

**IN A MATTER PURSUANT TO THE
Colleges Collective Bargaining Act, 2008**

BETWEEN:

George Brown College

("College")

- and -

Ontario Public Service Employees' Union

("Union")

(Workload Complaint of Mary (Dee Dee) Tobin)

ARBITRATOR: Jasbir Parmar

On Behalf of the College:

Amanda Hunter, Counsel

On Behalf of the Complainant/Union:

Damian Wiechula, First Vice-President

Date of Hearing: October 4 and 19, 2010

Date of Decision: November 1, 2010

I. INTRODUCTION & BACKGROUND

1. This decision is in respect of a workload dispute relating to Ms. Dee Dee Tobin's assignment to teach Nursing 2020.
2. There are two issues in dispute relating to the workload of this assignment. The first is attribution of workload hours for travel time. The second is attribution of hours for time spent in team meetings. Information about Ms. Tobin's assignment was presented by Ms. Tobin and Ms. Deanna Lunn, Chairperson for the School of Nursing.

II. TRAVEL TIME

A) Information Presented

3. Nursing 2020 course is clinical practicum course, wherein final year nursing students are placed in a health care facility on a full-time basis. The objective of this course is to integrate and assimilate all of the academic and clinical curriculum.
4. The teacher's role is oversee the students' placements. As Ms. Tobin described, this involves developing a learning plan for each student based on his/her need and the particular placement. A preceptor, who is a staff member at the health care facility who volunteers to serve in this role, monitors the student's performance in the workplace and also gives feedback to the teacher. However, it is the teacher's role to guide and assist the students in respect of achieving the objective of their learning plans.
5. Ms. Tobin was assigned 24 students in this course. The assigned number of teaching contact hours is 12 hours per week. Ms. Tobin stated that this schedule contemplates a one-half hour per week per student as an average. However, in practice it is her understanding she must connect with every student every two weeks, for one hour. She stated that is what she

does. She visits each of the 24 students every two weeks and meets with him/her and his/her preceptor for a total of one hour.

6. While Ms. Tobin's office is located on the College's campus and that is where she performs the remainder of her duties, the visits with the students take place at the facilities where the students are placed. Ms. Tobin's students are placed in ten different facilities throughout the city of Toronto. Five of the facilities have only one student placed there. The other five have two or three students. The students' schedules mirror those of their preceptors. As such, they work different days and different shifts. Ms. Tobin stated she does her best to group the scheduled visits at facilities that are near each other, but notes this is not always possible given the varied schedules. Ms. Tobin stated she also connects with students via telephone to address issues as they arise. However, the meeting at the facility always takes her at least one hour, where she speaks both with the student and the preceptor.

7. Ms. Tobin stated she has monitored her time and, since the beginning of the term, she averages about four hours in travel per week to each of the facilities. Ms. Tobin travels via taxi, which is paid for by the College as part of a medical accommodation which prevents travel via public transit.

B. Analysis

8. The first issue is whether the time Ms. Tobin spends meeting with the students at the various facilities, which requires the travel time that is at issue, is in fact an expectation of the College. In its submissions, it was suggested by the College that it was not.

9. I find that it is the College's expectation that the teacher meet each student in person every two weeks. Ms. Lunn confirmed that teachers of this course meet with students "in the field" about 6 to 7 times each semester. Given that this course is scheduled for approximately 15 weeks, that is consistent with approximately one meeting every two weeks. With respect to contact via telephone, Ms. Lunn stated the teacher can "follow-up" by telephone. I can only

assume this was meant as a reference to contact in addition to the meetings at the placement sites, given Ms. Lunn's statement about the frequency of meetings "in the field". I also note that the College is aware of the frequency that Ms. Tobin meets with her students and that she travels to meet with them (given that they pay for the taxi fare), but has at no time indicated to her that she is not required to do that and can just speak with them over the telephone.

10. The next issue is whether the time spent to travel to these meetings has been appropriately attributed to Ms. Tobin.

11. The College suggested that Ms. Tobin's workload fits within the standard formulas set out in Article 11.01.B.1, which are intended to be applicable to all the various types of courses taught, whether they are taught on campus or elsewhere. It was submitted that the time Ms. Tobin spends travelling should be considered either as part of the hours attributed by the applicable formula for teaching contact or for evaluation.

12. In the present case that would mean that the College intended that four of the twelve hours attributed for teaching contact, or that four of the 4.32 hours attributed for evaluation, were really meant to address travel time, and only the remaining hours were meant for actual teaching contact time or actual time spent engaged in evaluation.

13. To interpret the hours attributed for these factors as including time spent on travel would effectively create inconsistent teaching and learning environments. For example, this same course could be taught by two teachers, one with students placed at three or four facilities located near each other, and one with students placed at ten facilities over a large area (like Ms. Tobin). If the same standard formulas for teaching contact and evaluation were applied, with the understanding that travel was covered within those factors, the practical result would mean that the teacher with students at a smaller number of facilities would spend more time in contact with the students and more time engaged in the actual evaluation of the students than the other teacher, who would spend a portion of the attributed time engaged in the task of travelling to the

various facilities. Given that the purpose of the formulas, as noted by the College's counsel, is to provide a standard method of determining and quantifying workload across all courses taught, it is unlikely that the parties intended that the formulas be applied in a manner that would lead to such disparities in the actual teaching and evaluative work being performed.

14. Such an interpretation is also contradicted by the fact that at no time did the College tell Ms. Tobin she only needs to spend eight hours in direct contact with the students. Rather, Ms. Lunn has confirmed that the expectation was an average of one-half hour per week in contact with the student, with no clarification that time spent travelling to meet with the students was included in that. Similarly, there is no evidence that Ms. Tobin was told that she should spend only a portion of the attributed evaluation time engaged in the actual task of evaluation.

15. For these reasons, I find that the time Ms. Tobin spends travelling to the various facilities is not accounted for in the teaching contact and evaluation time that has been attributed to her for this course.

16. The Union suggested that the travel time should either be considered a complementary function, pursuant to 11.01.F.1, or atypical circumstances, pursuant to Article 11.01.G.2.

17. Article 11.01.F.1. refers to "complementary functions appropriate to the professional role of the teacher". It would appear to me that the travel is not so much a "function appropriate" to Ms. Tobin's professional role, but rather just a product of the circumstances of the manner in which the particular course is offered. That said, I observe that there is little practical difference in concluding that time spent traveling is a complementary function or an "atypical circumstance", as the collective agreement provides that additional hours attributed under both these headings is to be attributed on an hour for hour basis.

18. In my view, Article 11.01.G.2 is the applicable provision in the present case. It provides as follows:

Where there are atypical circumstances affecting the workload of a teacher or group of teachers which are not adequately reflected in this Article 11, Workload, additional hours shall be attributed, following discussion between each teacher individually and the supervisor, on an hour for hour basis.

19. I have considered the decision of Workload Resolution Arbitrator (WRA) Tanya Wacyk in *George Brown College – and – OPSEU (David Burgess)* (November 15, 2004). In that decision, WRA Wacyk noted that a determination regarding whether a circumstance is “atypical” will require comparison with a standard or normative workload. It was also noted that if there was a significant inequity between situations, that would likely lead to a determination that the situation is “atypical”, if it can be shown that the workload is affected in a manner that is not adequately reflected in the workload formula.

20. I find that the number and location of the facilities which Ms. Tobin must visit in order to carry out her teaching duties is an “atypical” circumstance. The College has a number of campuses where most of the courses it offers are delivered. While I accept the College’s position that it also offers other courses which require teachers to travel off-site for the purposes of carrying out their teaching duties, there is no evidence before me upon which to conclude that it is typical for teachers to have to travel to ten different sites spread out over the entire city of Toronto in order to perform their job duties.

21. I have considered the fact that there are four other teachers who teach the same course, and also have students placed at various facilities. The College suggests that the fact that they have not requested this time be included in their workload is significant, demonstrating that Ms. Tobin’s case is typical. I note that Article 11.01.G.2 does not require that the teacher’s circumstances are different from any other teacher in the workplace. In fact, the provision states consideration is to be given to atypical circumstances affecting “a teacher or a group of teachers”. The fact that four other teachers may also have similar circumstances is not sufficient to support the conclusion that these circumstances are typical when the entire teaching staff of the College is considered. Furthermore, I observe that Ms. Tobin stated she

had responsibility for the most facilities of any of the other teachers who also teach this course. This information was not contradicted by Ms. Lunn.

22. I also find that these atypical circumstances affect the workload of Ms. Tobin. Ms. Tobin indicated that she spends approximately four hours per week travelling to meet with the students. This evidence was not contradicted by the College, beyond Ms. Lunn's statement that teachers were expected to organize their meetings in a manner that would minimize travel time. I accept Ms. Tobin's statement that she does her best to organize the meetings to minimize travel, but that the varied 24-hour schedules of the students and preceptors must be accommodated. Thus, this is a task Ms. Tobin must perform in order to carry out her job duties.

23. Furthermore, I find that the impact on Ms. Tobin's workload as a result of this travel is not adequately reflected by Article 11. As I indicated above, I find that the time necessary to perform this required task is not adequately reflected by the hours attributed for teaching contact or evaluation. I also do not think, for the same reasons, that this task is adequately reflected by the hours attributed for preparation. I have already noted above that I do not think it falls within complementary functions, and, in fact, there was no suggestion that it had already been adequately reflected under that provision.

24. For these reasons, I find that Ms. Tobin is entitled to be attributed additional hours for this aspect of her workload pursuant to Article 11.01.G.2, on an hour for four basis.

III. TEAM MEETINGS

A) Information Presented

25. Ms. Tobin has been attributed one hour per week for Department meetings. These are meetings which the entire department teaching staff is expected to attend. Ms. Tobin seeks additional hours to be attributed in respect of team meetings. These are meetings for small groups of teachers within the department who teach in the same program.

26. Ms. Tobin stated that to date this semester, there have been three team meetings, taking approximately four hours in total, and that Ms. Lunn was in attendance at all three. Ms. Lunn stated that she was in attendance at only two, and that this was due to a specific issue in relation to security checks that had arisen. Ms. Lunn acknowledged she did organize a telephone conference call with the team to address this issue. However, she stated she only attended the second meeting at the request of the team to further address this issue, and that she does not attend team meetings in the normal course.

27. The College is aware that team meetings take place. However, Ms. Lunn indicated that they are not called by the department. She stated they take place at the “team’s discretion”, when they gather to discuss issues or challenges specific to their team, and described their purpose as “peer support”. Ms. Lunn stated there is no requirement that each member of the team attend every team meeting.

28. Ms. Tobin stated that she has never called a team meeting, and that they are usually called by the lead teachers of the team. She stated that if she does not attend, “there is shunning” that takes place. She referred to an incident in the prior academic year where she did not attend a meeting because she was teaching, and was left a note from another team member stating “come now”. She also stated that there is an attitude that if she does not attend, the other team members will not tell her what happened.

29. Ms. Tobin stated that she did not initially attend one of the three team meetings that have taken place this year, specifically the one on September 13. Ms. Tobin stated another team member came to her at her desk while the meeting was going on and said “you are late for the meeting; you are expected to be there”. Ms. Tobin stated she felt this indicated she was “summoned”, and when she then attended the meeting, Ms. Lunn stated “oh, you are here” and told her what had been discussed prior to her arrival. Ms. Lunn denied asking anyone to have Ms. Tobin brought to the meeting.

30. Ms. Tobin agreed with the Union's statement that time for team meetings had previously been included on Standard Workload Forms (SWFs).

B. Analysis

31. With respect to whether attendance at these meetings is assigned work by the College, there is no evidence that the College has communicated to Ms. Tobin that she must attend. Ms. Tobin's conclusion that she must attend is on the basis of the behaviour of her colleagues. While that may raise other issues that need to be addressed, it is not sufficient evidence upon which I can conclude that attendance at these meetings is work assigned by the College.

32. I also do not find the fact that Ms. Lunn was in attendance at two, or even three, of the team meetings of such significance as to alter the conclusion that these meetings are assigned work. Ms. Lunn explained her attendance, except for the conference call, was at the request of the team. She also explained that the conference call was to address a single issue that had arisen affecting the team, and was not the norm.

33. I have considered the WRA decisions of Kathleen O'Neill, *Algonquin College and OPSEU (Finnegan and Hunka)* (February 5, 2002), and Mary Rozenberg, *Algonquin College and OPSEU (Warrington)*, (January 28, 2002). In both those cases, the arbitrators concluded there was historical evidence of a practice to attribute hours for team meetings on the SWF. Though the employer in both cases altered its formal position by stating that attendance was no longer required, in the absence of evidence of any real change in practice with respect to the actual meetings, both WRAs concluded that a continuation of the attribution of such hours on the SWF was warranted.

34. In the present case, the only information about past team meetings is the Union's statement, which was agreed to by Ms. Tobin, that team meetings were previously included on SWFs. The College's counsel stated that they had not been.

35. I find that there is insufficient evidence of a past practice in the present case for me to reach a similar conclusion as that of WRAs O'Neill and Rozenburg. There is no specific evidence about the manner in which work related to team meetings was historically assigned to teachers. Nor is there any specific evidence about the manner and context in which it was included on the SWF to conclude that a past practice has been established. Furthermore, there was no evidence that the only thing that had changed in the present case was the College's formal position.

36. The information provided by both Ms. Lunn and Ms. Tobin indicated the purpose of team meetings was, to use the language of Ms. Tobin, for "the smooth running" of the semester. This appears to me to fall within the "normal administrative tasks", which is addressed by hours allocated for complementary functions. Based on the information provided in the present case, there is no basis to conclude that team meetings, are not appropriately addressed by the two hours per week allocated for that purpose to Ms. Tobin pursuant to Article 11.01.F.1.

37. As such, Ms. Tobin's request for the attribution of additional hours for team meetings is denied.

IV. DISPOSITION

38. Ms. Tobin's workload complaint is allowed in part.

39. Ms. Tobin is to be granted an additional four hours per week for travel time. However, I observe this quantum is based on Ms. Tobin's present circumstances in respect of accommodation for travel. The Union suggested there is a possibility this may change. For this reason, I remain seized with respect to implementation of my award .

Dated at Oakville, Ontario, this 1st day of November , 2010.

Jasbir Parmar