

IN THE MATTER OF A
CLASSIFICATION GRIEVANCE

BETWEEN:

OPSEU LOCAL 241

-and-

MOHAWK COLLEGE

Regarding the Classification of
Administrative Coordinator, Registrar's Division
OPSEU #2007-0241-0006

BEFORE : Kathleen G. O'Neil, Single Arbitrator

For the Union: Keith Bates, Chief Steward, OPSEU Local 241
Colleen Morrison, Grievor
Katherine Maxwell, President, OPSEU Local 241
Tracey P. Rokipczuk, Local 241

For the College: Jason Green, Counsel
Joanne Echlin, VP Human Resources and Staff Services
Sheila Walsh, Director, HR Staff Services and Support Staff
Relations
Barry Hemmerling, Associate Vice President, Strategic Enrolment
Management/Registrar

A Hearing was held on April 27, 2009 in Hamilton, Ontario

A W A R D

This decision deals with a grievance dated October 1, 2007 claiming that the position of Administrative Coordinator, held at the time by Colleen Morrison, is incorrectly classified at Payband G, and asking that it be reclassified upward to Payband I or higher.

The matter falls to be decided by application of the recently revised CAAT Support Staff Job Evaluation Manual (referred to below simply as "the Manual"), a document negotiated provincially, to 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 to determining whether the PDF accurately describes the job, and whether the job is properly evaluated pursuant to the Manual. The detailed provisions of the Manual are aimed at providing an objective basis for the placement of a huge variety of jobs across the college system on the common salary grid in the collective agreement. The exercise is somewhat technical, and is no comment on the value of the incumbent's work to the College community in terms of her personal effort or in the sense of how much her contribution to the College's work is appreciated by her colleagues and those who rely on her work.

I have reviewed everything submitted by the parties, orally and in writing, but in an effort to keep the length of this award reasonable, I emphasize the principal points in what follows.

Overview of the Administrative Coordinator Position

The position entitled Administrative Coordinator is responsible for overseeing the administration of the Registrar's office and providing administrative support for the Registrar's management team. The incumbent, who performed the job for twenty-two years, has not been in the position since November, 2007, and the Registrar's office has since been reorganized, such that there is no current incumbent for the position.

The PDF

The parties had a significant dispute over the PDF. The union's position is that the appropriate PDF for this dispute is the one revised in March 2007, which was rated on May 15, 2007, and was agreeable to the incumbent and her supervisor, the College Registrar at the time. The union objected to the presentation of a revised PDF in the management's brief, which they had never

seen before receipt of the brief, and which was not the PDF which was rated. Further, they feared that this would become a regular practice, something not contemplated by the collective agreement. Reference was made to Article 18.4.3.3 and its requirement to sign the arbitration data sheet in advance of the hearing, which was done by February 2008. After this, in the union's submission, changes to the PDF should not be allowed.

The College indicated that although incumbents and managers contribute to PDF's, the College has the ultimate decision making power, and the PDF is subject to revision. Further, the new classification system is still evolving, and is a work in progress. It is the College's position that the newly edited PDF is a better, more correct, reflection of the actual assigned tasks than the earlier one, especially in terms of the assigned level of authority, and notes that the essential duties were not changed. Since it is better expressed, and more correct, it should be the preferred basis for the arbitration hearing, in the College's submission.

A conference call was held on April 21 to deal with this matter in advance of the hearing. I ruled as follows at the time:

Having reviewed the matter, it is my decision that the College will be permitted to use the revised PDF in the hearing as part of their brief and explanation of their view of the accurate duties and responsibilities of the position. As part of its case, the union may challenge any part of it as inaccurate.

After the hearing, if necessary to my determination as to whether the grievor's PDF accurately reflects the assigned job content and whether the grievor's job is properly evaluated, I will decide the following:

- whether there is any substantive disagreement between the parties about the assigned duties of the position in practice, or to what extent the dispute over the PDF is a question of wording.
- If there remain areas of substantive disagreement about the assigned duties of the position to be resolved, I will then consider what the effect should be on the use and status of the revised PDF, of the facts that:
 - (i) the revised PDF was issued subsequent to the departure of the grievor from the position and what I understand to be its elimination as a specific position,
 - (ii) during the period between the grievance and its receipt of the College's brief, the union and the grievor had only the earlier PDF as the College's written statement of the duties of the position.

It is appropriate to acknowledge that the 2009 revision of the PDF included in the College brief did not result in any changes to the factor ratings, and was aimed at bringing more precision and a more concise style to the PDF, something consistent with the Manual's directions as to drafting PDF's. Nonetheless, the fact that there has been no incumbent in this position since November 2007 creates a context in which the recent revisions are most realistically considered a form of written submissions. In general it is fair to note that the PDF in question uses rather more

expansive language than usual for this type of document, combining terms derived from a number of different levels for several of the factor definitions, a circumstance which emphasized the need to focus on substance rather than form in the necessary determinations.

Factors In Dispute

The following factors remain in dispute and will be discussed in turn:

- i. *Analysis and Problem Solving*
- ii. *Guiding and Advising Others*
- iii. *Independence of Action*
- iv. *Service Delivery*
- v. *Communication*
- vi. *Audio/Visual Effort*
- vii. *Work Environment*

I. Analysis and Problem Solving

The Manual provides the following as to what is being measured by this factor:

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 has rated this at Level 3, which reads as follows:

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.

The union maintains it should be rated at Level 4, as follows:

Situations and problems are not readily identifiable and often require further investigation and research. Solutions require the interpretation and analysis of a range of information according to established techniques and/or principles.

The Notes to Raters are of assistance here, in particular, the following:

... Consideration can only be given to the extent that judgement is allowed within the parameters and constraints identified in the position duties. Keep in mind, it is the requirement of the position not the incumbent's capability that is being evaluated.

...

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.

...

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 definition of the term "Established techniques and/or principles" from Level 4 is as follows:

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

This factor is aimed at measuring the level of judgment allowed the incumbent. To this end, the factor definitions require a focus on two principal elements: identification of problems, and then their solution. The range of problems faced by the incumbent were of varying complexity and subject matter. The duties and responsibilities section of the PDF gives an overview of the range of subject matter involved, apportioning 45% to providing administrative support to the Registrar's office, 30% to managing the Registrar's budget process, 15% to coordinating and chairing the College Medals and Outstanding Achievement Awards Committee and Honours process for convocation, and the remaining 15% to providing customer service to the college community and the general public concerning student related problems.

In the union's brief, the incumbent's management of the budget process for the Registrar is a particular focus. In dealing with this and other factors, it is appropriate to underline that where the word "manage" is used for a support staff bargaining unit position, it has to be understood in the administrative sense of the term, as by definition, a bargaining unit position is not a managerial one, or part of the management team in the legal meaning of the words.

The incumbent was delegated the task of reviewing the budget periodically to project what areas in the Registrar's division were not meeting their financial allocations, and needs for the year end. This required obtaining information from managers as to their use of funds and requirements. Ms. Morrison indicated at the hearing that Ms. Hayes, the Registrar at the time the PDF was drafted, took a hands-off approach to the incumbent's position, and relied on the incumbent to make decisions on budget allocations as the year progressed. She said that she would arrange to redistribute budget allocations when shortfalls were projected. She would speak to the area concerned, and then give her recommendations to the Registrar who would submit them "up through the line". The College describes the budget functions as monitoring, identifying overages and shortages to bring forward a recommendation, emphasizing that the incumbent did not have decision making power in this respect.

As to student problems, the incumbent gave examples of students in need of financial aid who were sent to her, highlighting an example of a student in great distress because she had

exhausted her resources. Ms. Morrison was able to direct her to alternative sources of support. As well, she was able to de-escalate a situation where a student was refusing to meet with security when they needed to interview him over an incident in which he had behaved inappropriately.

As to the terms "investigate and research" in level 4, Ms. Morrison gave the example of a time where the Registrar's office did not have the appropriate recognition document for a student award. She investigated by checking with the Associate Registrar about the proper document, and checked with staff in the president's office about changes to the document. She then worked with the printer to get the document in time to have it framed for presentation.

For problems that are not readily identifiable, a feature of Level 4, the incumbent mentioned her duties in relation to deceased students, of which there were approximately 30 between 2005 and 2007. She was responsible for drafting a condolence letter, making necessary changes in the College records, and facilitating the family's application for life insurance benefits. As the insurance company only pays benefits for accidental death, she had to diplomatically clarify the cause of death with the grieving family to be able to submit the information to the insurer. As well, she gave examples of problems with receipt of faxes and a disabled printer. She had to troubleshoot the problem and find a solution under considerable time pressure as the problems occurred at an important time of the year.. The College's position is that these problems, while important, are not of the kind that requires research in the normal understanding of the term in order to identify or resolve.

Concerning the terms "principles or techniques" from Level 4, the incumbent mentioned mediation skills, and the fact that her supervisor had suggested she take a course leading to a certificate in counseling techniques offered at the College, which she achieved in 1992. For "generally accepted principles" she indicated keeping calm and reasonable.

The College submits that Level 3 indicates a requirement of a through consideration of the issues posed by the situation or problem, and underlines that further inquiry or gathering information from areas not normally used by the position or exploring new or unusual directions to solve a problem may be required. Although it is acknowledged that the incumbent provided high level administrative support to the Registrar's office, the College submitted that the problems confronted were not of the unbounded kind that would required research just to be defined. As to the examples given in the union's brief of dealing with irate or upset students, counsel argued that they were accounted for under the factor Communication, rather than Analysis and Problem Solving.

In the end, I find the most useful indicator for choosing between the two factors is whether the situations or problems are readily identifiable or not. I am not persuaded that, in general, the problems presented to the incumbent were not readily identifiable, which is a necessary criterion for Level 4. Rather, each of the examples in the PDF, analyzing budget information, resolving student situations and determining how to deal with complaints about inadequate office resources, fall within the bounds of Level 3 as interpreted in the Manual, including the notes to raters. For example, it would appear that the processes the incumbent uses to review the budget are able to readily identify problems and that their solutions at the incumbent's level generally require collecting the appropriate information and analyzing it, all of which is adequately captured at Level 3. For the second example, resolving unique student situations, the PDF and the discussion at the hearing indicated that these are referred to her, which provides a form of identification of the problem at the outset. The fact that the resolution may involve creativity, diplomacy and tact does not take them outside of Level 3, into the realm of frequently requiring investigation and research required for Level 4. The third example, concerning office resources is similarly identified by complaint, and quite identifiable even if the solution may require troubleshooting.

The other examples given in the brief and verbally also fall comfortably into Level 3, which includes the necessity to inquire to define problems with more precision, and the possibility of having to explore new or unusual areas. Some of the wording used in the PDF in regards to obtaining information concerning student death, such as "vague and incomplete", would suggest a level 5 function. Nonetheless, the situation of a death is by its very nature not vague, and the incumbent's functions in obtaining information where the cause of death needs clarification correspond very well with the note to raters about Level 3, which includes the necessity to be able to identify when additional information is needed to clearly understand the problem or situation.

All in all, I do not find Level 4 to be the best fit because of the requirements of the first sentence that situations and problems not be readily identifiable.

Accordingly, the College's rating for the factor Analysis and Problem Solving is confirmed.

ii. Guiding/Advising Others

This section describes the assigned responsibility of the position to guide or advise others. The College has rated this factor at Level 2, while the union seeks Level 4. The factor descriptions from 2 through 4 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.

Mandatory definitions include the following:

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

Guide – demonstrates correct process/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.

The union submits that Level 4 is appropriate, and notes that this factor was originally evaluated at Level 3, and then re-evaluated and reduced to Level 2. The incumbent, in the union's view, had the authority to recommend or provide knowledgeable direction to others and to make necessary decisions to ensure that tasks are completed.

The PDF provides examples which indicate that the incumbent was to provide explanation and direction concerning policies and procedures of the Registrar's office, and in the absence of supervisors to be available to assist other staff in the division to complete specific tasks. This is language which can fit at Level 2 since, "Guide", the verb from that level, is defined as demonstrating procedures to assist others with task completion. Further, the PDF indicates the incumbent may sign pay sheets for part-time staff and troubleshoots malfunctioning equipment and may ask other staff or outside resources to fix the equipment where necessary, neither of which fits squarely with a higher level than Level 2.

As an example of recommending a course of action, which is part of the definition for the verb "advise", found at Levels 3 and 4, the PDF speaks of a situation where the incumbent recommended using the existing warehouse stock of certain forms in order to be able to postpone an order to the new fiscal year. In terms of assigning tasks, the incumbent spoke of informing staff in charge of student records that she needed a transcript to respond to a lawyer's request, for example. In terms of ensuring that tasks were completed satisfactorily, Ms. Morrison indicated she would verify that the transcript referred to the correct student, and bore the College seal. Then she would send it on with other necessary documents, depending on the case and the request. When dealing with student appeals, she is responsible for implementing decisions made by others, once or twice a month. When dealing with the budget, she indicated she assigned the budget office the task of budget allocation, and that she had not been refused. She referred to placing orders with an external printing service as assigning the task to the printer, and the coordination of changes in the office, such as moving shelves, as assigning the moving crew and ensuring that the work was completed.

The College takes the position that using the services of other departments, or communicating with them, does not amount to assigning tasks in the sense used in the Manual, and that there is no assigned responsibility in this respect. As to the change in the rating from Level 3 to Level 2 for this factor, the College indicated that there was an internal process, during which the College did its utmost to ensure that the committee responsible for job evaluation understood the positions. When they looked at the document as a whole, there was an adjustment, which occurred before the grievance was filed.

It is a fundamental aspect of the Manual that evaluators are to choose the most appropriate or "best fit". In this respect, the note to raters concerning Level 4 involves actively contributing to ongoing skill development of less experienced staff. The related definition of ongoing involvement indicates involvement for the duration of the process or skill development. However,

there is no assigned responsibility for this type of function, a sufficient indicator that Level 4 is not the best fit, so that the remaining debate is between Levels 2 and 3. The examples given in the Guiding and Advising section of the PDF are quite a good fit at Level 2, such as assisting other staff to complete specific tasks in the absence of supervisors, troubleshooting office equipment, or guiding someone as to the existing stock of forms, so an order could be deferred until the new fiscal year. However, the duties and responsibilities section of the PDF and the discussion at the hearing made clear that the former registrar had delegated a significant amount of recommendation and advisory function to the incumbent in terms of budget, and the functioning of the awards committee, and that these functions were relied on consistently.

The portion of the job referring to the budget and awards committee does not appear adequately recognized at Level 2, such that I find the best fit for the position's mix of functions for Guiding and Advising to be Level 3.

iii. Independence of Action

This factor measures the level of independence or autonomy in the position. The Manual provides that the following elements should be considered:

- the types of decisions that 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
- the rules, procedures, past practice and guidelines that are available to provide guidance and direction

The College has attributed Level 3, with recognition of occasional functions at Level 4, while the union seeks a full Level 4 rating. The competing levels are described as follows in the Manual:

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

The following are applicable excerpts from the Notes to Raters:

To clarify the 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 the autonomy to make decisions within these parameters.

4. To clarify the differences between levels 4 and 5:

Level 4 - the only parameters or constraints that are in place to guide the position's decision-making are "industry practices" for the occupation and/or departmental policies. The position has the autonomy to act within these boundaries and would only need to consult with the supervisor (or others) on issues that were outside these parameters.

Level 5 - the only parameters or constraints that are in place to guide the position's decision making are College policies. The position has the autonomy to act within these boundaries and would only need to consult with the supervisor (or others) on issues that were outside these parameters.

Mandatory definitions include:

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

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

Industry Practice - technical or theoretical method and/or process generally agreed upon and used by practitioners to maintain standards and quality across a range of organizations and settings.

Policies - broad guidelines for directing action to ensure proper and acceptable operations in working toward the mission.

In general, it became clear from the discussion at the hearing that there were a fair number of problems which would be dealt with by the Registrar when she was there, but in her absence fell to Ms. Morrison. It is for this reason that the grievor was given additional recognition at Level 4 as "occasional".

The union's brief emphasizes that the incumbent operated independently, her work only being reviewed when requested by her. The incumbent indicated she had developed a good sense of what the Registrar wanted to hear about and seldom called on her to review her work. The union submits that she worked within industry practices, referring to specifics such as College and Ministry policy, and provincial legislation. For its part, the College defends its rating on the basis that the position duties are mainly premised on achieving specific results or objectives which have been pre-determined by the Registrar and, when appropriate, other senior management of the College. Level 3's focus on process choice is the best fit for the regular functions of the job, such as the PDF's example of figuring out how best to automate manual processes, and the occasional rating at Level 4 recognizes that she sometimes is required to go beyond that, in the College's submission. Acknowledging that after more than twenty years in the job, this

specific incumbent would have developed a high level of trust with her manager, the College nonetheless argues that the main job duties should not attract a Level 4 rating.

Having carefully considered all the material submitted in writing and orally, I find nothing incorrect in the College's rating. For the most part, the duties of the job concern administrative support organized around specific results or objectives, such as keeping the Registrar prepared for her meetings, keeping the division on budget and coordinating the awards process, a better fit at Level 3 than the more open-ended situation described at Level 4. The fact that the incumbent is left on her own to cope in the Registrar's absence is reflected in the occasional rating, but the material before me does not persuade me that this is an incorrect level of recognition for the assigned job duties. In the result, the College's rating for this factor is confirmed.

iv. Service Delivery

The College has rated this factor at Level 2, regular and recurring, while the union seeks Level 3. The two levels of the factor definition read as follows:

2. Provide service according to specifications by selecting the best method of delivering service.

3. Tailor service based on developing a full understanding of the customer's needs.

Tailor is defined as meaning:

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

The commentary and Notes to Raters provide as follows:

This section looks at the service relationship that is an assigned requirement of the position. It considers the required manner in which the position delivers service to customers and not the incumbent's interpersonal relationship with those customers.

All positions have a number of customers, who may be primarily internal or external. The level of service looks at more than the normal anticipation of what customers want and supplying it efficiently. It considers how the request for service is received, for example directly from the customer; through the Supervisor or workgroup or project leader; or by applying guidelines and processes. It then looks at the degree to which the position is required to design and fulfill the service requirement.

Notes to Raters:

1. "Customers" refers to the people or groups of people who receive the services delivered by the position. They can be internal, students or external to the College.

2. Consider the position's overall or primary focus of service. For example, the primary focus may be to deliver or provide information.

3. To clarify the differences between the levels:

...

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

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

To start, it is appropriate to emphasize the intention expressed in the above commentary, to capture more than the normal anticipation of a customer's needs. The dispute here is over whether the incumbent is required to tailor service in the sense of customizing or modifying the delivery method. The examples the incumbent gave of tailoring included revising a letter to apprenticeship students so they would be directed to the right campus for their inquiries, rather than having to re-direct them when they called the main campus. As well, she mentioned tailoring information to get a computerized report to replace a manual process, in that she told the IT staff what information they needed and worked with them to populate the data base to meet the need as well as picking dates tailored for the Registrar's needs, or advising the receiving department when they needed a large quantity of envelopes far enough in advance to meet deadlines. As well, she composed the citation letters for the several annual convocations to recognize the achievements of award winners.

The College describes the incumbent's functions as squarely Level 2, focused on having a good understanding of the available options and determining which one meets the situation the best. Counsel stresses that the incumbent has no authority to modify or depart from College policy.

The examples given in the PDF do not disclose much requirement to tailor service in the sense mentioned in the Note to Raters of customizing or substantially modifying what is delivered. Although there is a need to understand the needs of the people with whom the incumbent deals, and some composition and modification of text, and choice of how to address student and budget problems, I am not persuaded that this amounts to substantial modification of what is delivered. The references to composing

correspondence and resolving even non-routine student and budget problems can fit well within the idea of the normal anticipation of service requirements for an administrative support job, which the manual tells us is *not* the focus of this factor. I am persuaded that the main thrust of the job is having a sophisticated understanding of the options available in the Registrar's office and choosing the best one, rather than a regular and recurring requirement to customize service in the sense of customizing or substantially modifying the options themselves.

In the result, the College's rating at Level 2 is confirmed.

v. Communication

Turning to the rating of the Communication factor, the College rated this factor at Level 3, which reads as follows:

3. Communication involves explaining and/or interpreting information to secure understanding. May involve communicating technical information and advice.

By contrast, the union seeks Level 4, which reads as follows:

4. Communication involves explaining and/or interpreting information to instruct, train and/or gain the cooperation of others

Relevant commentary and Notes to Raters read as follows:

This factor measures the communication skills required by the position, both verbal and written and includes:

- communication to provide advice, guidance, information or training
- interaction to manage necessary transactions
- interpersonal skills to obtain and maintain commitment and influence the actions of others. Written communications includes letters, reports, proposals or other documents.

Notes to Raters:

...

3. To clarify the differences between levels 2 and 3:

"Explain" and "interpretation" in level 2 refers to the fact that it is information or data which needs to be explained or clarified. The position exchanges basic technical or administrative information as the normal course of the job and may be required to deal with minor conflicts or complaints. This level may also include exchanges that are of a more complex technical nature, where all the parties to the communication are technically competent. That is, for those people the communication is relatively basic as they share a vocabulary and understanding of the concepts.

"Explain" and "interpretation" in level 3 refers to the need to explain matters by interpreting policy or theory in such a way that it is fully understood by others. The position must consider the communication level/skill of the audience and be sensitive to their abilities and/or limitations. At this level, if the exchange is of a technical nature, then usually the audience is not fully conversant or knowledgeable about the subject matter. Unlike communicating with people who share an understanding of the concepts, in this situation

the material has to be presented using words or examples that make the information understandable for non-experts or people who are not familiar with the intricacies of the information.

4. To clarify the differences between "gaining cooperation" in level 4 and "negotiation" in level 5:

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

"Gaining cooperation" refers to the skills needed to possibly having to move others to your point of view and gaining commitment to shared goals. The incumbent works within parameters determined by the department or College and usually there is a preferred outcome or goal. The audience may or may not have divergent views.

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

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

Relevant terms are defined as follows:

Explain - provide details or examples to help others better understand the information.

Interpret - explain or tell the meaning of; translates; convey the meaning of something.

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

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

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

The important difference between the claimed levels for this factor concerns whether there are assigned responsibilities for training in a formal setting, or gaining cooperation and consent. In considering this question, it is important to note that the PDF in this area uses terms in a way different from the Manual's definitions. For instance, in the box entitled "Negotiation", negotiating competing deadlines is mentioned, whereas the definition involves a much broader kind of negotiation with complex issues and possibly contentious outcomes. In the area for obtaining cooperation and consent, which is defined as having to move someone to your point of view, reference is made to obtaining a consent to release information, which is a quite different and more limited function.

To support her claim for the Level 4 rating, the incumbent relies on the gaining of cooperation and consent rather than instruction and training. In this respect she particularly relied on her activity in regards to the budget, although she did not recall an example of where the other person was of a different point of view. She mentioned an example of a need for storage for awards applications. The person in charge of the physical plant thought there was no room, but she reminded him that space was coming free because of a move from paper to electronic files in some areas, after which he agreed that the material could be stored. As for instructing and training, the PDF indicates that the incumbent is required to demonstrate the use of equipment to staff, and educate them on advanced features of software programs, but there is no indication of the formal setting required by the Manual's definition of instructing or training which would be necessary to gain Level 4.

The college stressed that the incumbent was not required to try to move people to a different point of view. The expectation was that she ask, and if there was a problem that it be escalated to the supervisor. It is worth observing that this is an area in which there can be difficulty in separating an experienced incumbent from the assigned job content, which is what the arbitrator is required to assess.

When the Manual's description of the various levels for this factor are considered as a whole, it can be seen that there is a spectrum of communication which starts with the exchange of routine information which characterizes Level 1. Level 2, although a lower level than that attributed here, is informative, because the notes to raters indicate that even at this lower level the communication may involve minor complaints, or communication of a complex nature where all the people share an understanding of the concepts. Level 3 is one higher, involving the need to couch explanations in terms others will understand, something that in itself is often conducive to gaining the usual kind of cooperation necessary in the workplace.

Levels 4 and 5 are both intended to recognize very specific, extremely high levels of assigned communication duties. I accept that the incumbent may have been able to gain cooperation from staff about budgetary matters, especially given her years in the job, and the approach of the Registrar at the time of the writing of the PDF. Further, she said that she never had to escalate any problem to the Registrar. Nonetheless, the essential duties reflected in the PDF, even in the budget area, are much more of the nature of identifying, reporting and recommending, rather than describing a mandate to move others to the point of view of the registrar's office. Without this, or the other essential element of the Level 4 description, formal instruction or training, Level 3 is the best fit. In the result, the College's rating for the Communication factor is confirmed.

vi. Audio/Visual Effort

The employer has rated this factor at level 2, which reads as follows:

2. Regular and recurring long period of concentration; or occasional extended periods of concentration.

with the designation "Focus Maintained".

The union seeks Level 3, described as follows:

3. Extended periods of concentration.
and "Focus Interrupted".

Relevant defined terms are as follows:

Focus Maintained - concentration can be maintained for most of the time.

Focus Interrupted - the task must be achieved in smaller units. There is a need to refocus on the task at hand or switch thought processes.

Extended period - more than 2 hours at one time including scheduled breaks.

Concentration is defined as undivided attention to the task at hand.

The manual provides that this factor measures the requirement for audio or visual effort, according to two aspects:

- a) the degree of attention or focus required, in particular for:
 - periods of short, repetitious tasks requiring audio/visual focus
 - periods where task priorities and deadlines change and additional focus and effort is required to achieve the modified deadline
- b) activities over which the position has little or no control that make focus difficult. This includes the requirement to switch attention between types of tasks and sensory input (e.g. multi-tasking where each task requires concentration).

Assess the number and type of disruptions or interruptions and the impact of these activities on the focus or concentration needed to perform the task. For example, can concentration be maintained or is there a need to refocus or change thought processes in order to complete the task.

Notes to Raters:

1. The scoring for this factor is different from that used in other factors. One score is selected from the table according to the period of concentration and the column regarding whether focus is interrupted or maintained. If more than one level applies, then select the level with the highest score that would typically apply.

2. 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.
3. Concentration means undivided attention to the task at hand.
4. Few interruptions or disruptions generally means that an appropriate level of concentration can be maintained for the duration of the task being performed. Where there are many disruptions, concentration must be re-established and the task completed in smaller units or steps.
5. In determining what constitutes an interruption or disruption, you must first decide whether the "disruption" (e.g. customer requests) is an integral or primary responsibility of the position (e.g. customer service, registration/counter staff, help desk, information desk). Then consider whether these activities are the primary or secondary aspect of the job. For example, if an individual has no other assigned tasks or duties while tending to customer requests, then those requests can not be seen as disruptions.
6. Consider the impact of the disruption on the work being done. For example, can the incumbent in the position pick up where he/she left off or has the interruption caused a disruption in the thinking process and considerable time is spent backtracking to determine and pick up where he/she left off.

The Manual's directions include the direction to assess the number and type of disruptions or interruptions and the impact of these activities on the focus or concentration needed to perform the task. The College notes that the manual makes it clear that interruptions alone will not justify a "focus interrupted" rating unless focus cannot be maintained most of the time. It is also true that there are a number of qualifiers in the Manual concerning interruptions which mean that not all interruptions count for point rating.

For this factor, I note that both the 2007 and the 2009 PDF's indicate that there are continual interruptions and extended periods of concentration. Thus, the employer's position amounts to asking me to find that the PDF is incorrect and that the union should have to prove otherwise. The College asserts that the functions noted as attracting the terms continual interruptions and extended periods of concentration - analyzing budget statements, preparing reports and dealing with unusual and difficult situations - do not make up the bulk of the job, and that part of the job is customer service, which should not count as an interruption. The College argues in essence that it is unlikely that the incumbent's work requires regular periods of concentration for more than 2 hours, or that interruptions occur with the frequency that would mean concentration cannot be maintained the majority of the time.

For some of the factors it is clear on the face of the PDF that certain wording is being used in a sense different from the manual, but that is not the case for this factor. As well, the incumbent says the PDF reflects the reality of the work as it was on a regular basis, although she

acknowledges that for some tasks she was able to leave the office or take work home. She emphasized that the office is large and busy, a high traffic area, with unpredictable interruptions from the phone, office conversations, and students, sometimes angry or distressed. Precision is not possible here; there is no log or other similar evidence as an ongoing record of time or interruptions, and it is a matter of common sense that interruptions are unpredictable.

Although the College argues from the percentages allocated to clusters of tasks in the duties and responsibilities section of the PDF, there is really very little guidance to be obtained from those global percentages as to the duration of any of the specific tasks themselves or the nature of the interruptions. And the manual suggests that where customer service is a secondary part of the job (15% in this case) customer service requests would count as interruptions, unless there were no other duties assigned while tending to customer service requests. The evidence before me does not suggest that the incumbent is without other assigned duties when tending to customer requests. As well, the Manual provides that where more than one level applies, the level with the highest score that would typically apply is to be selected.

The wording of the PDF describes a situation which corresponds with the terms of Level 3, focus interrupted. Nonetheless, the employer disputes the impact of the disruptions, and the length of time involved in the tasks, and says that Level 2, focus maintained, is the correct rating. Although PDF's are no doubt imperfect documents, here and elsewhere in the province, and may reflect views of the Manual's application to the job tasks which may differ from those of others who reflect on the job, they are the formal record of the employer's description of the job and assignment of tasks. For this factor, both versions of the PDF are clear, and the union and incumbent agree with it, as did the Registrar at the time it was drafted. On the material before me, particularly given the number of qualifiers in the Manual on how to count interruptions, I do not find sufficient grounds to declare the PDF incorrect, or to deny the points which flow from the indications on the PDF specific to this factor.

In the result, the rating should be raised to Level 3, focus interrupted.

vii. Working Environment

This factor looks at the environment in which work is performed and the extent to which there are undesirable or hazardous elements. This is one of several factors for which the new scheme provides point ratings which vary according to whether the elements at a certain level are regular and recurring or occasional.

The College rated this factor at Level 1 described as follows in the Manual:

1. Acceptable working conditions.

The union seeks Level 2, which reads as follows:

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

On the PDF, there is a check in the boxes for a number of the elements which correspond with Level 2 - dealing with abusive people, a smelly, dirty or noisy environment, and working in isolated or crowded situations. The incumbent's description of the Registrar's office corresponds with the wording in the PDF, which describes the area as noisy and congested, negatively impacting on competing projects requiring high concentration and meeting inflexible deadlines.

There are also two tasks mentioned in the PDF for this factor which correspond with Level 3 - handling hazardous substances and dealing with abusive people who pose a threat of physical harm. However, it is Level 2, rather than 3, that the union seeks, so it is not necessary to deal with the examples in which the incumbent said it was not possible to tell whether the threat was perceived or real until they were resolved peacefully. As well, the only substance established as hazardous, in terms of being on the WHMIS list, was liquid paper, which is an infrequent and extremely minor part of the job.

The College's position is that the incumbent worked in an ergonomically comfortable office environment which is best captured at Level 1. The employer disputes that the position is subject to abusive behaviour as intended by the Manual, which defines abusive as more than dealing with someone who is angry or upset, and includes the notion of derogatory or threatening comments. As well, the College was of the view that the notion of dealing with angry and irrational people should be included under the Communication factor.

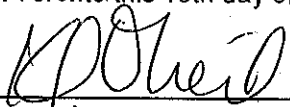
In order to sustain the rating at Level 1, it would also be necessary to find that the wording on both versions of the PDF concerning a noisy environment did not mean what it says. Noisy is not a term defined in the manual, but the PDF's wording in this respect is not obviously inconsistent with the terms as used in the Manual, or the ordinary meaning of the words. Apparently the Registrar at the time of the drafting of the PDF agreed with the incumbent's affirmation that it is a noisy, even congested, environment. In the circumstances, I do not have sufficient reason to find

the PDF to be incorrect. The noisy environment is not adequately captured by Level 1, such that Level 2 is a better fit, and the rating should be raised accordingly.

To summarize, the College's rating for the factors Analysis and Problem Solving, Independence of Action, Service Delivery and Communication is confirmed, while the rating for Guiding and Advising should be raised to Level 3, Audio-Visual Effort to Level 3, with focus interrupted and Work Environment to Level 3. This brings the point rating to 576, which falls into Payband H. The arbitration data sheet reflecting this is attached to this decision.

In the result, the grievance is allowed in part. The job's rating should be raised to Payband H. 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 19th day of May, 2009.



Kathleen G. O'Neil, Single Arbitrator

Arbitration Data Sheet - Support Staff Classification

College: Mohawk College Incumbent: Gileen Morrison Supervisor: Rick Anderson
 Current Payband: E - GR/H Payband Requested by Grievor: I or HIGHER

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	3	78			4	110			3	78		
4. Planning/Coordinating	3	56			3	56			3	56		
5. Guiding/Advising Others *	2	17			4	41			3	29		
6. Independence of Action	3	78	4	9	4	110			3	78	4	9
7. Service Delivery	2	29			3	51			2	29		
8. Communication	3	78			4	110			3	78		
9. Physical Effort	1	5	2	6	1	5	2	6	1	5	2	6
10. Audio/Visual Effort	2	20			3	50			3	50		
11. Working Environment	1	7			2	38			2	38		
Subtotals	(a) 488		(b) 15		(a) 691		(b) 6		(a) 561		(b) 15	
Total Points (a) + (b)	503				697				576			
Resulting Payband	E								H			

Signatures:

Gileen Morrison Nov 2, 2007 Shula Stalk Feb. 08/08
 (Grievor) (Date) (College Representative) (Date)

Maxwell Feb. 8/08
 (Union Representative) (Date)

KG O'Neil April 27/09 May 19/09
 (Arbitrator's Signature) (Date of Hearing) (Date of Award)