

IN THE MATTER OF A  
CLASSIFICATION GRIEVANCE

BETWEEN:

**OPSEU LOCAL 654**

**-and-**

**NORTHERN COLLEGE**

**Regarding the Position  
Training Consultant  
OPSEU #2007-0654-0006  
Council #765406**

BEFORE : Kathleen G. O'Neil, Single Arbitrator

For the Union: Lucille Lachance, Chief Steward, OPSEU Local 654  
Normand Bolduc, Grievor

For the College: Daniel J. Michaluk, Counsel  
Cheryl Carbone, Supervisor Staff Relations  
Robert Mack, Associate Director, AWDT

A Hearing was held on June 5, 2009 in Timmins, Ontario  
with supplementary written submissions and replies  
being completed by June 24, 2009

## **A W A R D**

This decision deals with a grievance dated November 28, 2007 claiming that the position of Training Consultant, held by Normand Bolduc, is incorrectly classified at Payband I, and asking that it be reclassified upward to Payband J.

The matter falls to be decided under the recently revised CAAT Support Staff Job Evaluation Manual (referred to below simply as “the Manual”), a provincially negotiated document. The provisions of the Manual detail a job evaluation system aimed at providing an objective basis for the placement of a very large variety of jobs across the college system on the common salary grid in the collective agreement. To this end, the Manual provides a method of evaluating the job duties, which are formally set out in the Position Description Form (referred to below as the PDF). It is important to underline that it is the basic requirements of the job that are evaluated in this system, and not the performance or worth of incumbents, even if they perform at a level or possess skills that surpass the requirements of the job. My role as an arbitrator in dealing with this grievance is limited by Article 18.4.5.1 of the collective agreement to determining whether the PDF accurately describes the job, and whether the job is properly evaluated pursuant to the Manual. The exercise is somewhat technical, and is no comment on the value of any incumbent’s work to the College community in terms of personal effort or in the sense of how much his or her contribution to the College’s work is appreciated by colleagues and those who rely on the incumbent’s work.

I have carefully reviewed everything submitted by the parties, orally and in writing, but in an effort to keep the length of this award reasonable, I discuss only the principal points in what follows. I note that there was no significant disagreement about the facts, but as always in classification disputes, the parties emphasize different aspects of the situation, and see the application of certain portions of the Manual in a different light.

### *Overview of the Training Consultant Position*

The Training Consultant has the responsibility to promote and develop the College’s training courses. In doing so, the incumbent consults with the business and industrial community to identify specific needs such as career programs or training regarding safe use of equipment or new legislation affecting industry. The grievor Mr. Bolduc is the current incumbent in Timmins, and reports to Robert Mack, Associate Director, Apprenticeship, Workforce Development and Training.

The PDF

The union has proposed certain additions to the PDF, which the employer sees as unnecessary. At the hearing, the union decided not to pursue the proposed wording for two factors which are not now in dispute, Experience and Communications. The remaining proposals relate to the disputed factors of Planning/Coordinating and Guiding and Advising Others, and will be dealt with below, together with the dispute over the point rating for these factors.

Factors In Dispute

**i. Planning and Coordination**

The Planning and Coordination factor measures the planning and/or coordinating requirements of the position. This refers to the organizational and/or project management skills required to bring together and integrate activities and resources needed to complete tasks or organize events.

The College has rated this factor at Level 3 which the Manual describes as follows:

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

The union does not dispute Level 3 for the regular and recurring functions of the job, but seeks additional recognition for occasional functions at Level 4, described as follows:

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.

The following Notes to Raters are relevant to this dispute:

3. To clarify the differences between levels 2, 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, are requests 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 major 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 proposes adding two examples of occasional activities to the PDF section dealing with this factor, to support its claim for an occasional rating at Level 4. The first relates to developing

and launching a new program, and the second to managing a client's hiring process. The union is of the view that these areas are not covered in sufficient detail in the PDF. By contrast, the College says the additional wording is not necessary, as the current PDF is not inaccurate. As to the first example, the College acknowledges that developing and launching new programs are assigned responsibilities of the job, but submits that they are regular and recurring, rather than occasional duties, and are already covered in the PDF. As to managing a client's hiring process, the college acknowledges that "one-off" consultancy contracts of this kind could occur, but it is the employer's position that it is not something that needs to be in the PDF, as it is not something that can affect the rating, and falls within the general provision in the PDF for "other duties as assigned", estimated as 5% of the position's time.

For the first proposed addition, which deals with developing new programs, I am persuaded that it is an essential, regular and recurring, feature of the job, and thus should not be listed as an occasional function. Further, I am persuaded that the function is adequately covered in the first two sections of the Duties and Responsibilities section of the PDF, which refer to working with clients to identify training needs and opportunities, and to plan training in accordance with those needs. As well, the three regular and recurring examples in the Planning and Coordinating section of the College's PDF all relate in some way to developing and launching new programs, even though different words are used than those proposed by the union. As a result, I do not find the PDF inaccurate in this respect, and thus I am not persuaded to order the requested change to the PDF.

The dispute over the wording for the second proposed addition, relating to managing a client's hiring process, engages the portions of the Manual which give guidance as to the parties' intentions for PDF's, including how to deal with occasional activities. At pg. 1 of the Manual, we are told that the PDF is intended to reflect the assigned duties and responsibilities of the position and is not intended to represent a detailed working procedure nor a list of miscellaneous duties that are infrequently assigned to the position. At pg. 5, in the "How to Use the Manual" section, we find the following direction:

The term "occasional" can be considered in a few different time frames. It can be defined as once or twice a month or three or four times per year. It is important to remember that this term is to be considered when identifying significant skills or responsibilities associated with activities that occur for a short period of time, on a few occasions or sporadically throughout the year.

Ultimately, the primary focus is to determine whether the skill, responsibility or activity is of note and as such needs to be reflected in the evaluation. For example, if a description or example in the PDF applies to a skill that is used 5% of the time and is deemed to be a notable element of the position, it should be captured at the "occasional" level. However, if a skill is used about 5% of the time

and it is not a significant differentiating element, it would not be helpful to assign the "occasional" level to the work being described.

No matter how often the activity occurs, however, the skill or responsibility must be important and without it the position duties could not be performed.

From the discussion at the hearing, I am persuaded of two things concerning this aspect of the dispute. Firstly, "one-off" projects or contracts can and do turn into more regular business for the College, and thus are important in the general sense of the word. However, and secondly, the example given of managing a client's hiring process is not a duty which would be assigned to the position often enough to warrant even an occasional rating in the specific way mentioned in the Manual, i.e. a duty without which the position could not be performed, or something taking up about 5% of the incumbent's time. As well, this type of duty, which could include pilot projects, is sufficiently covered in the PDF in the "basket" clause of "other duties as assigned", and the general duty to identify needs and plan programs to fill them. Thus, I am not inclined to find that the PDF inaccurately represents the job in this respect such that additional wording should be added.

As to the point rating dispute, it is limited to whether additional points should be awarded for occasional Level 4 functions. For this, we must be guided by the mandatory Notes to Raters which elaborate on the factor definitions for the two competing levels, explaining that what was intended by the Manual's drafters for Level 4 was something at the level of complexity comparable to a major campus renovation. By contrast, Level 3 was intended to reflect planning and coordinating at the level of conferences or research projects. For all disputes over factor ratings, the Manual requires that one be guided by the "best fit" concept. Having considered everything before me on this aspect of the dispute, I am persuaded that there is a significant level of complexity in the planning and coordinating functions of the Training Consultant's job, but that they are better reflected at Level 3 than at Level 4. Although the Training Consultant's work can touch a number of departments, and requires the incumbent to juggle several projects at once, the scale of the projects involved, such as liaising with an employer and academic and other college departments to develop a training course or program, is more like conferences and research projects, which the Manual links with level 3, than the Level 4 comparison to a major campus renovation.

In the result, the College's rating for the factor Planning and Coordinating is confirmed.

## **ii. Guiding/Advising Others**

This section describes the assigned responsibility of the position to guide or advise others (e.g. other employees, students or clients) in the performance of their work or skill development.

The College has rated this factor at Level 2 while the union seeks Level 5. The factor descriptions which cover this range read as follows:

2. Guide others so they can complete specific tasks.
3. Advise others to enable them to perform their day-to-day activities.
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.

Mandatory definitions include the following:

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

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

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

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.

The Manual's commentary provides the following:

This factor refers to any assigned responsibility to guide or advise others (e.g. other employees, students, clients) in the area of the position's expertise. 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.

Support Staff in the Colleges cannot formally "supervise" others as defined by the Ontario Labour Board (e.g. hire, fire, handle first step grievances). However, there may be a requirement to guide others using specific job expertise. This is beyond being helpful and providing ad hoc advice. It must be an assigned responsibility and must assist or enable others to be able to complete their own tasks.

Note to Raters:

1. To clarify the differences between levels 3, 4 and 5:

Level 3 - this may be a position with a particular area of expertise (e.g. accounting), which uses that expertise to assist others in completing their tasks. Involvement is generally of an advisory nature and the position is not responsible for how those advised subsequently complete their tasks.

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.

For this factor, the discussion centered on the relationship of the incumbent with the Program Assistant, in regards to both the requests for changes to the PDF and the factor level, and supplementary submissions were received related to instructors and clients. The position's duties in relation to each of these will be discussed below.

Starting with the Program Assistant, it is common ground that the Training Coordinator is responsible for developing training programs, and that once a new course or program has been agreed to, he communicates the details to the Program Assistant, who is responsible for carrying out the administrative details. This relationship is referred to as assigning duties to the Program Assistant in the example in the "Guiding and Advising Others" section of the College's PDF. Nonetheless, the College says that the word "assigns" was a mistake, and that the description of the relationship set out in the "Duties and Responsibilities" section of the PDF is more accurate. It reads as follows:

Forward all pertinent training details and requirements (delivery information) to the Programs Assistants for action as per established procedures.

Further, the College invites a finding that there is a hierarchy in the PDF, the Duties and Responsibilities section being the core functions, and the other sections serving as examples. Accordingly, it is the employer's view that in case of inconsistency, the language in the duties and responsibilities section should prevail. In my view, it is not desirable to make a general pronouncement as to a hierarchy of meaning in PDF's. In a system as detailed as the job evaluation system, implemented by a wide variety of individuals across the province, it is to be expected that there will be variation in drafting of PDF's, in process, style, use of terms, and in interpretation of the Manual's provisions, such that an arbitrator will need to look at each situation in its entire context. The PDF is to be read as a whole, in light of the other available information, to arrive at the best available understanding of the unique situation under discussion, informed always by the standard directions of the Manual.

At the hearing, the College highlighted the theme that the essential responsibility of the job is sales and marketing, and thus the primary interaction is with the client, developing the course and the quote, the financial arrangements. Once that is done, it is the College's position that the course is "handed-off" to the Program Assistant for implementation, and that the Training

Consultant is not assigned the duty of guiding or advising concerning the assistant's functions. Counsel emphasized that the College intends that the Training Consultant focus on doing sales and marketing of training programs, leaving the follow-through to the Program Assistant. As to supervision, the College underlines that the assistant is supervised by Mr. Mack, the Associate Director, rather than by the Training Consultant. The College acknowledges that the Program Assistant is responsible to implement whatever the Training Consultant gives her, but says that it is a process that only varies slightly, and that this interaction is covered sufficiently by the current rating. The assistant needs the information in the course notification provided by the Training Consultant, but takes it from there, without any expectation that the Training Consultant assist her in performing her duties, in the College's view. Further, the College maintains that the rating for the factor Communication covers this area, which the Manual carefully distinguishes from Guiding and Advising.

The union emphasizes that the Training Consultant is responsible for ensuring that the objectives and timelines for the courses or projects he develops and assigns to the Program Assistant are met. Further, he gives her direction, deadlines and information by e-mail, so that the tasks can be completed in a timely fashion. Acknowledging that the Program Assistant will take care of arrangements for rooms and the like when the course is held at the College, the union underlines that the Training Consultant is responsible for doing similar functions when the course is off-site. Further, it is stressed that there has to be constant contact between the Training Consultant and the Program Assistant throughout the process of mounting a course, as changes and issues arise that must be dealt with.

Looking at the Manual's description of the union's requested Level 5 in reference to the Program Assistant, the process of providing tasks to the Program Assistant is not an uncomfortable fit with the verb allocating tasks, part of the first portion of the factor description. However, the evidence does not persuade me that the consultant is responsible to assist the Program Assistant in the sense described in the Note to Raters for Level 5, which amounts to performing a role akin to a supervisor, albeit within the bounds of a non-management position. Further, I am persuaded that although the Training Consultant and the Program Assistant have regular ongoing contact, it is not for the purpose of directly *helping* her in the performance of her work or skill development, as intended for the Guiding and Advising function. The evidence persuades me that the relationship is more akin to working together to ensure that an order for a training program is delivered according to specifications, than a quasi-supervisory relationship.

Moving on to the Consultant's role with instructors, the most specific provision in the College's PDF, in the section for Guiding and Advising, uses the following wording:

When a situation falls in a “gray” area or when an instructor is less experienced, the T.C. will advise the instructors on the most appropriate course of action in matters such as course management, class management, cheating, missed tests, disruptive student behaviour, etc. and will monitor the results and take further action as required.

The Training Consultant identifies instructors for training needs, and has what amounts to effective recommendation in the hiring of instructors. He also works closely with them to ensure that the training materials reflect the agreements with clients, but there does not appear to be the quasi-supervisory relationship between the consultant and the instructors necessary for the requested Level 5. Rather, the functions assigned are more in the nature of contracting with instructors and advising less experienced instructors. This includes dealing with complaints about instructors, and reviewing evaluation data from students when deciding whether a contract should be renewed. Level 2 is not a comfortable fit for these functions either, as the Training Consultant does not appear to be guiding the instructors in the defined sense of demonstrating correct processes or procedures.

Given the wording of the PDF, which uses the verb “advise” in regards to instructors, and the definition of that term in the Manual, which refers to the authority to “recommend, or provide knowledgeable direction regarding a decision or course of action”, Level 3 seems a better fit in regards to the assigned responsibility of advising instructors set out above. Advising less experienced instructors on such nuanced topics as course and classroom management and disruptive student behaviors is not well described by the definition of “guide” linked with Level 2, which speaks of demonstrating procedures or processes. This is true even if, as the College argues, the advice to the instructors is intended to be aimed at solving immediate problems and quality control. The functions the consultant performs in regards to clients also fit comfortably with the Level 3 factor description, as elaborated in the notes to raters as an advisory function, without responsibility for how the recipient uses the advice. The incumbent is required to build and maintain extensive knowledge as to training needs, resources, and methods of delivery, a form of expertise, which he uses in a way reflected in the Note to Raters for Level 3, to assist others to complete their tasks. Level 4 is less of a good fit, in that the College’s assertion that skill development is not part of the College’s relationship with the part-time instructors with whom the incumbent deals was not contradicted.

Turning then to the proposed additions to the PDF, the section of the PDF form entitled “Guiding and Advising Others” is organized around five levels, which are worded to closely reflect the Manual’s descriptions of the five factor levels. In the College’s PDF, the incumbent’s duties in terms of the Program Assistant are situated opposite wording reflective of Level 2: “There is a

need for the incumbent to demonstrate correct processes/ procedures to others so that they can complete specific tasks.” The union seeks to move the language detailing the examples of the job functions further along in the section to be linked to wording more reflective of Level 5: ” The incumbent is responsible for allocating tasks to others and recommending a course of action or making necessary decisions to ensure the tasks are completed”. As well, the union seeks to add additional detail concerning job duties, such as “the Training Consultant requests assistance from and allocates tasks to the department’s Program Assistant to ensure Project outcomes are met.” Other proposed language elaborates on the types of things the union argues that the consultant may recommend, such as alternate room bookings at peak times, and interviewing, selecting, hiring, budgeting and assigning as well as making necessary decisions to ensure tasks are completed and project outcomes are met. Given that I am not persuaded that Level 5 is the best fit, as discussed above, the request to move the language to that level is denied. The positioning of the examples on the current PDF linked to wording reflective of Level 2 does not appear to be entirely accurate either, as the evidence did not disclose any actual demonstration of correct procedures by the incumbent. Rather, it is a combination of communicating information and advising others, such that the language fits best at the third level, described on the PDF as “The incumbent recommends a course of action or makes decisions so that others can perform their day-to-day activities”. This also effectively describes the sequence in which the incumbent decides on what courses will be offered by what instructors, which enables the Program Assistant to implement those decisions. I am not persuaded that the additional detail proposed by the union for insertion in the PDF is necessary to make the PDF an accurate reflection of the job, so that those requests are denied.

In the result, the rating for Guiding and Advising should be raised to Level 3, and the wording on the PDF should be moved to the corresponding box, one level up on the PDF.

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To summarize, the College’s rating for the factor Planning and Coordinating is confirmed, while the rating for Guiding and Advising should be raised to Level 3. This brings the point rating to 634, which remains within Payband I where the position is currently classified.

In the result, the grievance is allowed to the extent of the raised rating for Guiding and Advising, but the Payband Level does not change. The arbitration data sheet reflecting this is attached to this decision.

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

Dated at Toronto this 9th day of July, 2009.

*Original Signed by Kathleen G. O'Neil*

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Kathleen G. O'Neil, Single Arbitrator

