

IN THE MATTER OF AN ARBITRATION  
BETWEEN:

**NORTHERN COLLEGE**

("the College")

and

**ONTARIO PUBLIC SERVICE EMPLOYEES UNION**

("the Union")

AND IN THE MATTER OF A CLASSIFICATION GRIEVANCE OF GLENNA  
JOHNSTON (# 765403)

ARBITRATOR: Ian Springate

APPEARANCES:

For the College: Daniel Michaluk, Counsel

For the Union: Frank Wright, President Local 654

HEARING: In Kirkland Lake on April 20, 2009

## AWARD

### INTRODUCTION

The grievor is employed as a Program Assistant in the College's Apprenticeship, Workforce Development and Training ("AWDT") Department at Kirkland Lake. She spends approximately 65% of her time in what the applicable position description form ("PDF") describes as "administrative assistance in the facilitation of AWDT courses, programs and other services". The College in its written brief summarized this aspect of the grievor's role as "setting up" courses, a term also used by the grievor at the hearing. The grievor is not involved with curriculum issues. An additional 20% of the grievor's time is spent performing back-up duties with respect to student services and administration. This primarily involves providing services to post-secondary students. Approximately 10% of the grievor's time is spent performing secretarial duties.

The grievor is highly conscientious and performs her duties with a careful eye to detail and accuracy. The College acknowledges that her role is critical to the success of the AWDT Department. Mr. John Hodgson is the Operations Manager for the College's Kirkland Lake and Haileybury campuses. Since October 2007 he has been the grievor's immediate supervisor. At the hearing he acknowledged that the grievor does an excellent job.

The grievor's duties include a wide range of relatively straight-forward administrative tasks. At times, however, she is involved in more complex matters. A central issue in this case is the extent to which such activities justify higher ratings under the applicable job evaluation system.

The College originally rated the grievor's position at payband D. On November 16, 2007 the grievor filed a grievance in which she contended that her position should be rated at payband F. Following a step 1 grievance meeting the College altered its ratings for several of the individual job factors. It did so by retaining its previous ratings with respect to the grievor's regular and recurring tasks while assigning certain higher ratings on an occasional basis. These changes placed the College's overall rating of the grievor's position within payband E. The Union contends that the College's approach still undervalues the grievor's position.

The Union took issue with the accuracy of the initial PDF advanced by the College. The College subsequently revised the document and prepared one headed up "Final Revised". The Union accepted the accuracy of this PDF. At the hearing counsel for the College urged me not to rely on certain entries in the PDF. He submitted that to

do so would produce “a hollow decision” that would require that the College re-write the PDF.

The parties currently disagree on the proper ratings for six of the eleven job factors identified in the job evaluation manual. These are: analysis and problem solving, planning/coordinating, guiding/advising others, independence of action, audio/visual effort and working environment. Each of these factors is addressed separately below.

The College’s current ratings for all eleven job factors result in a total of 344 points. This is near the bottom of the 340-399 point range for payband E. The ratings proposed by the Union would result in a total of 440 points, within the 400 to 459 point range for payband F.

### THE FACTOR OF 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 rates the grievor’s position at level 2 on a regular/recurring basis worth 46 points. The College also assigns a level 3 rating on an occasional basis worth an additional 9 points. The Union submits that a level 3 rating is appropriate on a regular/recurring basis, which would be worth 78 points.

The job evaluation manual sets out the following factor level definitions as well as the definition of the term “past practices”:

2. Situations and problems are easily identifiable. Analysis or problem solving is straightforward. Solutions may require modification of existing alternatives or past practices.
3. Situations and problems are identifiable, but may require further inquiry in order to define them precisely. Solutions require the analysis and collection of information, some of which may be obtained from areas or resources which are not normally used by the position.

Past practices – to perform work according to how it has customarily been done in the past or the usual way of doing something. Such practice does not have to be written down, but can arise on the basis of regular, repeated action.

The manual contains the following notes to raters designed to clarify the differences between these levels:

At level 2, the work performed is still quite structured, as the incumbent performs it in the customary or usual way. It is very evident when problems arise. However, the position has some freedom in determining how the problem could be resolved if normal past practice cannot be applied. For example, if a position was to post certain information on a daily basis and, for a reason never previously experienced by the incumbent, the information was not available, then the individual in the position would need to determine if a solution to another similar situation could be applied in this circumstance.

At level 3, the types of problems that are encountered are readily identifiable but the position must be able to identify when additional information is needed to clearly understand the problem or situation. In order to develop an appropriate solution, the position will need to gather more information. In many circumstances, this additional information or clarification will be readily available, but there will be times when the position will need to seek the additional information from a source it is unfamiliar with.

Level 2 versus level 3 – wording in a PDF that suggests there is a need to get additional information, such as problems that require the incumbent to look at several sources of information or ask questions of other departments, does not necessarily mean that level 3 would apply. For example, if dealing with a question regarding a “hold” on a student record, the incumbent might have to check several screens on the student record system to see if it is a financial hold, or an academic hold, and might even have to contact the academic or finance department for an answer. However, these are procedural steps that should be followed one by one until the problem is identified and solved. There may be some judgement (level 2) in deciding which step to try first, but the analysis, if any, is quite straightforward (level 2). For level 3, the incumbent would be gathering information, analyzing each new piece of information in relation to the other pieces, and possibly exploring new or unusual directions to seek more information based on the results of the investigation or analysis.

The College contends that level 2 is the best fit for the grievor’s position as her work is characterized by very clear and routine processes with limited decision making options. It submits that a level 3 rating on an occasional basis recognizes that there may be occasions when the grievor engages in a more complex analysis.

In its brief the Union relied on the grievor's role in connection with the offering of new continuing education courses, an example not referred to in the PDF with respect to this factor. The Union brief indicates that the grievor does research to ensure that there will be a sufficient number of students for a new course, notifies contacts who might have an interest in such a course and "spreads the word". Mr. Hodgson's evidence was that the College tries to offer one or two new courses per semester. He indicated that the grievor is involved in team meetings where potential courses are discussed but the responsibility for planning and developing new courses rests with Training Consultant Ms. Rose-Lyne Daoust-Messier, the AWDT team leader. Mr. Hodgson indicated that he assesses any proposals from a budgetary perspective. He noted that since January 2009 approval for any new course must also be given by Mr. Bob Mack, an Associate Director.

Having regard to Mr. Hodgson's evidence I conclude that the grievor's role with respect to new courses is one of providing input, including with respect to the possible demand for a course, but she is not involved in a level of analysis that meets the criteria for a level 3 rating.

The PDF lists three examples of regular and recurring situations which involve analysis on the part of the grievor. One is described as: "Certain number of client/students required to ensure training happens". The PDF states that the problem is identified by calculating the cost to run a course against total tuition paid by registered students. It notes that the grievor's investigation includes speaking with the instructor to ascertain all costs for the course, including salary and travel costs.

The PDF describes the analysis used by the grievor to address this type of situation as follows:

- Analyzes the viability of offering the course by mapping out multiple scenario comparisons and seeking potential agreement.
- Determined break-even point and then reviews with potential variables (next point).
- May consider viability if instructor agreed to less salary, or contacting specific companies who could have interest in sending group of employees (preferential rates), or reducing the number of hours delivered. Could also call those registered and encourage them to bring a friend at a discount (think of incentives).

The PDF notes that sources available to assist the grievor in finding a solution include past files, a data base of interested clients and her consulting other staff members.

In the normal course the College will only run a training course if it can recover at least 50% of the costs from student fees, 35% in the case of continuing education courses. The grievor registers students in the courses and accordingly can readily ascertain student numbers and match them against the costs of running a course. The grievor testified that if the percentage figure is not met she might talk to the instructor about cutting out a week of classes in order to reduce his or her salary. She indicated that this could be done by compressing a course or by substituting independent study for class time. In response to questions from College counsel the grievor acknowledged that the instructor must be willing to accept such an arrangement. The grievor testified that in consultation with the instructor she would normally make the decision to go with a shorter time period and then advise Ms. Daoust-Messier of her decision.

A related issue involves decisions about whether to run a class with fewer than the normally required number of students. The grievor said that if there is to be less than a 50% recovery for a course that has been planned for a long time she will make the decision to run it since “we” are a community college. She subsequently said that she would quite regularly do this. She gave the example of a course requiring 10 students to reach the 50% level but only six students being registered and her indicating that the course would run anyway.

Mr. Hodgson testified that the grievor will at times be assigned to a course which does not make a profit. He noted in this regard that the Kirkland Lake campus has a small catchment area and so might run a French as a second language course with less than a 35% recovery. Mr. Hodgson also said that his “expectation” was that the grievor would consult with the team, especially Ms. Daoust-Messier, with respect to such decisions.

In response to subsequent questions from College counsel Mr. Hodgson noted that Ms. Daoust-Messier had recently asked him about a course that would cost \$100,000 to \$150,000 to put on but did not meet the requisite recovery level. He said that he told Ms. Daoust-Messier to postpone offering the course and to ascertain whether additional funding could be obtained so as to allow running the course, which was what happened. College counsel asked Mr. Hodgson who would make the decision for a smaller course. He replied that it would be Ms. Daoust-Messier with input from the grievor.

The grievor’s evidence was that for large or more costly courses she would consult with Ms. Daoust-Messier and in doing so she might advocate in favour of running the course. She gave the example of a situation where people had been on a list waiting for

such a course for over a year. The grievor also said that for “a lot of courses” she makes the decision herself without consulting Ms. Daoust-Messier.

It is clearly Mr. Hodgson’s understanding, or as he put it his “expectation”, that the grievor will raise the issue of running a course with below normal recovery numbers with Ms. Daoust-Messier and she in turn will either make the decision or refer the matter to him. Mr. Hodgson, who according to the Union’s brief is based at the College’s Haileybury campus, has 40 full time and 13 part time support staff who report to him. He indicated that for AWDT matters he deals primarily with Ms. Daoust-Messier the team leader. Given this situation, I conclude that while some decisions with respect to the matters in question are made by Ms. Daoust-Messier decisions respecting less expensive courses are in fact made by the grievor.

A key consideration in applying the factor level definitions is whether a situation or problem is easily identifiable. The grievor is responsible for gathering information about the cost of offering a course, including the instructor’s remuneration and travel costs, and for determining the number of students required to meet the normal recovery target. As noted above, she enrolls the students. The determination of which courses do not have a sufficient number of students enrolled to meet the recovery target appears to be easily identifiable. This meets the criteria for a level 2 rating.

A level 3 rating requires the analysis and collection of information. The note to raters respecting the differences between a level 2 and a level 3 rating states that for level 3 an incumbent would be gathering information, analyzing each new piece of information in relation to other pieces and possibly exploring new or unusual directions to seek more information. It may be that when an instructor is asked about whether a course can be shortened he or she will need to gather and analyze information about whether it would be feasible to do so. The grievor, however, would not be engaged in gathering and analyzing this type of information. When Mr. Hodgson or Ms. Daoust-Messier decides whether to run a large and/or expensive course without sufficient students to meet the recovery target they may need to gather and analyze information respecting budget issues and possible alternate sources of funding. The grievor does not, however, need to engage in that type of analysis when addressing less expensive courses. Having regard to these considerations I conclude that the example better fits a level 2 rating.

The second example in the PDF of a regular and recurring issue or problem relates to finding and recommending new instructors. The PDF and the evidence indicate that the grievor generally locates possible new instructors by looking through College databases of resumes and by speaking to faculty and staff and community contacts for references. At the hearing the grievor indicated that if she cannot find a new instructor

through one of these methods she will work with the Marketing Department to place an ad for an instructor.

As contemplated by the PDF the grievor will briefly interview a prospective instructor and address their qualifications and availability. She said that qualifications include whether the individual has taught before, whether they have the necessary experience, such as having computer experience if they are going to teach a computer course, and whether they have a required qualification such as a certificate in CPR if the job involves teaching CPR. The grievor said that at times she follows up an interview by asking others how well the individual did when teaching a previous course. The grievor said that if she decides that an individual has what is required to teach a course she will recommend that they be hired.

Mr. Hodgson indicated that a lot of instructors return to teach courses. He said that Ms. Daoust-Messier is the one who sets the requirements for new instructors and she is the one who does the actual hiring.

In its written brief the College contended that the grievor's role involves matching potential candidates against established requirements. It noted that although the grievor interviews candidates she does not make the hiring decision. The College brief also said that competitive hiring decisions are rare.

In terms of the factor level definitions, the situation or problem involved is easily identifiable, namely that a course is without an instructor. The grievor's role appears to be relatively straight forward in terms of using resumes and interviews to assess whether an applicant has the necessary qualifications to teach a particular course. As noted above, the grievor said that at times she follows up on an interview by asking how well an applicant did when teaching a previous course. Although she did not say so, I presume that she does so when she has reason to doubt an individual's ability to meet an acceptable teaching level and/or there are more than one applicant who meets the requirements of the job. Asking others about how well an individual did when teaching a previous course involves the collection of information and assessing the answer may require a degree of analysis that justifies a level 3 rating. Given, however, that this appears to occur on rare occasions it would justify a level 3 rating only on an occasional basis.

The third regular and recurring example listed in the PDF is a client requesting training but unsure of what is required. The PDF indicates that the grievor gathers detailed information from the client respecting how they want to use the requested training and provides them with their training options. The grievor's evidence indicated that the issue most frequently arises in the context of training offered through the Northern Ontario Research Centre for Advanced Technology (NORCAT) which utilizes

computer-based training and testing modules which can eventually lead to employment in the mining industry. The grievor said that people will often ask her for NORCAT training and she in turn will ask them what they want the training for and also whether they have contacted any employers in the mining industry.

In its brief the College contended that typically clients ask the grievor discrete questions such as “I’m looking to get my air brake endorsement. Do you have a course? When is it offered? How much does it cost?”

Answering inquiries and referring clients to possible courses requires that the grievor ask them questions concerning what they intend to do with the training. I do not view this type of questioning as the collection and analysis of information such as to justify a level 3 rating. This conclusion is reinforced by the wording of the level 3 definition which refers to information which may be obtained from areas or resources not normally used by the position. This cannot logically relate to gathering information from an individual seeking assistance. In the circumstances I conclude that a level 2 rating is the better fit.

The PDF contains two examples of occasional situations relating to analysis and problem solving. One relates to a client expressing a complaint regarding training that was provided. The grievor testified that such a complaint does not occur very often. She said that when a complaint is raised she seeks to ascertain whether it relates to the course or to the instructor and she will also contact other students to see if the complaint is shared by others. She said that after she has gathered this information she discusses the complaint with the instructor in order to resolve the matter. It was Mr. Hodgson’s evidence that in response to a complaint the grievor talks to the student(s) and the instructor to try to resolve the issue although any serious problem is referred to him.

The grievor indicated that some complaints come to her attention through evaluations which are completed by students at the end of a course. She said that if there are a number of such complaints she follows up with students and the instructor to see if the course objectives have been followed.

The grievor testified that on one occasion she advised an instructor that the College would not use them again. She said that she did so after first discussing the matter with the Training Coordinator and her manager.

The wording of the PDF reflects the grievor’s evidence. It states that after receiving a complaint the grievor follows up with the client, the instructor and other course participants; determines if the instructor followed the course objectives; relooks at course outline/objectives; evaluates if resources were used; advises the instructor of

the problem and discusses options to improve; and possibly recommends that the instructor not be used again if they are not open to continuous improvement.

The College contended that the scope of the grievor's judgement with respect to complaints is narrow. It argued that her role is to facilitate the process of resolution but she is not responsible for achieving resolution, instead if a problem is not resolved it is escalated to the Training Coordinator or Operations Manager. While unresolved complaints are referred to others it is clear that part of the grievor's role is to seek to resolve complaints. She does so by gathering information from the complaining students, other students, the instructor, course outlines and objectives. These various pieces of information must logically be analyzed in relation to the other pieces of information in order to allow the grievor to understand the problem and to effect a resolution, which can include discussing options that would allow the instructor to improve. All of this involves the type of collection and analysis of information which comes within the factor level definition for level 3.

The other occasional problem listed in the PDF involves dealing with a student in crises. The grievor said that students come to her and others in the front office when they are upset with an instructor or another student or are having trouble coping. Logically a crisis is more serious than a student being upset with an instructor or another student or with some turn of events. The PDF and the grievor's evidence indicate that should a student come to her in a crisis situation the grievor is to take the student to a quiet area, take detailed notes, "contact authorities if crisis requires attention" and raise the matter with someone more senior to her. The PDF describes this latter step as "analyse details of findings and discuss/review with Training Consultant and/or Associate Regional Director". Other wording in the PDF could be read as indicating that the grievor plays a key role in resolving an issue, including determining the best plan of action to minimize damage to the individual and others, reviewing options with key stakeholders to provide options and concluding the best manner to resolve the situation satisfactorily. As already noted, however, the PDF also refers to discussions with the Training Consultant and the Associate Regional Director. The grievor's evidence was that she will pass on the information she has gathered and later follow up to ensure that the matter is being handled and if it is not she will raise the issue with her supervisor.

The College contended that the grievor is required to perform a basic "laypersons" assessment of student behaviours and choose between calling for help and not calling for help. It argued that the problem is well-defined, the information needs to be observed rather than elicited and the scope of judgement is very limited.

From the grievor's evidence and the wording of the PDF I infer that the grievor gathers and analyzes information for two purposes. The first is to decide whether the

situation justifies calling in the authorities, presumably a reference to College security and/or the police. The second is to enable the grievor to accurately describe the situation to others, including providing them with her views about how the matter can best be resolved. I view the gathering of the information and the grievor's role in analyzing the information she has gathered as meeting the criteria for a level 3 rating.

As noted above the PDF refers to the grievor dealing with students in crisis and addressing client complaints about a course as functions that she performs on an occasional basis. As indicated above, I view the grievor's functions relating to her recommending instructors for courses based on them possessing the necessary qualifications as generally meeting the criteria for a level 2 rating although on rare occasions she gathers and analyzes information from others with respect to the prior teaching record of a prospective instructor which meets the criteria for a level 3 rating. Even taking these three types of situations together, however, it appears that the grievor only exercises a level 3 type of analysis on an occasional basis.

Having regard to the foregoing I conclude that the grievor's duties justify a level 2 rating on a regular and recurring basis as well as a level 3 rating on an occasional basis.

### PLANNING/COORDINATING

This factor measures the planning and/or coordinating requirements of a position. The job evaluation manual states that it refers 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 rates this factor at level 2 on a regular/recurring basis worth 32 points as well as at a level 3 rating on an occasional basis worth an additional 7 points. The Union argues for a level 3 rating on a regular/recurring basis worth 56 points. The definitions for a level 2 and level 3 rating and certain of the terms utilized in the definitions are as follows:

2. Plan/coordinate activities and resources to complete own work and achieve overlapping deadlines.
3. Plan/coordinate activities, information or material to enable completion of tasks and events, which affect the work schedule of other employees.

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

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

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

Level 2 - the position plans and prioritizes its own activities. Planning and coordinating are typically focused on completion of assigned activities within established deadlines or procedures (e.g. scheduling, coordination of data for reports, setting up of new software in a department to meet specific business needs). The position may coordinate or make arrangements for an event by coordinating the calendar of others.

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).

The PDF lists three regular and recurring activities with respect to this factor. One is the coordination and preparation of a continuing education brochure, which the grievor referred to as an ad, that is distributed three times per year, once per term. The grievor noted that there are also monthly ads and flyers which involve a similar process except with less information and shorter time frames. According to the PDF the relevant organizational and/or project management skills required of the grievor are the need to coordinate with the Marketing Department to determine timelines and maximize cost efficiencies and to confirm and develop courses, including “what, when, where and how”.

The grievor testified that she contacts Marketing about when the brochures will hit the newspaper and when Marketing will need the information to be included in the brochures, which is three to four weeks earlier. The grievor said that she will then advise the rest of the team of a deadline when they are to have all of the information in to her. She said that when she receives this information she groups it together and sends it to Marketing. The grievor noted that it has happened that “we” have not been able to meet Marketing’s deadlines and she has negotiated a new date with Marketing and then advised others of the date.

The wording of the level 2 factor definition standing by itself could suggest that such a rating is to apply only to planning and coordinating activities and resources to

complete one's own work. The note to raters with respect to this level, however, indicates that it is also meant to cover activities such as making arrangements for an event by coordinating the calendars of others. Marketing advises the grievor of its deadline for receiving course material. She then tells others when she needs the information from them in order to forward it to Marketing in a timely manner. This can reasonably be viewed as coordinating the calendars of others. This is particularly so given that there is no suggestion that the grievor's request for course information has a material influence or alteration on the work schedules of others as required for a level 3 rating. The brochures come out at about the same time each year and other staff would know in advance that they will be required to have the material available for Marketing. Having regard to these considerations I conclude that this example justifies a level 2 rating.

The second example listed in the PDF for this factor is the grievor's role in organizing seminars. At the hearing the grievor described these as large seminars often with 70 people in attendance. The PDF notes that the grievor is required to set the specifics for the seminar, including dates and times, find an instructor, locate required resources and calculate the cost effectiveness of the training. The grievor said in her evidence that there is a lot of work involved including photocopying and booking multiple rooms. The College's brief noted that the grievor contacts facilities operators, publishers, material suppliers and newspapers. With respect to whether she impacts the schedule of others the grievor said that she meets with maintenance with respect to different layouts required for different rooms. She also said that if she is busy she will ask a staff member to do up a flyer for her or ask a staff member to assist her by making phone calls using a data base that she gives to them.

The level 3 definition as well as the note relating to this level indicates that it applies when an employee is coordinating work which requires that others produce material or information by specific deadlines. The grievor's role with respect to seminars, however, appears to be to organize her own work, including booking rooms and ordering required room layouts. It is not clear whether asking other staff members to prepare a flyer and to make phone calls for her is meant to be covered by a level 3 rating. Even if it is, however, it appears to occur on an occasional basis.

I conclude that the grievor's work on seminars justifies a level 2 rating for the factor of planning/coordinating with a level 3 rating on an occasional basis.

The final example listed in the PDF which occurs on a regular and recurring basis involves department meetings. The grievor testified that Ms. Daoust-Messier gives her an agenda for weekly meetings and she then contacts people to have them attend. The PDF indicates that in preparation for such meetings the grievor gathers financial forms

and determines which courses need to be offered based on expressed requests. These functions do not justify a level 3 rating.

The PDF lists two occasional duties with respect to this factor. One involves working with the College's IT department to have them install new NORCAT software about once a year at a convenient time. The other involves her role in developing a new course by locating an instructor, determining materials and costs and planning the marketing and promotion. Neither of these functions meets the criteria for a level 3 of affecting the work schedule of other employees.

Having regard to the above I confirm a level 2 rating on a regular and recurring basis and a level 3 rating on an occasional basis.

### 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 rates this factor at level 1 on a regular/recurring basis worth 5 points as well as a 2 rating on an occasional basis worth an additional 3 points. The Union argues for a level 2 rating on a regular/recurring basis worth 17 points. The job evaluation manual contains the following factor level and term definitions:

1. Minimal requirement to guide/advise others. May need to explain procedures to other employees or students.
2. Guide others so they can complete specific tasks.

Explain – provide details or examples to help others better understand the Information

Others – College employees (FT or PT), students

Guide - demonstrate correct processes/procedures for the purpose of assisting others with skill development and/or task completion

The PDF states that on an occasional basis there is a need for the grievor to demonstrate correct processes/procedures to others so they can complete specific tasks. It gives the example of: “Provides training for new instructors on processes and procedures, including software, to enable them to maintain class records and materials.” This meets the criteria of guiding others at level 2.

Beside a square which indicates that what follows relates to regular and recurring matters the PDF refers to a minimal requirement for the grievor to guide/advise others. This meets the criteria for a level 1 rating. The PDF then gives the following example, which is actually the first of two entries contained in a nearby box:

The incumbent guides students on policies and procedure of continuing education and NORCAT tested students in regards to handing in assignments, taking tests and attendance. The incumbent also guides department instructors on the same policies.

Immediately below this is the second entry in the same box which reads as follows:

The incumbent provides direct instruction to new staff or replacement staff on processes and procedures to follow for both the AWDT and general administrative services (payroll).

Because of the way the page is set out, if the second entry had been differently worded it could be argued that it also reflects a minimal requirement to guide/advise others at level 1. Given the express reference in the entry to providing direct instruction to new and replacement staff, however, this could not reasonably be what was intended. This wording clearly meets the criteria for a level 2 rating. Counsel for the College submitted that I should not give any weight to this language in the PDF but rely instead only on the evidence led at the hearing.

The grievor testified that she has traveled to other campuses in order to teach new staff computer software uses, including the registration of students, payroll systems, how to look up purchase orders, the different forms to use and how to fill them in. She said that staff who have been at the College for over a year still meet with her with respect to cost analysis and to have her review flyers. Mr. Hodgson subsequently described the grievor’s instruction of new staff as “a one off” noting that if staffing were constant such instructions would not be required. He also said that the grievor does not train instructors in how to deliver a course but rather trains them in “our culture”.

Mr. Hodgson testified that Ms. Kellie Broderick, the grievor's counterpart at the Haileybury campus, had gone went off ill two months before and the grievor had been asked to train her replacement. He said that hopefully this will not last much longer. He also noted, however, that there had been certain shortcomings in Ms. Broderick's work and the grievor had previously also worked with Ms. Broderick.

Counsel for the College described the grievor's work with Ms. Broderick's replacement as a one-off responsibility that is coming to an end. He submitted that the grievor's helping other staff should not be given any weight. He argued that it had not been an assigned responsibility on the grievor's part to orient or train other staff. He noted that the factor is meant to measure any "assigned responsibility" to guide or advise others.

The grievor's evidence indicated that she has been assigned to assist other staff at other campuses. It appears to be an on-going expectation of her position that as required she will train new staff. In the circumstances I conclude that the evidence does not conflict with the PDF but rather complements the document's statement that on a regular basis the grievor provides direct instruction on processes and procedures to new and replacement staff.

I view the grievor's training functions outlined in the preceding paragraph as meeting the criteria of guiding others in the sense of demonstrating correct processes/procedures for the purpose of assisting others with skill development and/or task completion. As such justifies a level 2 rating. To this is to be added the grievor's work on an occasional basis in training new instructors on processes and procedures to enable them to maintain class records and materials. Taking these together I conclude that a level 2 rating on a regular and recurring basis is appropriate.

### 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 available to provide guidance and direction.

The College rated this factor at level 2 on a regular/recurring basis which is worth 46 points. It has also assigned a level 3 rating on an occasional basis worth an additional 9 points. The Union argues for a level 3 rating on a regular/recurring basis worth 78 points. The relevant factor level and term definitions are as follows:

2. Position duties are completed according to established procedures. Decisions are made following specific guidelines. Changes may be made to work routine(s).
3. Position duties are completed according to general processes. Decisions are made following general guidelines to determine how tasks should be completed.

Procedure – a sequence of steps to perform a task or activity.

Guideline – a statement or policy by which to determine a course of action.

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

The manual contains the following note to raters designed to clarify differences between levels 2 and 3:

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

Level 3. – specific results or objectives that must be accomplished are pre-determined by others. The position has the ability to select the process(es) to achieve the end result, usually with the assistance of general guidelines. The position has autonomy to make decisions within these parameters

The PDF notes that some of the grievor's work assignments are standard and follow established guidelines for documentation and reporting. It states that instructions are given for some assignments. The PDF also states that unfamiliar situations are reviewed with the Training Consultant, Supervisor and/or peers. It goes on to say that "how assignments are carried out is often determined by incumbent, commonly based on past practices which may be modified accordingly".

The PDF notes that the grievor generally consults with her supervisor with respect to policy decisions, client complaints that are not readily resolved and/or are recurring. It states that the grievor will discuss sensitive or technical matters beyond the scope of her position with the Training Consultant and her Supervisor. The PDF lists several decisions the grievor decides on her own which occur on a regular and recurring basis.

These include determining priorities, advising clients of waiting periods or changes, setting up record keeping systems and other office procedures and proofreading her own work. The PDF notes that on a regular and recurring basis: “Creative thinking and problem-solving is highly encouraged. Independent action and creativity are required”.

The PDF states that on an occasional basis the grievor is involved in: “Deciding to postpone or cancel a class based on guidelines relating to registration levels”.

In her evidence the grievor emphasized that she knows what her priorities are and she decides what her day to day activities will be. She said that in the morning she might feel she has planned her day but a single phone call can change things. She gave the example of a company notifying her that instead of six employees attending a course as was anticipated only one will actually be in attendance. She noted that at times she will decide on her own about running courses. She also referred to her role in recommending new instructors, including a new approach she has adopted of checking web sites to locate qualified instructors, particularly with respect to the forest industry and certified water instructors.

In its brief the Union contended that the grievor follows general guidelines to determine how tasks should be completed. It argued that this is accomplished by her working with instructors to make sure continuing education courses meet the College’s standards for course material, costs, time and location and also by her screening and recommending instructors. The College in its brief contended that the grievor’s main duty is to administer a program and there is a routine procedure for doing so. At the hearing, College counsel described the grievor’s description of her job as wonderfully detailed and submitted that it could be used to write a manual for her position.

As noted at the outset of this award the grievor’s functions are largely administrative. There are a number of specific tasks she needs to perform to ensure that courses are set up and run smoothly. The very nature of the process puts constraints on the scope of her independence of action. There are, however, some activities on her part which go beyond following established procedures. One concerns situations where there are not sufficient students enrolled in a course to meet the set recovery percentage. As noted above the grievor raises some of these situations with Ms. Daoust-Messier but for less expensive programs she makes the decision about running the course herself. The nature of the decision does not involve following a specific guideline but instead involves applying more general guidelines about when courses should be offered. Such decisions are clearly beyond level 2 and meet the criteria for a level 3 rating. As noted in the PDF, however, these types of decisions are made on an occasional basis. On an occasional bases the grievor also takes the initiative to contact others to inquire how an individual did when teaching a previous course and discusses with an instructor how they might improve. These functions also go beyond following an established

procedure. Even together, however, these three activities do not appear to be engaged in on a regular and recurring basis.

Having regard to the foregoing, I find a level 2 rating on a regular and recurring basis and a 3 rating on an occasional basis to be appropriate.

### AUDIO/VISUAL EFFORT

This factor measures the requirement for audio or visual effort. It does so by measuring the degree of attention or focus required as well as activities over which the position has little or no control that make focus difficult.

The College rated this factor at level 1 worth 5 points. The union argues that a level 2 rating worth 20 points would be more appropriate. One consideration in determining points for this factor is whether an employee's focus is maintained or interrupted. The ratings of both parties are clearly based on a focus that is maintained. If focus were not maintained the number of points in issue would be somewhat higher. The level definitions, as well as terms used in the definitions, read as follows:

1. Regular & recurring short periods of concentration; or occasional long periods of concentration.
2. Regular & recurring long periods of concentration; or occasional extended periods of concentration.

Short period – up to 30 minutes at one time.

Long period - up to 2 hours at one time including scheduled breaks.

The notes to raters include the following statements:

Raters must only consider tasks or situations where a higher than usual level of focus or concentration is required. It is important to consider the level of concentration that the task requires and not the incumbent's (in)ability.

Concentration means undivided attention to the task at hand.

The PDF lists three activities that require a higher than usual need for focus and concentration. The first is stated to involve long periods of up to two hours. It refers generally to “job duties” and sets out one “for instance”. The full description in the PDF reads as follows:

Job duties require long periods of visual and mental concentration, mental energy and careful attention to detail and accuracy. Auditory and mental concentration is required when dealing with student/client concerns. Attention to detail is required.

For instance the preparation of the promotional brochure requires meticulous attention to details to eliminate any potential mistake: impact of mistakes may be costly to the College or damage College’s credibility if format, grammar or spelling errors occur.

The grievor testified that it takes her a long time to get the brochure material ready. She said that she reviews the material sent to her and then forwards it to Marketing. She indicated that Marketing later sends a draft brochure to her for proof reading, including ensuring that dates and times are correct and that it lists the proper fee for each course. The grievor said that this process can take a full day at the start of each semester. She also said that monthly ads take her a couple of hours each although if an instructor has not provided the required information she will have to develop a biography of the instructor and a statement of why people should take the course.

The second example given in the PDF involves enrolling students in courses on the Student Record System, which involves concentration for less than 30 minutes. The third example in the PDF involves weekly meetings which can involve web-meetings with “concentration on screen for an extended period”. It describes the duration involved as being long, up to two hours.

In its brief the Union relied on the wording of the PDF while also complaining that the PDF fails to take into account the grievor’s role with the NORCAT lab. The College’s brief argued that high-level tasks engaged in by the grievor are of short duration. It contended that departmental meetings do not involve a task which requires higher than usual focus or concentration even if video conferencing is employed.

At the hearing counsel for the College contended that I should interpret the PDF on the basis of the evidence led at the hearing. He suggested that I not rely on the wording of the first example set out above since it is inaccurate. He submitted that each of the three brochures per year would take a day, totalling 21 hours. He added another 12 hours for six monthly brochures. He then suggested that the grievor would take two

hours to set up courses for each term for a total of 6 hours. He added these up and got a total of 39 hours per year. He noted that an entry on the PDF form describes one week a year as 2% of the time. He argued that this justifies a 1 rating since level 1 contemplates occasional long periods of concentration.

The job evaluation manual indicates that the College is responsible for the content of a PDF and when it is completed such a document is to provide a clear statement of the duties assigned by the College. As noted above, the Union accepted the accuracy of the College's most recent revision of the PDF. In the circumstances a decision to reject a portion of the PDF at the College's request should not be taken lightly. The PDF description of meetings with concentration on a screen for an extended period is not clearly in error. Further, the first example in the PDF lists preparation of promotional brochures as a "for instance" and indicates that other job duties require mental concentration including when dealing with student/client concerns. On the material before me I cannot say that the wording of the PDF does not accurately reflect the grievor's involvement in tasks that require regular and recurring long periods of concentration. Accordingly, I propose to rely on the wording of the PDF. This leads me to conclude that the grievor engages in regular and recurring long periods of concentration at level 2 worth 20 points.

### WORKING ENVIRONMENT

This factor looks at the environment in which work is performed and the extent to which there exists undesirable or hazardous elements. The College contends that a level 1 rating worth 7 points is warranted. The Union submits that level 1 is appropriate on a regular and recurring basis but a level 2 rating on an occasional basis worth 9 additional points should apply. The applicable rating definitions are as follows:

1. Acceptable working conditions.
2. Working conditions involve:
  - difficult weather conditions
  - smelly, dirty or noisy environment(s)
  - exposure to very high/low temperatures
  - verbal abuse
  - working in isolated or crowded situations
  - travel

Verbal abuse – derogatory or threatening comments

I note that a level 3 rating, which is not being argued for, includes working conditions which include “dealing with abusive people who pose a threat of physical harm”.

The PDF states that the grievor deals with abusive people on an infrequent basis and provides the following example:

Dealing face-to-face with students or clients, the incumbent is required to deal with abusive individuals, especially if they believe they are not getting what they wanted.

The PDF notes that when she is at the counter, “the incumbent is within reach of individuals who could become out of control and angry”.

In her evidence the grievor spoke about certain incidents at the College where it was not clear from what she said that she had been directly involved. She also said that if she felt someone was threatening other staff she also felt threatened. In addition, she indicated that if someone had raised their voice to her she viewed this as a threat. I have not taken these situations into account as constituting verbal abuse to the grievor in the sense of derogatory or threatening comments.

The grievor referred to several specific incidents that occurred during the eight years she has been in her current position. She said that on four separate occasions the same individual doing NORCAT training had been very abusive to her and caused her to feel physically threatened. She mentioned another occasion when a student had advanced towards her and she had called security, although the radio did not work. She spoke about a situation when a person had thrown a chair at her and swore at her and had been advancing towards her until someone else got between them. The grievor also made reference to a situation in 2006 involving an individual who was intoxicated.

In addition to these specific incidents the grievor said that when she was working at the front counter quite a few students had slammed their hands on the counter, cursed at her, raised their voice and demanded to speak with her manager. She said that when she advised people over the phone that a course had been cancelled some of them had called her names or swore at her. She said that some went so far as to say that if she had been doing her job properly the course would be going ahead.

In its brief the College stated that the parties had given “verbal abuse” and “abusive” special and limited meanings which involve more than dealing with people who are angry or upset. It contended that while there might be infrequent exposure to

true “verbal abuse” or “abusive” persons, this degree of exposure is not significant and the grievor’s job is best characterized as one involving acceptable working conditions.

At the hearing counsel for the College contended that the grievor had referred to four specific incidents when she was subject to verbal abuse. He argued that since she had been in the job for eight years these incidents were too infrequent to justify an occasional rating. This contention, however, failed to take into account the grievor’s evidence about students being abusive to her at the counter and abusive to her over the phone when she advised them that a course had been cancelled. Verbal abuse at level 2 need not involve abusive people who pose a threat of physical harm but can take the form of derogatory or threatening comments. Both the grievor’s evidence and the PDF indicate that the grievor faces this type of abuse on an occasional basis. Having regard to these considerations I find that the grievor’s position should be rated at level 1 on a regular and recurring basis and at level 2 on an occasional basis.

## CONCLUSION

The various ratings assigned by the College after its revisions following a step 1 meeting resulted in the grievor’s position receiving a total of 344 points. The additional points arising out of my findings with respect to the factors of guiding/advising others, audio/visual effort and working environment raise the total to 377 points. This remains within the range for payband E.

As noted above, prior to the hearing the College acknowledged the validity of the grievors’ contention that her position had been improperly classified at payband D. I uphold the College’s subsequent rating at payband E.

I retain jurisdiction to address any outstanding issues, if there are any, related to the grievor’s entitlement to be remunerated at payband E.

Dated this 24th day of June 2009.

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Arbitrator