

ONTARIO COUNCIL OF REGENTS OF
COLLEGES OF APPLIED ARTS AND TECHNOLOGY
AND
ONTARIO PUBLIC SERVICE EMPLOYEES' UNION

FINAL REPORT OF THE
CLASSIFICATION REVIEW COMMITTEE

Herbert Jackson
Sean O'Flynn
Kenneth P. Swan, Chairman

July, 1978.

In the interim report of the majority of the Committee, we set out a proposed new classification definition for the Instructor classification and invited comments by the parties on that definition. We received, in due course, a number of comments, all of which we have carefully considered. A brief review of those submissions would appear to be appropriate.

The Union's brief re-stated its original position that only a complete eradication of the Instructor category would be an acceptable solution to the difficulties being experienced, but went on to analyze the proposed definition in a thorough and helpful way. The Union had five main concerns with our definition, and it is easiest simply to set these out in the words of the Union brief:

"There are five areas of the draft definition that are of considerable concern to OPSEU.

1. In the first sentence of the draft definition (page 31 of the Interim Report) reference is made to 'clearly established comprehensive behavioural objectives'. While we think we understand the intention behind these words, it should be noted that most if not all courses of study in the college system can be said to have formal behavioural objectives. We are confident that it is not the committee's intention that the instructor classification be used in every type of program taught in the community college system.

Some further definition is necessary to make clear that the reference is to pre-packaged courses. Similarly the phrases that follow, 'or prepared courses of instruction or according to prescribed instructional formats' are not sufficiently exclusive to rule out the use of the instructor classification where it is not appropriate.

2. The first sentence of the proposed definition concludes: 'and limited to instruction directed to the acquisition of a skill or technique'.

This part of the definition needs to be considerably more precise. It could be argued that all community college programs are aimed at the development of skills, yet the committee is seeking, we believe, some degree of exclusivity for the instructor classification. What the committee seems to have in mind is a skill the teaching of which requires considerable practical demonstration by the teacher, and considerable hands-on practice by the student. If this is, in fact, the committee's intention, it should be clearly expressed.

3. The second sentence of the definition is also of concern: 'Notwithstanding such prescription, the INSTRUCTOR is responsible for and has the freedom to provide a learning environment which makes effective use of resources provided or identified, work experience, field trips, etc., and to select suitable learning materials from those provided or identified to facilitate the attainment by the students of the educational objectives of the assigned courses.' While the union appreciates the intention behind the statement of academic freedom which is contained in this sentence, it is our belief that making the instructor responsible for the effectiveness of the learning environment of his or her classes is not reasonable given the requirement (which we believe to be essential) that an instructor must be working from prepared courses. This sentence can, and should, be omitted from the definition.
4. The heading for the list of duties and responsibilities which in the draft definition reads, 'The INSTRUCTOR'S duties and responsibilities include' runs the risk of being construed by some to mean that an individual instructor could be required to perform all of these duties as part of a single semester's assignment. Such a requirement would be unreasonable. The heading should be amended.
5. The final paragraph of the draft definition lists several ancillary duties for instructors, which appear to be acceptable. However, the first part of the sentence is too general. 'Other activities ancillary to the provision of instruction' should be defined to limit them to the type of activity specified."

Upon reflection, we see merit in the first two concerns raised by the union. We did, indeed, intend to identify a restricted scope for the Instructor category, and we had sought a form of words which would have that effect. We can understand the Union's concern (particularly in light of

some comments, which we discuss below, in St. Lawrence College's submission) and we have therefore attempted to clarify our definition. The other observations by the Union, however, are not, in our view, matters for serious concern. We consider that, given a fair construction of the language used, there is no likelihood of the dire consequences predicted by the Union.

Attached to the Union brief is a very effective discussion of the definition by Mr. Bill Kuehnbaum, President of Local 655 of the Union. To a certain extent, Mr. Kuehnbaum covers the same grounds as the Union's brief, and to that extent our comments above apply. In addition, however, we feel constrained to remark that the argument Mr. Kuehnbaum makes against the proposed definition is only valid if one divides the definition up into tiny fragments and assails each one at a time. For proper legal construction of collective agreement language, a provision must be used as a whole. As a whole, the definition is simply not susceptible of some of the extreme reductions to absurdity of which Mr. Kuehnbaum warns.

Two other briefs require mention. Northern College recommended that we include the formula "under the direction of a teaching master" in the definition, and we agree. In addition, however, both Northern College and St. Lawrence College have argued for a wide applicability of the definition. Northern College's brief says:

Our concurrence with the class definition is also on the basis that "skill or technique" includes all academic subjects and the clinical portion of nursing student training.

St. Lawrence College observes:

...a review of their original briefs as well as a

review of the interim award would have us believe that we would be within both the intent and spirit of the principles involved in your award if Instructors were utilized in a teaching situation for any course where the Master is the designated leader and is responsible for a number of sections of a course that he/she teaches with the assigned instructor/s and where the Teaching Master is responsible for the specific course objectives.

With respect, we are somewhat dismayed that these two institutions appear to view our definition as one applicable to teaching in all areas of instruction. Our comments on pages 14-15 and page 25 of the Interim Report make it clear that we did not intend to create a classification which could be applied in any discipline, at any level of instruction and in any pedagogical model. We intended rather a limitation to what the Union calls "hands-on" skill training, and related instructional methods, and the use of the expression "and limited to instruction directed to the acquisition of a skill or technique" ought to have made this clear. Perhaps the problem is caused by our inadvertent use of the word "or" instead of "and" in the fourth line of page 31 of the Interim Report? If so, we wish to correct any misconception which may have arisen from this editorial error, and the word "or" in that line should be replaced by "and", so that the text and the classification definition coincide.

We turn finally to the amendments which might be made to the definition. We agree that the expression "clearly established comprehensive behavioural objectives" is too vague to be a reliable guide to the application of the definition, and we have decided to remove it from the form of words we have chosen. The Union's proposed replacement wording is,

however, too rigid for effective use. The wording we have settled upon is designed to create a classification dedicated to instruction at a level where the academic preparations and decisions have been made in advance, and the role of the teacher is limited to supervision of the learning process. We consider that, at a certain level of sophistication of subject matter, this sort of relationship becomes impossible, and it is for this reason that we have introduced the limitation to instruction directed to the acquisition of "a skill or technique", as our original definition provided.

After much resort to dictionaries and other references, we are still of the view that "skill or technique" describes the sort of learned aptitude which we think Instructors might be employed to impart. "Craft" is also a word which captures the meaning we wish to convey, although most dictionaries define "craft" by use of the word "skill". In order that we may not be misunderstood, however, we have decided to use the adjective "manipulative" to convey the meaning we intend: we think that this will produce a certain redundancy, but that redundancy is probably preferable to a disputed interpretation.

Our new classification definition, therefore, is as follows:

CLASS DEFINITION - INSTRUCTOR

The INSTRUCTOR classification applies to those teaching positions where the duties and responsibilities of the incumbent are limited to that portion of the total spectrum of academic activities related to the provision of instruction to assigned groups of students through prepared courses of instruction and according to prescribed instructional formats; and limited to instruction directed to the acquisition of a manipulative skill or technique; and under the direction of a teaching master. Notwithstanding such prescription, the INSTRUCTOR is responsible for and has the

freedom to provide a learning environment which makes effective use of the resources provided or identified, work experience, field trips, etc., and to select suitable learning materials from those provided or identified to facilitate the attainment by the students of the educational objectives of the assigned courses.

The INSTRUCTOR'S duties and responsibilities include:

- ensuring student awareness of course objectives, instructional approach, and evaluation systems;
- carrying out regularly scheduled instruction according to the format prescribed for the course, including as appropriate classroom, laboratory, shop, field, seminar, computer-assisted, individualized learning, and other instructional techniques;
- tutoring and academic counselling of students in the assigned groups;
- evaluating student progress/achievement, assuming responsibility for the overall assessment of the students' work within the assigned course, and maintaining records as required;
- consulting with the Teaching Masters responsible for the courses of instruction on the effectiveness of the instruction in attaining the stated program objectives.

In addition, the INSTRUCTOR may, from time to time, be called upon to contribute to other activities ancillary to the provision of instruction, such as procurement and control of instructional supplies and maintenance and control of instructional equipment.

We do not express any opinion as to whether or not any particular teaching area will fit under this definition. We have not been provided with sufficient data to make such a conclusion possible, and it would in any event be beyond our mandate. The application of the definition is a matter for mutual administration by the parties, including resort to the grievance and arbitration procedure as necessary. If it is not already clear in the agreement that classification issues are subject to grievance and arbitration, then we make

such a provision a part of our final award.

Finally, we have left undecided the timing of the implementation of the new classification scheme. In our Interim Report, we suggested that there were strong arguments in favour of September 1, 1978, and nothing in the submissions we have received has changed our view. We therefore award that the new classification definition should be effective September 1, 1978 and that individual employees shall be entitled to be compensated, as of that date, in accordance with the salary scale of the classification appropriate to their duties and on that scale according to their qualifications and experience. We anticipate that, at some colleges, the mechanics of reclassification may take some time. We therefore award that actual reclassification of present Instructors may be delayed until March 1, 1979, provided that, upon reclassification, salary and benefits are paid at the appropriate rate retroactive to September 1, 1978. By March 1, 1979, each Instructor in the CAAT system shall have received formal notice in writing of his or her classification status, and any time limits specified in the collective agreement for the filing of grievances shall begin on receipt of that notice.

We conclude the deliberations of this committee with an observation we have made many times before. We are painfully aware that we have produced no panacea for the classification problems in the CAAT system. We are not even sure that a satisfactory solution can ever be found. We have urged upon the parties, however, a broader approach to these difficulties, which is set out on pages 33-34 of our Interim Award. We can

only suggest once again that they consider our recommendations, and attempt to find a rational solution to the classification issue through a broad review of academic salary structures.

Mr. Sean O'Flynn continues to dissent from the findings of the majority, for the reasons set out in his minority report. The majority are grateful, however, for his continued participation in the deliberations of the Committee.

"Herbert Jackson"

Herbert Jackson

Kenneth P. Swan

Kenneth P. Swan,
Chairman