

IN THE MATTER OF AN ARBITRATION

BETWEEN:

ST. CLAIR COLLEGE

- and -

ONTARIO PUBLIC SERVICE EMPLOYEES UNION

CLASSIFICATION GRIEVANCE OF SUSAN MCLELLAND

JANE H. DEVLIN

SOLE ARBITRATOR

APPEARANCES FOR THE COLLEGE:

JOAN POCOCK  
PATTI FRANCE  
JOHN MACERONI  
PETER TUMIDAJSKI

APPEARANCES FOR THE UNION:

NAZ BINCK  
SUSAN MCLELLAND  
ROSS LANGILL

OPSEU NO.: 713702

HEARING DATE: JANUARY 4, 2008

The Grievor, Susan McLelland, works as a Development/Marketing Officer, Skilled Trades & Apprenticeship and claims that her position has been improperly rated under a new job evaluation system agreed to by the College Compensation and Appointments Council and the Ontario Public Service Employees Union.

The principle duties and responsibilities of the Grievor's position, together with the approximate percentages of time involved, are set out on the position description form ("PDF") as follows:

	Approximate % of time annually*
Research and prepare new program offerings and proposals (i.e., apprenticeship, Ontario College Diploma/Certificate, etc.) as initiated by the College community and/or RFPs. Incumbent will respond to RFPs, assist in writing the proposals, and in some cases, partner with other colleges for program proposal submission to MTCU or other vendors. Incumbent will work with subject experts to develop curriculum and complete all necessary documentation for internal approval, providing input to subject chair regarding cost of consumables needed for program delivery. The incumbent will gather information and prepare necessary documentation so that program feasibility and sustainability may be determined.	45%
Assist in the creation of specific advertising materials for the promotion of new programs, work with local industry in the formation and participate in ongoing meetings of sponsor groups; assist with the selection of candidates for MTCU sponsored programs, monitor the students and employers while students are on placement and do all necessary documentation required by the MTCU to fulfill all legal requirements of the program contracts.	20%
Work with MTCU, internal and industry stakeholders to maintain communication for the purpose of project planning and execution. Working with the Chair of Skilled Trades and communicating with the Director CPD, the incumbent will establish work groups representing industry, government and educators for the purpose of enhancing and contributing to the formation of appropriate advisory committees.	15%

Incumbent will act as resource to faculty and staff during the development and design of programs and courses based on CVS, Ministry and College policy and procedures. Will also contribute to ongoing internal quality assurance processes.	15%
Other duties as assigned	5%

In this case, there is a dispute about the content of the PDF. The Union submitted that the Grievor and John Maceroni, the Chair of the School of Skilled Trades, agreed upon a PDF which accurately reflects the content of the Grievor's position. The Union advised that the PDF was subsequently forwarded to a rating committee consisting of management personnel and that a number of amendments were made to the PDF, which resulted in a lower rating than would have been the case had the initial PDF been rated. The Union submitted that a similar process was followed with other support staff positions. Although the Union also submitted that Mr. Maceroni agreed that the revised PDF did not accurately reflect the Grievor's duties and responsibilities, the College disputed that Mr. Maceroni made such a statement. The College also advised that the rating committee reviewed some 250 PDFs and that amendments were made to ensure internal equity among support staff positions.

Although the Union contended that the position in issue was in a higher payband when it was occupied by the prior incumbent and that there has been no change in job duties, as noted previously, the parties have agreed upon a new job evaluation system and my task is to rate the position in accordance with that system.

Although the Union also advised that the Grievor was moved out of her office and her work area was relocated the day after the grievance was filed, the College advised that the Grievor's work area was relocated so that she would be in closer proximity to her Supervisor. The Grievor was evidently advised of the move in advance although the Union contended that she was not told that she would no longer have an office. In any event, in my view, it has not been demonstrated that the College relocated the Grievor's work area as a result of the fact that she filed a grievance.

Although there was initially a dispute about the ratings in the factors of Experience and Guiding/Advising Others, in its written submissions, the College agreed to the ratings proposed by the Union. Accordingly, the factors in dispute and the proposed ratings are as follows:

<u>Factor</u>	<u>College Rating</u>	<u>Union Rating</u>
Planning/Coordinating	3	4
Independence of Action	3	5
Communication	4	5
Audio/Visual Effort	2	3

In each case, the proposed ratings are based on duties and responsibilities exercised on a regular and recurring basis.

My ratings in respect of the factors in dispute are as follows:

1. Planning/Coordinating

This factor measures the organizational and/or project management skills required to bring together and integrate activities and resources needed to complete tasks or organize events. There may be a need to perform tasks with overlapping deadlines (multi-tasking) to achieve results. The Notes to Raters indicate that planning is proactive whereas coordinating involves reacting and organizing in response to planning.

The Grievor conducts research and compiles information which is used to assess the feasibility of new programs and prepares program proposals. She is also involved in marketing new programs and planning and co-ordinating presentations for community representatives, personnel from the Ministry of Training, Colleges and Universities ("MTCU") and others. In addition, she liaises with internal and external stakeholders and monitors student placements. The PDF indicates that on a regular basis, the Grievor must anticipate problems with program delivery methodology and she referred to a situation in which she was actively involved in investigating work opportunities for students in the metal cutting program for whom community placements could not be found. The PDF also indicates that the Grievor may work on a number of initiatives at one time, requiring excellent program management capabilities.

The issue is whether the Grievor's position ought to be rated at level 3 or level 4. The factor definition for level 3 refers to a requirement to plan/coordinate

activities, information or material to enable completion of tasks and events which affect the work schedule of other employees. The factor definition for level 4 refers to a requirement to plan/coordinate and integrate activities and resources for multi-faceted events, projects or activities involving other employees. The Notes to Raters indicate that at level 4, planning and coordinating typically involve multiple inputs and complex tasks and that a number of departments are frequently involved. By way of example, reference is made to major campus renovations or major technology upgrades. Both the factor definition and the Notes to Raters also indicate that at level 4, an incumbent typically has authority to require others to modify their schedules and priorities.

In carrying out her duties, it appears that the Grievor regularly establishes priorities and selects or adapts work methods for the various programs with which she is involved. When compiling information, preparing proposals and planning and coordinating presentations, she generally requests information or materials for specific deadlines, which is characteristic of positions at level 3. I am also not persuaded that she involved in planning and coordinating the type of complex tasks characteristic of positions at level 4. To the extent that changes to a project or activity affect others, the PDF indicates that decisions are made collaboratively and involve the Grievor, her Supervisor and members of senior management at the College. Moreover, although the Grievor referred to work she assigns to a clerical employee, those assignments are taken into account in the factor of Guiding/Advising Others and I am not satisfied that the Grievor has authority to modify individuals' priorities for activities/projects to meet objectives, which is required of positions at level 4. The term "modify" involves making

"basic or fundamental changes to give a new orientation to or to serve a new end". In the result, I find that in this factor, the Grievor's position is properly rated at level 3.

## 2. Independence of Action

This factor measures the level of independence or autonomy in the position and requires consideration of the types of decisions made by the Grievor, on her own or in consultation with someone such as her Supervisor. It is also necessary to consider the rules, procedures, guidelines and past practices available to provide guidance and direction.

When training needs are identified, the Grievor conducts research that is used to assess the feasibility of proposed programs. She also prepares proposals and is involved in bringing together and working with internal and external stakeholders to facilitate project planning and execution. The PDF refers to consensus building which is involved in the research, development and monthly follow-up phases of each project. In the course of her duties, the Grievor also prepares reports to the Ministry with respect to approved programs.

Although the Union proposed a rating at level 5 in this factor, the job evaluation manual indicates that at that level, duties are completed according to broad goals and objectives and decisions are made using College policies. The Notes to Raters indicate that, in fact, the only parameters or constraints in place to guide the

incumbent's decision-making are College policies. That is not true of the Grievor's position and it is evident that there are various processes, guidelines and procedures available to the Grievor in the performance of her duties. Accordingly, I cannot conclude that a rating at level 5 is appropriate.

With regard to level 3, which is the level proposed by the College, the job evaluation manual indicates that duties are carried out according to general processes and decisions are made following general guidelines to determine how tasks should be completed. The Notes to Raters indicate that at level 3, specific results or objectives are pre-determined by others and the incumbent has the ability to select the processes to achieve the end result, usually with the assistance of general guidelines. At level 4, duties are completed according to specific goals or objectives and decisions are made using industry practices and/or departmental policies. The Notes to Raters indicate that those are the only parameters or constraints in place to guide an incumbent's decision-making.

The Grievor conducts research which is used to assess the feasibility of proposed programs and while it would appear that her recommendations are considered, decisions regarding feasibility are the ultimate responsibility of Mr. Maceroni and Dr. Tumidajski, Vice-President, Academic. They also review proposals prepared by the Grievor for which there is a template or set format. Once a program has been approved, the Grievor discusses the set-up of the program with Mr. Maceroni, who reviews advertising materials she prepares. The Grievor also works with internal



and external stakeholders and she advised that when arranging information sessions, she decides on the format and the information to be provided. I note that there appeared to be some dispute about the extent to which the Grievor selects advisory committee members. With regard to post-secondary programs, Dr. Tumidajski advised that he approves proposed members and could suggest a change in the composition of the committee. Mr. Maceroni indicated that there has been no change in other advisory committees since the Grievor assumed her position.

Although the Grievor referred to a suggestion she made at an advisory committee meeting regarding a proposed change in delivery methodology, Mr. Maceroni indicated that he instructed the Grievor to raise the matter and to report on the response of committee members. While the Grievor was also involved in selecting students for a pre-apprenticeship program, the educational requirements were determined by Mr. Maceroni and the Grievor conducted interviews and selected students in conjunction with a representative from the Union Hall. I note that the Grievor also discusses or reviews with Mr. Maceroni the information she compiles for purposes of reports to MTCU on approved programs.

In the result, it appears that specific objectives are largely pre-determined by others and while the PDF for the Grievor's position includes references to initiative and creativity, at level 3, an incumbent had the ability to select processes to achieve the end result and the autonomy to make decisions within specified parameters. Moreover, I am not persuaded that the Grievor carries out her duties using only industry practices

and/or departmental policies which is characteristic of positions at level 4. In the result, in this factor, I find that her position is properly rated at level 3.

3. Communication

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

The issue between the parties concerns the extent to which the Grievor utilizes negotiation skills which would justify a rating at level 5. In this regard, the Grievor provided a number of examples, one of which involved a discussion she had with an individual regarding the fee to be paid for certain course development work. As a result of the discussion, an agreement was reached on the fee, which was subsequently approved by Mr. Maceroni. In another case, the Grievor spoke to suppliers and was able to obtain equipment samples for use in the culinary department. In yet another case, the Grievor wrote to MTCU regarding students in the metal cutting program who performed work for the Canadian Historical Aircraft Association at the Ford Centre for Excellence and Manufacturing as other placements could not be found. In the letter, the Grievor proposed that the amount of \$1300.00 per student which was to be provided to employers for wage subsidies be paid to the students directly. Evidently, the Grievor wrote the letter at the direction of Mr. Maceroni, who was also

involved in discussions with the MTCU and, in the end result, the proposal was accepted.

A rating at level 5 is warranted where communication involves imparting information in order to obtain agreement, where interests may diverge, and/or the use of negotiations skills to resolve complex situations. The term "negotiate" is defined in the manual as follows: "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". The Notes to Raters also indicate that "negotiation" refers to the authority to commit to a solution or compromise. In this regard, the Notes specify the incumbent must have the tools/skills to reach an agreement that is binding on the College. Normally, the audience will have divergent views or opposing objectives.

In this case, it is apparent that the Grievor does not have the authority to bind the College and, accordingly, is not involved in "negotiation" as that term is defined in the job evaluation manual. Moreover, although the Union submitted that there are no positions in the bargaining unit with authority to bind the College, the College advised that Buyers and Purchasing Agents have that authority. In my view, however, even if there were no such positions at this College, the Notes to Raters clearly specify the authority required for "negotiation" and it was acknowledged that the Grievor in this case does not have that authority. Accordingly, I find that her position is properly rated at level 4.

#### 4. Audio/Visual Effort

Prior to the hearing, the dispute between the parties concerned the extent to which the Grievor's position involves extended periods of concentration during which focus can be maintained most of the time. An extended period of concentration is defined in the job evaluation manual as more than two hours at one time including scheduled breaks. The College rated the Grievor's position at level 2 with a point value of 20 whereas the Union proposed a rating at level 3 with a point value of 35. During the course of the hearing, the Union submitted that a higher point value is appropriate because, in the Grievor's present work location, she is frequently interrupted by questions and must then refocus on the task at hand. The College objected to the Union altering its position at that juncture. The College also advised that some of the interruptions involve inquiries that do not pertain to the Grievor's job duties, which was not disputed, and that those inquiries ought to be directed to another staff member.

In my view, the College's objection must be upheld. The collective agreement provides that written submissions are to be delivered to the Arbitrator and exchanged between the parties 14 days prior to the hearing. The agreement further provides that no written submissions or materials can be considered which are not provided in conformity with that process. These provisions are intended to preclude the parties from advancing claims at the hearing which are not contained in their written submissions and in light of the provisions referred to, I am not prepared to consider the impact of interruptions when rating the Grievor's position.

There is no dispute that some aspects of the Grievor's job duties involve long periods of concentration, being periods of up to two hours at one time including scheduled breaks and, as noted previously, the issue concerns the extent to which extended periods of concentration are involved.

In carrying out her duties, the Grievor prepares proposals for programs such as pre-apprenticeship and apprenticeship programs and, for this purpose, she conducts research, checks statistics and compiles and reviews information from various sources. During this process, she may also contact faculty members and stakeholders to obtain information required for a proposal. As well, the Grievor compiles information, tracks students and contacts employers for the purpose of preparing reports for MTCU on approved programs.

A template is provided for proposals for pre-apprenticeship programs and the College submitted that much of the same information was included in a number of proposals which the Grievor prepared in June, 2007. Those proposals, however, also included information which was pertinent to the particular program and where a period of time elapses between proposals, research may be required to update statistics and information regarding developments in the local community. Some of the training initiatives also involve new programs for which considerable research may be required. Moreover, although proposals for apprenticeship training appear to follow a set format, again, research is required and information must be compiled from various sources. In the result, I am not satisfied that program proposals are routinely completed in less than

two hours as suggested by the College. Accordingly, having regard to the Grievor's responsibilities with respect to research and the preparation of proposals, I find that her position involves extended periods of concentration to a sufficient degree to warrant a rating at level 3.

In the result, in respect of the factors in dispute, I find that the Grievor's position is properly rated as follows:

<u>Factor</u>	<u>Regular/Recurring</u>
Planning/Coordinating	3
Independence of Action	3
Communication	4
Audio/Visual Effort	3

Based on these ratings, the total points for the Grievor's position increase from 619 to 634. As this does not result in a change in payband, her grievance is dismissed.

DATED AT TORONTO, this <sup>28<sup>th</sup></sup> day of January, 2008.

  
Sole Arbitrator

## Arbitration Data Sheet - Support Staff Classification

College: ST. CLAIR COLLEGE Incumbent: SUSAN MCLELLAND Supervisor: J. MACERONI

Current Payband: I

Payband Requested by Grievor: K

1. Concerning the attached Position Description Form:

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

2. The attached Written Submission is from:

- The Union       The College

Factor	Management				Union				Arbitrator			
	Regular/ Recurring		Occasional		Regular/ Recurring		Occasional		Regular/ Recurring		Occasional	
	Level	Points	Level	Points	Level	Points	Level	Points	Level	Points	Level	Points
1A. Education	4	48			4	48			4	48		
1B. Education	1	3			1	3			1	3		
2. Experience	5	69			5	69			5	69		
3. Analysis and Problem Solving	4	110			4	110			4	110		
4. Planning/Coordinating	3	56			4	80			3	56		
5. Guiding/Advising Others	5	53			5	53			5	53		
6. Independence of Action	3	78			5	142			3	78		
7. Service Delivery	3	51			3	51			3	51		
8. Communication	4	110			5	142			4	110		
9. Physical Effort	1	5			1	5			1	5		
10. Audio/Visual Effort	2	20			3	35			3	35		
11. Working Environment	1	7	2	9	1	7	2	9	1	7	2	9
Subtotals	(a) 610		(b) 9		(a) 745		(b) 9		(a) 625		(b) 9	
Total Points (a) + (b)	619				754				634			
Resulting Payband	I				K				I			

Signatures:

(Grievor)

(Date)

(College Representative)

(Date)

(Union Representative)

(Date)

(Arbitrator's Signature)

[Signature]

(Date of Hearing)

Nov 4 10 08

(Date of Award)

Jan 28 08