

IN THE MATTER

BETWEEN

Ontario Council of Regents for the Colleges of Applied Arts and Technology

(Algonquin College)

(the 'College')

and

Ontario Public Service Employees Union

(for Academic Employees)

(the 'Union')

WORKLOAD ARBITRATOR

Mary Rozenberg

APPEARANCES

For the Employer Christopher Warbuton, Vice-President, Student Life and  
Human Resources  
Diane McCutcheon, Acting HRIS/SWF/Staff Relations  
Barbara J. Foulds, Chair, Nursing Studies

For the Union Patrick Kennedy, Vice-President of the Faculty Union  
Yim Warrington, Grievor and Faculty Member

Hearing into this matter was held in Ottawa, Ontario November 21, 2001 and January 8,  
2002.

**Award**

**Ontario Council of Regents for the Colleges of Applied Arts and Technology**

**(Algonquin College)**

**(the 'College')**

**and**

**Ontario Public Service Employees Union**

**(for Academic Employees)**

**(the 'Union')**

This grievance was filed because the grievor, Yim Warrington, a full-time faculty member with the Nursing Studies Department at Algonquin College claims that the SWF's for her assigned workload for the 2001 summer semester do not realistically reflect her actual workload for the semester. Additionally, she claims that there were last minute changes in courses she was assigned to deliver, and as a result of these changed assignments, there was insufficient time for her to prepare for this newly assigned workload. Ms. Warrington claims that she also has not received appropriate compensation and / or recognition for being on call 24 hours a day for 15 weeks of preceptorship. She also claims that these newly assigned changes to her assigned workload gave her a workload in excess of 36 weeks in violation of the collective agreement and is seeking appropriate compensation. The grievor is seeking from the workload arbitrator an increase in the attributed complementary hours to the SWFs for her assigned summer workload to reflect her actual work time.

For Ms. Warrington, the issues are:

- not being informed earlier of changes to her assigned workload for the summer semester;
- a lack of adequate preparation time for classroom delivery and orientation time to partnering agencies for the preceptorship component, particularly considering the enrollment numbers of students, for the Direct Entry Program NSG 4218 and NSG 4219;
- a workload in excess of 36 weeks; and
- compensation and recognition for preceptorship assignments as it relates to being on call 24 hours a day for 15 weeks and weekend coverage between June 18 through to September 30, 2001.

In particular Ms. Warrington is seeking:

- The SWF issued for May 7 to May 20, 2001 as issued by Donna Tremblay remain as issued by Donna Tremblay.

- The assigned teaching contact hours for the first page of the SWF for Registered Practical Nurse Refresher, Clinical covering June 4 to June 10, 2001 are attributed at 6.50 hours for purposes of workload factors calculations.
- The assigned teaching contact hours for the first page of the SWF for Registered Practical Nurse Refresher, Clinical covering June 11 to 17, 2001 are attributed at 19.50 hours for purposes of workload factors calculations.
- The assigned teaching contact hours for the first page of the SWF for Nursing VI, Practicum (NSG4219) covering June 25 to September 30, 2001 be attributed at 18 hours for purposes of workload factors calculations and the class size be attributed for 37 students for purposes of evaluation and feedback hours calculations.
- 15 complementary hours for preparation and 10 complementary hours for orientation to 4 clinical areas for the new assignment of Registered Practical Nurse Refresher, Clinical (NSG5640), to be delivered June 4 to 10, assigned to Ms. Warrington by the new Chair of the Nursing Studies Faculty, Barbara Foulds. This assignment was not the assignment (Clinical Preceptor (NSG4134)) originally assigned by the previous Nursing Studies Chair, Donna Tremblay. Ms. Warrington expressed concern about the late notification of the changed assignments, Registered Practical Nurse Refresher, Clinical (NSG5640) for June 4 to 10 and June 11 to 17. This resulted in a lack of preparation time that did not allow her sufficient preparation time. As a result of the late notification Ms. Warrington had to work the weekend of June 2 and 3 in order to be ready for June 4 to 11 delivery.
- 10 complementary hours for preparation for the new assignment of Nursing VI, Theory (NSG 4218), also referred to as 'RPN to RN program' or 'Direct Entry program' and 10 complementary hours for orientation to hospital / community partnering agencies for the new assignment of Nursing VI, Practicum (NSG4219) to be delivered June 18 to June 24, 2001 for 37 students, and 37 receptors in various agencies (Ottawa-Carleton Hospital, Queensway-Carleton Hospital, Carlingwood Community Centre, Bayshore Health Centre, Sandy Hill Centre, Renfrew, Arnprior, Almonte, Brockville Centre, Kemptville, North Bay.
- 12 complementary hours for weekend coverage for preceptorship for Nursing Practicum (NSG4219) for June 18 to June 24, 2001.
- 4 complementary hours for weekend coverage for preceptorship for being on call 24 hours over 15 weeks between June 25 through to September 30.
- 2 complementary hours for various meetings for each of the weeks of May 7 to May 20, 2001 (team / department meetings); May 21 to June 3, 2001 (department / team); June 4 to June 10, 2001 (part-time teacher, and co-ordinator); June 11 to June 17, 2001 (part-time teacher, Barbara Kyd-Strickland and co-ordinator); June 18 to June 24, 2001 (part-time teacher and co-ordinator); June 25 to September 30, 2001 (part-time teacher and co-ordinator) for a total of 12 complementary hours.
- Compensation or the appropriate time off for 4 weeks of carry-over.
- Professional development days, as appropriate, are scheduled in her academic year.

The union also raised concerns about the inconsistency of information regarding the assignment of complementary hours for assigned duties in each of the set of SWFs issued by Ms. Foulds. Another issued raised by the union is that the SWFs for Ms. Warrington's summer workload were not issued until after well into the semester. The summer semester started the beginning of May 2001 yet the first set of SWFs were not issued until June 15 /18 and the second set of SWFs were not issued until September 10, 2001; after the work had taken place and been completed and the hours Ms. Foulds assigned on the SWFs did not correspond to Ms. Warrington's actual

workload. Additionally some of the SWFs contained errors regarding assigned teaching contact hours (June 4 to 10; June 11 to 17; June 18 to 24; June 25 to September 30, 2001), assigned teaching contact hours to attributed hours for preparation - type (June 4 to 10; June 11 to 17; June 18 to 24; June 25 to September 30) assigned teaching contact hours to attributed hours for evaluation and feedback - class size (June 18 to June 24; June 25 to September 30).

At issue are:

- last minute assigned changes to workload for the 2001 summer semester and the complementary hours allocated by Ms. Foulds for the changed assigned complementary functions;
- the inconsistency of the information regarding the assignment of complementary hours for assigned duties contained in each of the SWFs issued – June 15/18, 2001 and September 10, 2001;
- the late issuance of the SWFs;
- assignment of, and specifically the lack of, professional development days for Ms. Warrington; and
- when does Ms. Warrington's academic year begins and ends.

This award is issued in accordance with article 11.02 F6. This award applies only to the teacher, Ms. Warrington and to the workload matters at issue.

An informal proceeding to inquire into the matter was held in Ottawa on November 21, 2001. The workload arbitrator sought additional clarification of information via e-mail. An additional informal proceeding was held in Ottawa on January 8, 2002. In attendance were the grievor, Ms. Yim Warrington, Nursing Faculty member at Algonquin College; Mr. Patrick Kennedy, Vice-President of the OPSEU Faculty Union and member of the Workload Monitoring Group at Algonquin College; Ms. Barbara Foulds, Chair, Nursing Studies Department at Algonquin College; Chris Warburton, Vice-President, Student Life and Human Resources at Algonquin College; and Diane McCutcheon, Acting HRIS/SWF/Staff Relations at Algonquin College.

## **Discussion**

### **Assigned Complementary Hours**

Circumstances in the Nursing Studies Faculty at Algonquin College were such that back in April / May 2001, a number of things were occurring at the same time and there were only a few days before the start of the summer semester. There were many priorities competing for attention, and time frames were very tight. Ms. Warrington returned from her scheduled vacation and expected to begin her original assigned summer workload as assigned to her by Donna Tremblay, the Chair of the Nursing Studies Faculty. At the end of April, this Chair left the position and the College, and a new Chair was appointed to the position at the beginning of May. A new teaching semester was about to commence the following week. To familiarize herself, Ms. Foulds undertook a review of the faculty department to determine the department's needs and resources for the summer semester. During this review Ms. Foulds decided to make changes to various components of the Nursing Studies program for the summer semester, particularly with the RPN to RN Direct Entry program. Some of these changes affected Ms. Warrington's originally assigned workload. There was very little time between the first meeting between Ms. Warrington and Ms. Foulds about Ms. Warrington's summer workload (on Thursday, May 3<sup>rd</sup> or Friday, May 4<sup>th</sup>), and the start of the summer semester (the following Monday, May 7<sup>th</sup>, 2001).

In their efforts to meet their respective responsibilities and priorities in the very tight time frames that existed, confusion arose.

Three sets of SWFs were issued by Ms. Foulds that amended Ms. Warrington's original assigned workload for the summer semester; a semester that was already underway. The changes Ms. Foulds made to additional attributed complementary hours and how the additional attributed complementary hours were allocated in each of sets of SWFs were not consistent and were very confusing. Although new in the Chair's position, and to issuing assigned complementary hours to faculty staff and issuing faculty SWFs, Ms. Foulds was familiar with SWFs from the other side of receiving SWFs and assigned hours as a faculty member.

Initial discussions between Ms. Foulds and Ms. Warrington occurred on May 3 / 4. Ms. Foulds issued SWFs on May 18<sup>th</sup>. Because of her work schedule, Ms. Warrington did not pick up these SWFs until a couple of days later. Ms. Warrington found that these SWFs contained errors in assigned teaching contact time and the formula factor regarding whether an assigned course was new or established for the teacher which in turn affected attributed hours for weekly preparation, and to class size which in turn affected attributed hours for evaluation and feedback. Ms. Foulds considered these SWFs for discussion purposes only. Ms. Warrington considered these to be her assigned workload because she and Ms. Warrington already had discussions. It was not until June 15<sup>th</sup> and June 18<sup>th</sup> that Ms. Foulds issued another set of amended SWFs for Ms. Warrington's workload after some of the assigned work was already completed. Although Ms. Warrington's teaching assignment for the first two weeks of the semester remained as assigned by Ms. Tremblay, Ms. Foulds reduced the hours for attributed complementary hours for assigned complementary functions. Assigned amended changes in Ms. Warrington's assigned teaching assignments would commence on June 4, 2001 and this is where the confusion starts.

Ms. Warrington understood from her initial discussions with Ms. Foulds at the beginning of May, she was not required to teach the Registered Practical Nurse Refresher Clinical course during the weeks of June 4 to June 10 and June 11 to June 17. She understood that she was assigned June 4 to June 17 as preparation time to prepare for the Direct Entry Program courses of Nursing VI, Theory (NSG4218) and Nursing VI, Practicum (NSG219) between June 18 to June 24, 2001; and Nursing VI, Practicum (NSG4219) between June 25 to September 30, 2001. Nursing VI, theory and practicum was a brand new program to be delivered. The two components of this program – the theory component involved 18 hours of teaching contact time and a comprehensive 3-hour exam and the practicum or preceptorship component involved 525 hours of preceptorship in various clinical agency environments. Both components of the program were to be ready for delivery starting June 18 and this was a brand new program for which all preparation and groundwork had to be done. Another component for consideration is the number of students registered in the program. Sixty-two students were in the program. Preparation for the theory component included development of theory classroom delivery; preparation of teaching materials and student materials; preparation of assignments; development of a comprehensive 3 hour exam; development of evaluation methodology; co-ordination with another teacher assigned to team teach. Preparation for the practicum or preceptorship component included contact of various clinical agencies; establishment and development of relationships with each of the respective agencies and agency contact persons; orientation of each agency and appropriate contact person to the program, to the evaluation and supervision processes; placement and co-ordination of student placement to the various clinical agencies; and development of all documentation for the program; the students; and the clinical agencies.

Standard Workload Forms (SWFs) are used by the College in the assignment of teacher workloads and indicate how hours are allocated to the teacher for each week to establish their total workload. The collective agreement provides that the total workload assigned by the College to a teacher shall not exceed 44 hours in any week in which there are teaching contact weeks for the teacher.

The collective agreement outlines what is to be included in the SWF. The SWF is to include all details of the total workload including teaching contact hours, accumulated contact days, accumulated teaching contact hours, number of sections, type and number of reparations, type of evaluation / feedback required by the curriculum, class size, attributed hours, contact days, language of instruction and complementary functions. The way that attributed hours are allocated in the calculation of a teacher's workload is determined by a factored formula, based on teaching contact hours, outlined in the collective agreement.

In determining a teacher's total workload, there are a number of workload factors to be considered - teaching contact hours; attributed hours for preparation; attributed hours for evaluation and feedback; and attributed hours for complementary functions (11.01 B 1). Also complementary functions may be assigned to a teacher by the College (11.01 F). Prior to the establishment of a teacher's total workload, however, certain obligations are placed on the supervisor. The supervisor is to:

- 1) discuss the proposed workload with the teacher;
- 2) complete the SWF;
- 3) give a copy of the SWF to the teacher not later than six weeks prior to the beginning of the period covered by the timetable.

A reading of the article 11.02 A 1 (a) and the order in which the supervisor's obligations are laid out suggests to me that discussions between the supervisor and the teacher about a teacher's workload are intended to take place first, prior to the issuing of SWFs. Once discussions have occurred, then the SWFs are completed and issued. I do not read from the language in the collective agreement that SWFs are intended to be issued for the purposes of discussions between the supervisor and the teacher. Rather, SWFs are intended for the purposes of establishing a teacher's total workload once discussions with the teacher have occurred. SWFs are to be issued following discussions between the supervisor and the teacher and prior to the start of an assigned workload.

A change in circumstances may arise (11.02 A 1 (b)) and the parties, have recognized atypical circumstances (11.01 G 2) in the collective agreement, in regards to a teacher's workload. After an original assignment has been provided to a teacher, the College may amend the original assignment where a change in circumstances requires it (11.02 A 1 (b)). And if there is a subsequent revised assignment and / or workload because of a change in circumstances, revision of an assignment and / or workload will not be done without prior consultation with the teacher. Also the SWF must also be revised accordingly. And where there are atypical circumstances that affect the workload of a teacher, that are not adequately reflected in Article 11, additional hours shall be attributed on an hour for hour basis, following discussions between the teacher.

In normal circumstances, SWFs are to be issued not later than six weeks prior to the beginning of the period covered by the timetable.

Where there is a change in circumstances, this initiates a requirement on the supervisor for discussions or consultation with the teacher. Following these discussions between the supervisor and the teacher, the College may change a teacher's original assigned assignment or workload. Where a teacher's assigned teaching assignment or assigned workload is changed, a SWF must be revised accordingly to reflect the changes in the assigned duties. I am of the view that the intention of the parties is that SWFs be issued to the extent possible prior to the commencement of the revised assignment. Where the changed assignment affects the teacher's workload, additional hours shall be attributed on an hour for hour basis.

A review of Ms. Warrington's SWFs from 1998 and 1999, when Jane Wolfe was Chair of the Nursing Studies Faculty at Algonquin College, there was a practice to add attributed complementary hours for team and / or department meetings over and above the standard complementary allowance of 5 hours minimum. This practice of additional attributed complementary hours for team and / or department meetings continued in 2000, when Donna Tremblay replaced Jane Wolfe as the Chair of the Nursing Studies Faculty at Algonquin College. An examination of the SWFs issued by Ms. Foulds, indicated that Ms. Foulds changed this long-standing practice with Ms. Warrington's SWFs and may have considered meetings to fall with the two hours for normal administrative tasks.

Of the 44-hour maximum weekly total workload, an allowance of a minimum of five complementary hours shall be attributed as three hours for routine out-of-class assistance to individual students and two hours for normal administrative tasks (11.01 F).

The collective agreement is very consistent in recognizing that hours for complementary functions shall be attributed on an hour for hour basis. Hours for assigned complementary functions shall be attributed on an hour for hour basis (11.01 F). Where atypical circumstances affecting the workload of a teacher are not adequately reflected in this article, additional hours shall be attributed on an hour for hour basis (11.01 G 2). Additional time necessary to arrange and prepare for student placement shall be attributed on an hour for hour basis (11.01 D 3 viii). Hours for curriculum review or course development assigned to a teacher on an ongoing basis, in lieu of teaching or in a non-teaching period, shall be attributed on an hour for hour basis (11.01 D 3 ix).

#### **Decision**

Having carefully considered all of the circumstances, the College is to reissue amended SWFs for Ms. Warrington for each of the assigned teaching contact weeks for the summer 2001 semester that reflect the following corrections and complementary hours.

- The SWF issued for May 7 to May 20, 2001 as issued by Donna Tremblay remain as issued by Donna Tremblay.
- The assigned teaching contact hours for the first page of the SWF for Registered Practical Nurse Refresher, Clinical covering June 4 to June 10, 2001 are attributed at 6.50 hours for purposes of workload factors calculations.
- The assigned teaching contact hours for the first page of the SWF for Registered Practical Nurse Refresher, Clinical covering June 11 to 17, 2001 are attributed at 19.50 hours for purposes of workload factors calculations.
- The assigned teaching contact hours for the first page of the SWF for Nursing VI, Practicum (NSG4219) covering June 25 to September 30, 2001 be attributed at 18 hours

for purposes of workload factors calculations and the class size be attributed for 37 students for purposes of evaluation and feedback hours calculations.

- 12 complementary hours for weekend coverage for preceptorship for Nursing Practicum (NSG4219) for June 18 to June 24, 2001.
- 4 complementary hours for weekend coverage for preceptorship for being on call 24 hours over 15 weeks between June 25 through to September 30.
- 2 complementary hours for meetings for each of the weeks of May 7 to May 20, 2001 (team / department meetings); May 21 to June 3, 2001 (department / team); June 4 to June 10, 2001 (part-time teacher, and co-coordinator); June 11 to June 17, 2001 (part-time teacher, Barbara Kyd-Strickland and co-coordinator); June 18 to June 24, 2001 (part-time teacher and co-coordinator); June 25 to September 30, 2001 (part-time teacher and co-coordinator) for a total of 12 complementary hours.

Additionally, Ms. Warrington is entitled to be attributed the following complementary hours as follows:

- 15 complementary hours for preparation and 10 complementary hours for orientation to 4 clinical areas for the new assignments of Registered Practical Nurse Refresher, Clinical (NSG5640), delivered June 4 to 10 and June 11 to 17, 2001.
- 10 complementary hours for preparation for the new assignment of Nursing VI, Theory (NSG 4218), and 10 complementary hours for orientation to hospital / community partnering agencies for the new assignment of Nursing V1, Practicum (NSG4219) delivered June 18 to June 24, 2001 for 37 students, and 37 receptors in various agencies (Ottawa-Carleton Hospital, Queensway-Carleton Hospital, Carlingwood Community Centre, Bayshore Health Centre, Sandy Hill Centre, Renfrew, Amprior, Almonte, Brockville Centre, Kemptville, North Bay).

The question to determine is how these complementary hours for assigned duties will be distributed over the weeks at issue. I have considered that it is reasonable to expect course preparation and agency orientation to be completed prior to the actual teaching assignment commencing in considering how to distribute the complementary hours over the teaching contact weeks. If this entails hours in excess of 44 hours in any week in which there are teaching contact hours as per article 11.01 F, then the parties are to be guided by article 11.01 J 2 in the collective agreement.

- Ms. Foulds was entitled to reassign the 15 hours originally assigned by Ms. Tremblay as 'other' during the week of May 21 to June 3 to prep for RPN, Refresher, Clinical covering June 4 to 10 as long as Ms. Warrington did not work on the original 'other' assigned function. If Ms. Warrington did spend time on the original 'other' function, she is entitled to those complementary hours.
- The SWF covering June 4 to 10 reflect 10 complementary hours for orientation to 4 clinical areas for the new assignment of Registered Practical Nurse Refresher, Clinical (NSG5640), to be delivered June 4 to 10, assigned to Ms. Warrington by Barbara Foulds.
- The SWF covering June 11 to June 17 reflect 10 complementary hours for preparation for the new assignment of Nursing VI, Theory (NSG 4218), also referred to as 'RPN to RN program' or 'Direct Entry program' and 10 complementary hours for orientation to hospital / community partnering agencies for the new assignment of Nursing V1, Practicum (NSG4219) to be delivered June 18 to June 24, 2001 for 37 students, and 37 receptors in various agencies (Ottawa-Carleton Hospital, Queensway-Carleton Hospital,

Carlingwood Community Centre, Bayshore Health Centre, Sandy Hill Centre, Renfrew, Amprior, Almonte, Brockville Centre, Kemptville, North Bay.

#### **Academic Year / Carry Over Weeks**

Issues of the start of an academic year, carry-over weeks and off-cycle in relation to Ms. Warrington's assigned workloads were raised. These issues are interrelated and impact the issue of professional development days for Ms. Warrington. Let me begin by stating that I do recognize that these issues have roots that pre-date Ms. Foulds' appointment as Chair of the Nursing Studies Faculty at Algonquin College.

A review of Ms. Warrington's SWFs for 1997 – 1998; 1998 – 1999; 1999 – 2000; 2000 – 2001 indicate that courses in the Nursing Studies Faculty were offered by the College in at least June and July of each of these academic years and that Ms. Wolfe assigned Ms. Warrington as the faculty member to deliver courses during the summer months.

According to the College, Ms. Warrington did not exceed the 36 week maximum allowable under the collective agreement because her academic year commenced July 1 rather than September 1. Two memos submitted by the College suggest that it was their understanding that Ms. Warrington initiated the request during the academic year of 1997 – 1998 to be placed on an 'off-cycle' academic year. Ms. Warrington recollected that Ms. Wolfe asked faculty teachers during that academic year to see her if they were interested in working during the summer months of 1998 and she was not aware that she was in an 'off-cycle' academic year because of the annual confirmation of carryover weeks for her.

In an e-message to Ms. Warrington dated June 3, 2001, Ms. Foulds stated "Paulette and I have reviewed your teaching weeks since you went to an 'off-cycle' format in the fall of 1999." A reading of these comments implies to me that going to an 'off-cycle' format was initiated by Ms. Warrington. Ms. Foulds' was unable to find documentation of any kind, formal or informal, to support her understanding that there had been agreement of an 'off-cycle' academic year for Ms. Warrington, other than her understanding came from Paulette Hughes, the faculty department's administrative assistant, and the understanding that the signed SWFs of Ms. Warrington and Ms. Wolfe were indication of mutual agreement.

A memo dated November 19<sup>th</sup>, 2001 from J. Wolfe to C. Warburton regarding the subject matter of academic year as it pertains to Yim Warrington during the academic year of 1997 – 1998 states that Ms. Warrington requested to work during the summer of 1998 and have holidays in the winter of 1999. It is my understanding that this memo speaks to the same subject matter, as does the June 3, 2001 e-message from Ms. Foulds. This memo also leaves the impression that Ms. Warrington initiated a change. Ms. Wolfe's recollection in the November 2001 memo, however is not supported by the handwritten notation she made in a December 1999 SWF; comments she made closer in time to the situation at issue here, and is in all probability a more reliable account of what took place than a recollection made almost 2 years later.

A SWF issued December 14, 1999 by Jane Wolfe, the then Chair of the Nursing Studies Faculty at Algonquin College, for a workload of January 10 to March 5, 2000 for Yim Warrington provides me with some guidance. This SWF contains the following handwritten comments: "Thank you Yim! for agreeing to change your holidays" handwritten on December 14, 1999 by Jane Wolfe, and signed off by Yim Warrington on December 16, 1999. This notation suggests,

in my view, there was a request made, initiated by the College, Ms. Wolfe, for staff consider changing holidays; when Ms. Warrington indicated to Ms. Wolfe an interest, a request was made of Ms. Warrington to change her holidays; and that Ms. Warrington gave consent to the request.

Year after year, the Faculty Chair has confirmed that Ms. Warrington is in a carry-over situation. The SWF issued June 18, 2001 handwritten by Paulette Hughes, the faculty department's administrative assistant, working under the direction of the Chair of the Faculty, Barbara Foulds, also confirms "+ 4 C.O. from 00S \*13 weeks applied to 2001 - 2002 academic year" (p. 22) for Ms. Warrington's workload of June 25, 2001 to September 30, 2001.

With respect to the issues of academic year and carry over weeks, I am of the view that Article 11.03 cannot be read without consideration of Article 15. Article 11.03 of the collective agreement provides for the academic year to be from September 1 to the following June 30, to the extent it is feasible to do so. And where it is not feasible for an academic year to fall within the September 1 to the following June 30 academic year, the parties have recognized that the academic year shall permit year-round operation where a College determines the needs of any of its programs is such that it is not feasible to operate within the September 1 to June 30 academic year. However, there is no other language in the collective agreement that recognizes any other month to be the starting point for an academic year other than September 1. There is nothing in the collective agreement that provides for or recognizes an "off-cycle" academic year. Article 15 of the collective agreement does recognize teaching for an additional month over the normal teaching schedule as part of a continuous 12-month program. The language provides that, if and where the academic year operates outside of the September 1 to the following June 30 academic year, which is has in the Nursing Studies Faculty, then the scheduling of a teacher in one or both of the months of July and August shall be on a consent or rotational basis. The College does have the prerogative to determine whether to schedule a teacher on a consent or rotational basis. Scheduling on a consent basis implies that consent must also be received prior to scheduling and where the college is unable to receive consent, the College is able to schedule in one or both of the months of July and August on a rotational basis between or among faculty staff.

The collective agreement is not clear as to whether this scheduling, on a consent basis, is automatically continuous year after year after year, or whether consent must be sought and reconfirmed as of September 1, the beginning of each new academic year. It is my view, that absent any documentation to indicate otherwise and considering the changes in the Chair of the Nursing Studies Faculty and faculty staff in the department, in the situation before me, it is in the best interest of the college to reconfirm consent from Ms. Warrington for summer teaching contact assignments. If consent is not forth-coming from Ms. Warrington, the College is to schedule teaching contact assignments on a rotational basis.

#### **Decision**

According to the wording in the collective agreement and particularly in the absence of any other agreement between the College and the Union, I am of the view that September 1 is the start of Ms. Warrington's academic year. Because of the continuous nature of the Nursing Studies program and the workloads assigned by the College to Ms. Warrington, she found herself to be in a position of having teaching contact hours in excess of the 36 weeks maximum in the collective agreement, which put her in a carryover position. To correct Ms. Warrington's situation, Ms. Warrington is entitled to appropriate over-time payment for the weeks she was assigned in excess of the 36 week maximum allowable under the collective agreement.

**Professional Development Days**


The collective agreement provides that the college shall allow each teacher at least ten working days of professional development in each academic year. The collective agreement is clear in stating that the balance of the academic year, beyond the 36 weeks in which there are teaching contact hours, shall be reserved for complementary functions and professional development. Arrangements for professional development days shall be made following discussion between the supervisor and the teacher, subject to agreement between the supervisor and the teacher. Professional development days for faculty staff are in the interest of the college, the faculty department and the faculty member.

Because of the continuous nature of the Nursing Studies program and because of her assigned workloads in excess of the 36 weeks maximum in which there were teaching contact hours Ms. Warrington was not in a position to schedule the ten professional development days provided for in the collective agreement. A review of the calendars submitted by both Ms. Warrington and by the College, indicate that Ms. Warrington's accident during her vacation in February 1999 and her sick leave from February 2 until May 31 took a huge amount of time out of her availability to take professional development days and the College's operational requirements to let her to take professional development days. Ms. Warrington had a few professional development days (March 15, 2001, March 21, 2001, April 2, 2001, and April 12, 2001) during the last academic year, 2000 – 2001 taken during a scheduled vacation period.

**Decision**

Ms. Warrington is entitled to at least ten working days of professional development in this academic year and it is therefore equally incumbent on both Ms. Foulds and Ms. Warrington to have discussions about Ms. Warrington's professional development days for this academic year so that they can be appropriately scheduled.

Dated at Ottawa, Ontario this 28<sup>th</sup> day of January, 2002

  
Mary Rozenberg  
Workload Arbitrator