing and should equipment not be received from vendors by a specific time this will impact on a project. The grievor noted that he works with Facilities when he can be available and accordingly from a project management perspective he impacts on time lines. The grievor pointed out that certain things must be done before he can install equipment, including cables being installed in the right place.

The grievor must coordinate his work with others since his availability to meet with others and work on a project such as a new building or a renovation can impact on when others can perform their work. The grievor can affect the work schedule of others in the sense of having a material influence on or altering their schedules. This type of impact is contemplated by a level 3 rating.

The note to raters with respect to the level 4 definition refers to tasks such as a major campus renovation. The note also refers coordinating the activities or resources of a number of departments. The actual coordination of activities and resources of various departments during renovations, however, appears to be done within the Facilities Department. It is not performed by the grievor. In order for a level 4 rating to apply the grievor would need to not simply coordinate his activities with the Facilities Department but have the ability to direct others to change their schedules and/or to make basic or fundamental changes to their priorities. The evidence does not suggest that the grievor is in a position to give such directions. Accordingly I confirm the level 3 rating assigned by the College.

GUIDING/ADVISING OTHERS

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 job evaluation manual states that 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". 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 worth 41 points. The Union argues for a level 5 rating 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.

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.

Ongoing involvement – is intended to reflect a requirement to be involved for the duration of the process or skill development, in which the position is an active participant.

Notes to raters designed to clarify the differences between the levels read 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.

The PDF prepared by the employer describes the grievor’s role with respect to this factor as follows:

The incumbent is responsible for helping and guiding junior staff members, members of the Helpdesk and NS & CO Co-op students. The incumbent will generally delegate tasks to the latter, keeping close observations on performance and taking corrective action as required.

The PDF language proposed by the Union is similar to the above, the major difference being the Union's assertion that the incumbent delegates tasks not only to co-op students but only to junior staff and members of the Helpdesk while keeping close observations on performance and taking corrective action as required. In support of this claim the Union relied on evidence which indicated that the grievor often advises Helpdesk employees of the steps to follow to resolve a problem. While doing so the grievor may ask the Helpdesk employee to obtain certain additional information. I view the grievor's role in this regard as providing knowledgeable direction regarding a course of action, which comes within the definition of "advise" which is used in the level 4 definition.

The Union also relied on the evidence respecting situations when the grievor will ask Mr. Shoebottom to take over certain tasks. The grievor was asked if he assigns work to Mr. Shoebottom. He relied that he would not use the word assign, adding that while Mr. Shoebottom is his junior he still sees him as his equal. As touched on above, the evidence was that Mr. Shoebottom is able to tell the grievor that he is unable to take over work from him and the grievor will then approach Mr. Tom. This demonstrates that the grievor does not have the assigned responsibility for allocating tasks to Mr. Shoebottom. There was no suggestion in the evidence or in the written briefs that the grievor is responsible for ensuring that the work completed by Mr. Shoebottom is completed satisfactorily.

As noted above, the College's PDF accepts that the grievor delegates tasks to co-op students and he keeps close observation on their performance and takes corrective action as required. The evidence indicates that there is one co-op student at a time who is selected by and works closely with the grievor. The grievor testified that mid-way through a student's co-op period and again at the end he will sit down with the student and they will reflect on what the student has done and what the student could do better. The grievor also said that at the end of a student's co-op period he submits a report respecting the student's performance. The grievor noted that at one time he had assigned tasks to part-time student employees although there had not been any such employees for a couple of years.

The grievor's role with co-op students might arguably be said to meet the criteria for a level 5 rating. The much better "fit", however, is level 4. A co-op student is logically in the department specifically as part of their learning experience. This corresponds with the reference in the level 4 definition to guiding and advising others with ongoing involvement in their progress. It also corresponds to the definition of "ongoing involvement" which states that it is intended "to reflect a requirement to be involved for the duration of the ... skill development, in which the position is an active participant". Further, it meets an aspect of the definition of the term "guide" used in the

level 4 definition namely “demonstrates correct processes/procedures for the purpose of assisting others with skill development”.

The grievor’s role with Helpdesk staff and co-op students meets the criteria for a level 4 rating. Other than the co-op student he does not have the responsibility to allocate tasks to others, which is required for a level 5 rating. Accordingly, I confirm the level 4 rating assigned by the College.

INDEPENDENCE OF ACTION

The job evaluation manual states that this factor measures the level of independence or autonomy in a position. It states that consideration is to be given to the types of decisions 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; and also the rules, procedures, past practice and guidelines that are available to provide guidance and direction.

The College rated this factor at level 3 worth 78 points. The Union argues for a level 4 rating worth 110 points. The relevant factor level and term definitions are as follows:

3. Position duties are completed according to general processes. Decisions are made following general guidelines to determine how tasks should be completed.
4. Position duties are completed according to specific goals or objectives. Decisions are made using industry practices and/or departmental policies.

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

Industry practice – 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 towards the mission.

The manual contains the following entry respecting level 3 that is part of a note to raters designed to clarify the differences between levels 2 and 3:

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 autonomy to make decisions within these parameters.

The manual also contains the following entry which forms part of a note designed 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.

The PDF contains an entry respecting issues for which there are no guidelines that states: "In the event that no guidelines exist for a particular issue, the incumbent is expected to exercise judgement and take appropriate action. He/she is expected to brief management at the earliest opportunity".

Mr. Tom testified that he assigns tasks to junior employees but for more senior employees such as the grievor he assigns them objectives and lets them decide on the tasks necessary to meet those objectives. He said that there are two policies in place which the grievor must adhere to, namely a conflict of interest policy and an acceptable computer use policy. The grievor stated that "we" ensure that students adhere to a code of conduct respecting the network, adding that this is where ethics and morality come into play.

Mr. Tom stated that there are guidelines respecting when the grievor is to approach him. He described these as being if an action or activity will involve a College-wide outage or interruption; if it requires a major change in configuration; and if there is a cost involved. Mr. Tom also said that there is an existing framework which cannot be ignored. He said that this includes the College's decision to use Cisco equipment. He also noted that equipment must meet industry standards and there are certain generally accepted standards in the Department, such as the use of fire walls unless an exception is required to allow for a flow of information.

Mr Tom testified that with respect to project work, the grievor does an analysis and makes an initial decision about what equipment to use and how it will be configured. He noted that he must approve the grievor's decision but said he would accept any

recommendation from the grievor that did not break the bank or involve a drastic change in configuration.

Mr. Tom said that he meets with the grievor on a weekly basis to share information with respect to the status of projects. He noted that the occasional time when the grievor cannot resolve a problem by troubleshooting the grievor will engage the services of the vendor of the equipment.

I am satisfied that with respect to the grievor's troubleshooting duties his tasks are pre-determined in that he is called on to fix a specific problem. He does so in accordance with established general processes which are followed in order to locate and repair a problem. This meets the level 3 definition.

The grievor's project work is also predetermined by others in the sense that he is expected to install network services in a new building or renovation. Given the broad scope of the task, however, the grievor can appropriately be viewed as working towards a goal or objective. This corresponds with Mr. Tom's statement that he assigns objectives to senior employees such as the grievor and lets them decide on the tasks necessary to meet those objectives. The grievor follows industry practices and has wide latitude when working on a project. He need only consult with his supervisor with respect to matters involving the three guidelines set by Mr. Tom. In my view, this aspect of the grievor's position meets the level 4 definition. Project work accounts for approximately 50% of the grievor's time. As such is an integral part of his position. Given these considerations I find a level 4 rating to be 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 2 worth 29 points. The Union argues for a level 4 rating worth 73 points. The intervening 3 rating is worth 51 points. The relevant level definitions and term definitions are as follows:

2. Provide service according to specifications by selecting the best method of delivering service.
3. Tailor service based on developing a full understanding of the customer's needs.

4. Anticipate customer requirements and pro-actively deliver service.

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

Anticipate - given advance thought, discussion 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. Another note to raters includes the following comments designed to clarify the differences between levels:

Level 2 - service is provided by determining which option would best suit the needs of the customer. The incumbent must know all of the options available and be able to explain them to the customer. The incumbent selects or recommends the best option based on the customer's need. There is no, or limited, ability for the incumbent to change the options. For example, positions working in the Financial Aid area would need to fully understand the various student loan programs that are available and based on a student's unique situation select or recommend the program that would best address the student's financial situation. The incumbent doesn't have the ability to change the funding programs, which are established by an external agency.

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.

At the hearing Mr. Tom stated that requests “we” receive are often not straight forward and so there is not a standard way to deliver service. He agreed with a prior statement by the grievor that there are no cookie cutter solutions. Later in his evidence Mr. Tom said that the solution to a problem may involve one piece of equipment or a number of pieces of equipment configured in a certain way. The grievor’s activities described by Mr. Tom differ considerably from those described in the note to raters respecting a level 2 rating. This note indicates that the rating applies when an employee has no or limited ability to change options but rather selects from set options. It follows that a level 2 rating is not appropriate.

The evidence suggests that for project work the grievor tailors or customizes the way service is delivered, which meets the criteria for a level 3 rating. In order to meet the requirements for a level 4 rating he must also anticipate customer requirements and pro-actively deliver service. The grievor contended that this is what he does. He said that he meets with customers and tries to anticipate what they will be looking to do in the future. He gave the example of radio-TV staff coming to him with a request for more ports and since he knew that voice over IP will be coming he recommended equipment that will be able to handle it.

Mr. Tom testified that what is “coming down the pipe” is looked at and decided on at Technical Planning Committee meetings at which the grievor is a participant. He said that if at such a meeting it is decided that voice over IP will be introduced then the appropriate equipment is to be selected. According to Mr. Tom, in such a situation future requirements have already been determined and it becomes a question of the grievor addressing those requirements.

The wording of the level 4 definition indicates that it applies when an incumbent is expected to anticipate customer requirements. This is reinforced by the note to raters which states that “The position may envision service(s) before the customer is aware of the need”. The grievor does raise future requirements with customers. He does so, however, in the context of decisions reached at the Technical Planning Committee meetings about where the College is heading in terms of IT services. The grievor structures services to meet a customer’s current needs and also plans for and installs equipment that will be required to meet plans already developed for the future. This falls short of the language of the level 4 definition when it is read together with the note respecting level 4.

Having regard to the foregoing I find a level 3 rating to be appropriate.

COMMUNICATION

This factor measures the communication skills required for a position, both verbal and written. This includes communication to provide advice, guidance, information or training; interaction to manage necessary transactions; and interpersonal skills to obtain and maintain commitment and influence the actions of others.

The College rated the grievor's position at level 3 on a regular and recurring basis, which is worth 78 points. The College also assigned a level 4 rating on an occasional basis worth an additional 9 points. The Union contends that the grievor's position is entitled to a 4 rating on a regular and recurring basis, resulting in 110 points and a 5 rating on an occasional basis for an additional 9 points.

The relevant factor levels and term definitions are as follows:

3. Communication involves explaining and/or interpreting information to secure understanding. May involve communicating technical information and advice.
4. Communication involves explaining and/or interpreting information to instruct, train and/or gain the cooperation of others.
5. Communication involves imparting information in order to obtain agreement, where interests may diverge, and/or negotiation skills to resolve complex situations.

Instruct - to give knowledge to or provide authoritative information within a formal setting such as a workshop or lab environment.

Train - impart knowledge and/or demonstrate skills within a formal instructional setting.

Negotiate – exchange views and proposals and obtain agreement with the aim of reaching agreement by shifting possibilities, proposals, and pros and cons. Issues are complex and outcome could be contentious.

A note to raters aimed at clarifying the differences between a level 2 and a level 3 rating contains the following statements respecting level 3:

"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.

In order to clarify the difference between "gaining cooperation" at level 4 and "negotiation" at level 5 another note to raters states as follows:

The assigned communication and interpersonal skills needed at both of these levels are at an extremely high level.

"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.

"Negotiation" refers to having the authority to commit to a solution or compromise. An incumbent who communicates at this level also works within broad parameters and the preferred outcome is also broadly defined. The incumbent needs to have the skills/tools to reach an agreement that is then binding on the College. Normally, the audience will have divergent views or opposing objectives.

Some people use the word "negotiation" for making arrangements that are relatively straightforward (e.g. negotiating a meeting date). In these situations, that type of communication would typically be considered an exchange of routine information. The use of the word "negotiation" is therefore quite specific in this factor.

The PDF language proposed by both parties includes the statement: "negotiating arrangements to achieve the best value for the College, at the lowest cost". The College includes this language under the heading "obtaining cooperation or consent". The Union has it under the heading "negotiation". It is not apparent what the entries actually

refer to in light of the grievor's evidence that the purchasing of equipment is done using a tender process. The grievor does not negotiate prices with vendors.

In his evidence the grievor said that he negotiates with vendors with respect to equipment time lines. He said that the vendor might say that certain equipment cannot be supplied for three weeks and he would explain to them that it is required earlier and ask if there was anything the vendor could do. Urging a vendor to speed up the delivery of equipment is not, however, the type of negotiation that is discussed in the note raters set out above.

It follows from the above that a level 5 rating is not appropriate, even on an occasional basis.

Both parties acknowledge that the grievor is involved in communications which justify a level 4 rating. The Union contends that he does so on a regular and recurring basis. The College contends that he only does so on an occasional basis.

As noted above, about half of the grievor's time is spent on issues arising out of the Helpdesk. At the hearing the grievor said that his communications to Helpdesk employees involve imparting information which the Helpdesk employees would understand. This type of communication justifies no more than a level 3 rating.

In his evidence the grievor stated that he is involved in educating his customers and gaining their agreement as they do not know about other planned projects or new technologies. The grievor agreed with a suggestion from the Union spokesperson that it is up to him to convince others to do things in a different manner from what they had originally wanted. Mr. Tom described this as the grievor being engaged in active listening to assess user requirements and to process it into a technology solution and then being able to communicate the solution to end users and others.

When dealing with other departments respecting their IT needs the grievor's primary role appears not to be to instruct or train them. Rather it is to communicate technical information and advise them in order to secure their understanding with respect to what he is proposing. The grievor's communication is of a technical nature to an audience that is not fully conversant or knowledgeable about the subject matter. This type of communication is specifically referred to in the note to raters respecting a level 3 rating.

The grievor testified that he seeks to gain the cooperation of others when trying to get an agreement on the timing of an outage to allow for the upgrading of equipment or changes to the network. He said that when others are asked what time will work best for them they will respond that there is never a good time. He noted that he does not

simply set a time but instead seeks to reach agreement on a convenient time. He gave the example of an outage in a wing of a building being scheduled for a Friday evening. The grievor noted that he does not shut down service very often. In addition, he said that for an outage involving a building, a wing of a building with a number of offices or one which is College-wide he will refer the matter to Mr. Tom since Mr. Tom will be receiving the resulting phone calls.

Mr. Tom described the grievor as being at the forefront in terms of explaining how it is better for a department to make changes and in getting their agreement with respect to an outage window. He noted that except when security issues are involved the Department does not dictate to a customer when something must go down.

In light of the evidence I conclude that at times the grievor is involved in communications that are designed to gain the cooperation of other departments with respect to the timing of outages. This, however, appears to be an infrequent aspect of his job. In its PDF the College listed the grievor's interaction with vendors as involving obtaining cooperation or consent on an infrequent basis. Even taken together, the grievor's involvement with this level of communication appears to be infrequent.

Having regard to the foregoing I confirm the College's level 3 rating for this factor on a regular and recurring basis and a level 4 rating on an occasional basis.

CONCLUSION

The various ratings assigned by the College resulted in the grievor's position receiving a total of 650 points. The additional 32 points related to a level 4 rating for the factor of independence of action and 22 additional points for a 3 rating for service delivery raise the total to 704 points. This brings the position into payband K. Accordingly, I find that the grievor's position should be at payband K.

I retain jurisdiction to address any issues that may arise directly out of this award which the parties are unable to resolve.

Dated this 26th day of February 2009.

Arbitrator