

IN THE MATTER OF A WORKLOAD RESOLUTION ARBITRATION

BETWEEN:

CENTENNIAL COLLEGE

(the "College" or the "Employer")

-and-

ONTARIO PUBLIC SERVICE EMPLOYEES' UNION, LOCAL 558

(the "Union")

Various Complaints Regarding the Attribution of
Weekly Hours for Evaluation and Feedback
Complaint of Arthur Donin

Bram Herlich, Workload Resolution Arbitrator

Timothy P. Liznick, Daniel Wong,
Mel Fogel and Patrick Kelly

for the College

George Richards, Ron Golemba,
Eileen Burrows and Jacques O'Sullivan

for the Union

AWARD

(Hearings were held in Toronto on June 28 and July 9, 2002.)

This is the second in a series of complaints which have been referred to me in my capacity as Workload Resolution Arbitrator under the terms of Article 11 of the collective agreement. An earlier decision in these matters (the "Rae decision") issued on June 17, 2002. Much of the context which is common to all of these cases was set out in that award, as was the essential legal framework which underlies the determinations which need to be made in these cases. The reader is therefore directed to that decision for much of the background information which will not be repeated here.

Further, and while I note that the employer repeated some of its legal arguments which were rejected in the Rae decision, neither will I revisit those legal issues as I have not been persuaded to depart from my determination in respect of them.

The cases which have been referred to me arise as a result of initiatives undertaken in the School of Engineering Technology and Applied Science ("SETAS") and in the School of Business. The Rae award dealt with a teacher in SETAS. This award concerns Arthur Donin, a teacher in the School of Business.

In the Rae decision I set out the process which culminated in the College's "directive" that the combined evaluation factors for any course offered within SETAS not exceed .024. The documentation filed with me demonstrates that a similar process was followed in the School of Business.

On February 16, 2001 a memo was distributed to the academic community from the Vice-President, Academic regarding 2001/2002 post-secondary budgets. It identified a preliminary budget reduction in the School of Business of \$325,000. It also rejected enrollment reductions as a viable solution and signaled the need, as a result of these financial constraints, to

consider various cost-saving initiatives. Included among those referred to was faculty utilization through the SWF, including evaluation factors.

At a meeting that same month of the full-time Information Systems Faculty within the School of Business some preliminary discussions were held in relation to the Vice-President's memo.

At a subsequent faculty meeting on March 8, 2001 there was discussion of the possibility of alterations to SWFs and, in particular, to the evaluation factors contained therein.

By memo dated May 10, 2001, Uwe Krebs, the Director of the School of Business identified various cost reduction strategies. Included among those was a direction that a maximum .024 evaluation factor be assigned for all courses within the School. Faculty were advised to use the May/June period to prepare for the implementation of the required evaluation strategies and were invited to have their SWFs adjusted for that period to provide sufficient time to achieve that objective.

As in SETAS, a workshop and individual or group consultations were organized to specifically provide faculty with resources and support relating to assessments and evaluation.

On June 14, 2001 and again on August 20, 2001, the Director sent further memos to faculty repeating his expectation that they would comply with the management directive to adopt student evaluations and grading schemes corresponding to the maximum combined evaluation factor of .024.

By this time it would appear that numerous faculty SWFs had been rejected owing, at least in part, to disputes around the propriety of the .024

evaluation factor. At a meeting held near the end of August, Information Systems Faculty were (again) instructed to deliver their courses in accordance with the terms of the rejected SWFs, i.e. with a maximum evaluation factor of .024.

Although the process which culminated in the direction that faculty not exceed .024 as the combined evaluation factor for all courses in the School of Business resembles that described in the Rae decision in relation to SETAS, there is one difference which perhaps merits some note. As indicated in the Rae decision, two explanations were provided in SETAS as justifying and requiring the directive: financial and pedagogical. In that case, I heard evidence both from within and outside SETAS outlining the pedagogical desirability of a multiplicity of evaluation techniques. Little of that sort of explanation was proffered in relation to the School of Business. I should note, however, that may be the result of the more expedited process the parties followed in putting their evidence before me in this case. And while I am not persuaded that this distinction is one that is ultimately material to my determination, I do feel compelled to remark on it. For the virtually exclusive reliance on financial exigencies – the bona fides of which are not seriously questioned – allows the union in this case to frame the issue, from its perspective, as follows: does financial economy justify requiring teachers to adopt evaluation techniques which, in their professional judgment, are unsound – particularly in a case where a course such as the one currently under consideration has been taught and refined over a period in excess of two decades on the basis of established evaluation factors which do not conform to the College's recent directive.

While the question as framed by the union is not one which I accept as properly identifying the legal issue at stake in this case, it is nonetheless indicative of the legitimate sentiments the union seeks to advance and

represent. Indeed, one is perhaps left to wonder whether the process of tailoring evaluation schemes to conform to the College's directive rather than simply establishing the optimal evaluation techniques to achieve established learning outcomes is, in a scenario perhaps not unfamiliar in the educational sector in this province, a case of the budgetary tail wagging the academic dog. But while the sentiments may be legitimate, they do not, as will be seen, reflect the legal issue before me. Whatever may be said about the larger political issues of the adequacy of funding for public education, the College must operate within both its budgetary constraints and its collective agreement obligations. It is not my function to comment on or determine the wisdom or desirability of the "tough choices" the College feels compelled to make – so long as they do so within the constraints of the collective agreement.

Arthur Donin has been teaching at Centennial College for over 20 years. In the Fall 2001 semester he was scheduled to teach two courses: one section of COMP 240, a VB Database Programming course, and the three sections of COMP 231, a programming project course.

While Mr. Donin may have initially questioned the propriety of the assigned .024 evaluation factor in respect of both courses, it appears that he conceded (early on in the relevant chronology of events) that the .024 evaluation factor was acceptable in relation to COMP 240.

Thus, the only issue which remains relates to the assignment of the .024 evaluation factor in respect of COMP 231.

The course was described by both parties as a "capstone" course. It requires the successful completion of multiple prerequisites for admission and is generally the crowning course for students in the program. Indeed, it would appear that prospective employers may devote particular scrutiny to the

performance of students in this specific course. Patrick Kelly, the Chair of the Information Systems Department and Mr. Donin's supervisor, readily acknowledged the unique nature of the course.

As already indicated, the course is titled "Programming Project". It is summarized in the course description as follows:

The purpose of this course is to have a student design, program, document and implement a computer system of a hypothetical organization. This will enable the student to simulate the activities of a programmer in the computer industry.

The Course Learning Outcomes are set out in the course description as follows:

Course Learning Outcomes:

Upon completion of the course, the successful student will have demonstrated the ability to:

1. Analyze systems specifications.
2. Design file/database structures.
3. Create input/output designs.
4. Program a modified system.
5. Document the programming aspects of a system.
6. Produce weekly reports on project status.
7. Demonstrate time management of the project tasks.
8. Present a project for evaluation.

Finally, the course description summarizes the evaluation and grading systems as follows:

Evaluation and Grading Systems:

Weekly Reports (Participation)	10%
Term Project (Fully Documented)	60%
Mid-Term Evaluation	15%
Final Presentation	15%
TOTAL	100%

As is evident from the above, a substantial proportion of the student's final grade is based on the results of the project which is the subject of the course. Indeed, having heard the evidence of Mr. Donin, it is clear that the student's project has historically played an even more significant role in determining final grades than one might initially infer from the above distribution of grades.

As the course title and description of both suggest, the course is rooted in and structured around the individual student projects. There is a catalogue of some 30 project topics such as "video store rental system", "cable TV billing system", "small hotel/inn reservations" and "small commuter airline reservations" among others. Each student is assigned a unique project topic and is then responsible for the design, program, documentation and implementation of a computer system tailored to meet the needs of the project in question.

The allocation and use of classroom time reflect the unique character of the course. Mr. Donin teaches three sections of the course each with a projected enrollment of 25 students. Each section includes 4 teaching contact hours per week for each of the 16 weeks of the term. It is clear, however, that there is very little "classroom teaching" in the conventional sense of the term. In each section there are notionally two hours of lab time and two hours of

lecture time per week. However, Mr. Donin explained that there are lectures only during the first three weeks of the term. These consist of a single lecture per week for all three sections dealing primarily with "administrative" matters relating to project assignment. The balance of the "classroom" or teaching contact hours time, both during the initial three weeks and the remainder of the term, is divided between lab time supervised by Mr. Donin and the one-on-one meetings he holds with students to supervise the progress of their project.

Returning to the grading and evaluation system Mr. Donin has used in the past, virtually all grading is tied directly to the process and outcome of the student's individual project. The weekly reports consist of an e-mail forwarded to Mr. Donin in which each student describes what has been accomplished in relation to the project during the preceding week and what is intended to be accomplished during the following week. In the mid-term report Mr. Donin assesses various identified factors related to the work-in-progress which will become the student's final project. Students' final presentations are assessed in one-on-one sessions Mr. Donin holds with individual students. Even in relation to that portion of the grading process, however, Mr. Donin explained that the 15 percent allotted to the Final Presentation is not finally assessed until he has had the opportunity to measure it in relation to the actual final project. Finally, of course, the completed final project is assessed in order to determine the student's final grade.

In that context one may understand why Mr. Donin was so fond during much of his cross-examination to respond that "the proof is in the pudding" to highlight the importance and primacy of the final project in the evaluation process.

All aspects of the evaluation process for this course have historically been treated as "project" or "essay" evaluation and feedback at the .030 level

contemplated by the collective agreement. It is the collision of that historical treatment with the School of Business directive that no course employ combined evaluation factors in excess of .024 which is at the root of this case.

The issue of adopting evaluation strategies that would conform to the directive was discussed on two occasions between Mr. Donin and his supervisor, Patrick Kelly, the Chair of the Information Systems Department. During (and subsequent to) those discussions Mr. Kelly made it clear that the College's expectation was that Mr. Donin would employ evaluation schemes that complied with the directive. There was, however, less clarity surrounding the methods of such compliance. In their first meeting Mr. Kelly explored the possibility of integrating routine or assisted evaluation and feedback (with an associated evaluation factor of .015) into the evaluation and grading scheme. Mr. Donin was not receptive to such suggestions. Indeed, it would appear that Mr. Kelly too accepted that those sorts of evaluative tools were not appropriate in the context of this particular course and that suggestion was not pursued further either in the meetings between the two or in the hearing before me. In their second meeting, Mr. Kelly explored the possibility of integrating some degree of in-process evaluation (with an associated evaluation factor of .0092) into the evaluation and grading scheme. Mr. Donin was equally resistant to those suggestions.

Mr. Kelly's suggestions for the integration of in-process evaluation included altering the grading for the weekly reports to include one-half of the 10% as an in-process evaluation, perhaps by introducing peer evaluation. (I take the opportunity to note that while the union raised what, in its view, were principled objections to the use and propriety of peer evaluation, I see nothing, in principle which is either inherently perverse, counter-intuitive or even unreasonably about the conservative and limited use of peer evaluation.) He also suggested that the Final Presentation could be graded on an in-process

basis and that a further 10 percent of the final grade could be assessed on an in-process basis by altering grading approaches to portions of the mid-term evaluation and/or the final project. The results of those suggestions are consistent with Mr. Kelly's evidence that he was "aiming" at a 70/30 ratio of essay or project/in-process evaluation which would bring the combined evaluation factor for the course to slightly less than .024.

Following the Rae decision, the issue I must decide in this case is whether a proposed combined evaluation factor of .024 is reasonable in relation to the course in question.

While it is not necessary for me to review all of the reasoning contained in that award, I note that in advancing its arguments before me, the College relied on the following passage from the Rae decision (at page 28):

Were I persuaded by the evidence that the evaluative scheme proposed by the grievor was not merely a reasonable scheme, not merely the optimal scheme, but the *only* scheme which would achieve the learning outcomes of MT 242, then I might be attracted to the conclusion that the College had failed to apply its directives reasonably in this case. On the evidence before me, however, I am unable to come to such a conclusion and neither am I otherwise persuaded that the College's proposed scheme was unreasonable.

The extent of College's reliance on this extract from the award is somewhat misplaced. It goes without saying that it would be unreasonable for the College to impose an utterly unworkable or impossible evaluation scheme on its faculty. But while such an "impossibility" would clearly be a sufficient basis to establish unreasonableness, it is neither the necessary nor exclusive route to such a conclusion.

At the risk of repetition, the issue is simply whether, based on all of the information placed before me, the imposition of a maximum .024 evaluation

factor is reasonable in respect of COMP 231. For the reasons which follow, I am persuaded that it is not. While I am satisfied that it is not unreasonable to alter the evaluation schemes used in the course so as to approach the College's desired maximum, it would not be reasonable to impose the significant changes which would be required in order to fully achieve that objective. In coming to that conclusion I rely upon the following.

First, I accept, as the parties have, that the introduction of "routine or assisted" evaluation methods into the grading scheme for the course would not be appropriate. Second, I also accept, at least to some extent, the urgings of the union and Mr. Donin to respect the primacy of the importance of the programming project in the scheme of the course. Related to that point, I note that some of the suggestions advanced to alter evaluation methods rested on transforming the project from an individual to a group one. Group projects might facilitate less onerous forms of evaluation by limiting the extent of required one-on-one teacher-student sessions and could also enhance the feasibility of approaches such as peer evaluation. In fairness, the College's position did not rest principally (or, ultimately, necessarily at all) on the transformation from individual to group projects. In any event, in my view such a transformation would be utterly unreasonable in relation to the course as it is currently described. The course is clearly conceived and has historically been delivered as one based on individual students taking the full and complete responsibility for all aspects of their individual and unique projects. More importantly for our current purposes, that is clearly reflected in the course outline which describes the purpose of the course as having *a student* design, program, document and implement a computer system of a hypothetical organization. Of course, employer counsel properly emphasized that the fact that a course has been taught and students have been evaluated pursuant to particular practices does not constitute either a guarantee or a requirement that those approaches ought to or must be preserved. However, to alter this

course, without following the process of altering the official course outline from one describing an individual project to one describing a group project would, in my view, be unreasonable.

On the other hand, there is a considerable aspect of the course delivery which, in my view, invites the use of in-process evaluation. Almost one half of the teaching contact hours (i.e. apart from the actual limited lecture time and the lab time) is devoted to one-on-one time between the teacher and individual students. In-process evaluation, by definition under the collective agreement, takes place during teaching contact hours. There can be little doubt that the relative abundance of one-on-one student-teacher interactions during teaching contact hours presents meaningful opportunities for the integration of in-process evaluation.

But the union cautions against the impracticality and resulting unfavourable consequences flowing from the wholesale conversion of "teaching time" to "evaluation time" within the limited number of available teaching contact hours. There is considerable merit to that concern.

Mr. Donin testified that teaching contact hours and, in particular, the one-on-one time remaining when actual lecture and lab time are removed from the total available time, are used primarily to monitor, supervise and mentor students in the progress of their individual projects. Those activities might be viewed as the heart of the teaching done in the course. It would appear, however, that some of that time might (or certainly could) be used for the purposes of evaluating students' final projects and performing the mid-term evaluation. However, practical dictates would require that much of that evaluation would have to be performed outside of teaching contact hours and would therefore not properly be characterized as in-process evaluation.

A cursory quantitative analysis discloses the limited availability and utility of using teaching contact hours for the purposes of evaluation in relation to the final presentation and the mid-term assessment.

First, when the initial lecture hours (6) and the lab time (a total of 32 hours) are deducted from the total contact hours assigned to the course, roughly 26 contact hours remain. That amounts to approximately one hour – over the course of the term – per student projected to be enrolled in the course. Even accepting what I take to be a conservative estimate of the 15 minutes which might be required to evaluate a student with respect to either the final presentation or the mid-term, roughly one half of the time which would otherwise be devoted to mentoring, supervising and monitoring would have to be rededicated to in-process evaluation of the mid-term and final evaluation (which are set out in the course description to account for a cumulative total of 30% of the student's final grade).

And even accepting the limited viability of such an approach, there is a further difficulty. Teaching contact hours are assigned and limited on a weekly basis. But both the mid-term evaluation and that of the final presentation would have to be performed in close temporal proximity to the points at which each was scheduled or due. Thus, to properly assign all of the necessary teaching contact hours required for in-process evaluation would result in either or both the elimination of "normal" teaching duties during the required weeks in question and the prolongation of the evaluation periods over a number of weeks incompatible with the relevant due dates.

It is for these reasons that I have concluded that it would be unreasonable to convert the evaluation of both the final presentation and the mid-term assessment from project-based to in-process evaluation.

In fairness to the College, it may well be that it too, implicitly, acknowledged the difficulties associated with such a result. For in its final submissions, it adopted Mr. Kelly's "target" of a 70/30 project/in-process split of evaluation factors. However, to arrive at the 30% in-process figure it followed a somewhat different route from the one Mr. Kelly had offered and did not suggest that both the mid-term and the final presentation be evaluated on an exclusively in-process basis. It suggested that *all* (rather than half as Mr. Kelly had suggested) of the 10% attributed to the weekly reports be graded on an in-process basis, that the final presentation (worth 15% of the final grade) also be graded on an in-process basis and that a further 5% be found from other sources – perhaps some combination of the mid-term and/or the final project.

In view of the concerns set out above, I have concluded that it would be unreasonable to attribute any more than the 5% Mr. Kelly suggested to in-process evaluation of the weekly reports. Similarly, I am also persuaded that it would not be reasonable to attribute any more than one half (i.e. 15% of the 30%) of the combined evaluation of the mid-term and the final presentation to in-process evaluation.

Before concluding, I take the opportunity to repeat the nature of the exercise undertaken in this decision. I have not and do not view my task in this case as determining, identifying and imposing what I may believe to be the optimal evaluation scheme. Were that my task, I might well have come to different conclusions. Rather, it has been my task to determine whether the College has acted reasonably in implementing a directive it has promulgated as a legitimate response to its financial constraints. Having considered the material before me, I have concluded that while significant progress towards the College's stated goal can be accomplished, the course in question cannot reasonably be delivered using evaluation factors which do not exceed .024.

The numbers I have arrived at can be parsed in various ways and it may well be that, ultimately, Mr. Donin will be (or would have been – had this process unfolded in a more timely fashion) left with some residual discretion to establish the final format of the evaluation scheme. One fashion to describe the conclusion at which I have arrived would presume that the evaluation of the final project remains untouched (i.e. at .030). Not more than one half of the remaining evaluative tools would be transformed from essay/project to in-process forms of evaluation. The result would move the combined evaluation factor from its past 100% to 80% essay/project evaluation – somewhat short of the 70% target identified by the College.

Having regard to all of the above, I conclude that the combined evaluation factor in relation to COMP 231 is to be assessed at 0.0258.

To the extent set out herein, Mr. Donin's complaint is upheld. I trust that this disposes of that complaint but I will remain seized in the event there are any issues relating to the implementation of this award.

DATED AT TORONTO THIS 30th DAY OF AUGUST 2002


Bram Herlich
Workload Resolution Arbitrator