

VERMONT LABOR RELATIONS BOARD

GRIEVANCE OF:)	DOCKET NO. 86-34
)	
PROFESSOR JOSEPH KITTEL AND)	
THE VERMONT STATE COLLEGES)	
FACULTY FEDERATION,)	
AFT LOCAL #3180, AFL-CIO)	

FINDINGS OF FACT, OPINION AND ORDER

Statement of Case

On May 28, 1986, the Vermont State Colleges Faculty Federation, AFT Local #3180, AFL-CIO ("Federation") filed a grievance on behalf of itself and Joseph Kittel, Professor at Vermont Technical College ("VTC"). The grievance alleged VTC assigned Professor Kittel an excessive student load and an excessive number of contact hours, without additional compensation, in violation of Article 23 of the collective bargaining contract between the Federation and the Vermont State Colleges, effective for the period September 6, 1984, to August 31, 1986 ("Contract"). The grievance further alleged VTC was attempting to circumvent the Board's decision in Vermont State Colleges Faculty Federation v. Vermont State Colleges, 8 VLRB 310 (1985), wherein the Board concluded unilateral implementation of Workload Guidelines by VTC President Robert Clarke was an unfair labor practice.

A hearing was held on January 8, 1987, before Board Chairman Charles H. McHugh and Members Catherine L. Frank and Louis A. Toepfer. Dr. Stephen Butterfield, Federation Grievance Chairperson, represented the Federation. Attorney Paul Sutherland represented the Vermont

State Colleges ("Colleges"). The Federation and the Colleges each filed briefs on January 15, 1987.

FINDINGS OF FACT

1. Article 23 of the Contract, entitled Workload, provides in pertinent part as follows:

The Federation and the Colleges agree to strive towards a normal individual workload of 24 credit hours or its equivalent per year and to observe that norm in the appointment of new faculty. For the duration of this Agreement, however, faculty shall not be required to teach an excessive number of contact hours, assume an excessive student load, or be assigned an unreasonable schedule. In determining what is "excessive" or "unreasonable" under this paragraph, current practices in the Colleges shall be one of the important elements to be considered. The number of courses and number of different course preparations per faculty member shall remain at the normal and customary number for that department.

2. The terms used in determining faculty workload and their meanings are as follows:

a) Credit hours - This term refers to the credit hours awarded a student for a particular course.

b) Contact hours - Contact hours are the number of hours per week a faculty member is assigned to be in a classroom or laboratory with students. Contact hours differ from credit hours because the number of hours a class or lab meets during a week may be greater than the number of credit hours assigned for a course. For example, a lab may meet three hours a week, but a student is only awarded one credit hour for the course.

c) Class size - This term refers to the total number of students enrolled for a particular class or lab.

d) Student load - Student load refers to the total number of students in a given year or semester assigned to an instructor, adding the class size in each class and lab. Under this definition, a student who is taught by an instructor in both a class and a lab would be counted twice.

3. Professor Kittel, a tenured professor with more than 20 years of service at VTC, teaches in the Electrical Engineering

Department. Kittel was on sabbatical during the Fall 1985 semester and had no assigned duties during that semester.

4. In the Spring 1986 semester, Kittel had a contact hour assignment of 17. His total teaching load consisted of two 4-hour lecture sections of EL216 and three 3-hour senior lab sections of EL216. In two of the lab sections, Kittel had 15 students. In the third lab section, he had 14 students. Kittel's student load for the spring 1986 semester was 93 students. The VTC Administration denied Kittel's request that he be granted overload compensation for the semester.

5. The normal contact hour load in the Electrical Engineering Department is 16 per semester or 32 per year. Semester contact hour assignments greater than 16 or less than 16 have not been unusual in the Department. A 16 contact hour assignment for every faculty member in the Department is typically difficult to achieve. Generally, if a faculty member is assigned more than 16 contact hours in one semester of an academic year, he or she is assigned less than 16 contact hours for the other semester of the academic year such that the total contact hour assignment for an academic year would not be greater than 32. A faculty member would not be given overload compensation for such assignments. There is no evidence of contact hour assignments in the Department in excess of 32 for an academic year being considered normal loads, excluding the period the workload policy which was at issue in VSCFF v. VSC, 8 VLRB 310, was improperly in effect. Two professors did voluntarily assume a 34 contact hour assignment for the 1982-83 academic year without receiving overload compensation.

6. The normal and accepted upper limits in class size in the Electrical Engineering Department for senior labs is 14. The upper limit has been exceeded over the past few years in at least 10 percent of the senior labs, excluding the period the workload policy which was at issue in VSCFF v. VSC, 8 VLRB 310, was improperly in effect.

7. 14 is the upper limit on senior lab sizes in the Electrical Engineering Department for educational reasons. Normally, a lab consists of seven set-ups, with two students on each set-up. Three students on a set-up means the third person's experience and participation is limited. More than seven set-ups make it difficult for the instructor to service all the set-ups properly. Although labs are usually equipped to handle eight set-ups, the equipment for the eighth set-up is usually there as a reserve in case of breakdowns. When a 15th student is assigned to a lab, the faculty member assigns the student to join an existing team of two or, alternatively, work from a separate station if it's available.

8. A semester student load of 93 is within the normal range for the Electrical Engineering Department.

9. At the time scheduling was done for the Spring 1986 semester, Professor Ricketts, the Chair of the Electrical Engineering Department, gave Kittel the option of having a contact hour load of 16 or 17. Kittel chose the load of 17 because he understood Professor Ricketts to say the Academic Dean, Harry Miller, would authorize additional compensation for the 17th contact hour. At no time did Dean Miller actually authorize, or indicate he would authorize, additional compensation for the 17th contact hour.

10. With respect to one of Kittel's Spring 1986 EL216 labs where the class size was 15, the 15th student was assigned by Dean Miller after classes had begun and it had become apparent the student had failed to sign up for a EL216 lab which he was required to take. Kittel's lab was the only one which would accommodate the student's schedule.

11. With respect to the remaining lab of Kittel's where the class size was 15, the number 15 was reached because one of the students attended the lab without going through the normal process of clearing his transfer from one section to another through the Office of the Registrar. As a result, while college records indicated that Kittel's lab had only 13 students, in fact it had 14. The College was unaware until after the fact that the assignment of one more student resulted in a total class size of 15, not 14.

OPINION

The central issue herein is whether the Colleges assigned VTC Professor Kittel an excessive student load and an excessive number of contact hours during the Spring 1986 semester , without additional compensation, in violation of Article 23 of the Contract.

In determining whether student load and number of contact hours is excessive pursuant to Article 23, we must consider the "norms" that have existed at each college within each department. VSCFF v. VSC, 8 VLRB 310, 321 (1985), Grievance of Brandon, et al, 3 VLRB 396, 404 (1980). Thus, in this case, we look to the developed norms in Professor Kittel's department, the Electrical Engineering Department.

We consider first whether Kittel was assigned an excessive student load. Student load refers to the total number of students in

a given year or semester assigned to an instructor. Grievants contend the College assigned Kittel an excessive student load by assigning 15 students to two of Kittel's senior labs because the limit on senior labs is 14.

Under the circumstances, these assignments over the normal and accepted limits of lab size did not result in Kittel being assigned an excessive student load. First, while student load obviously is a product of class size, excessive loads cannot be determined by examining just a portion of a faculty member's classes. Instead the very meaning of student load necessitates reviewing the numbers of students in all of the faculty member's classes. Here, the total number of students assigned to Kittel during the semester was 93, which was within the normal range for the Electrical Engineering Department. Second, the evidence indicted the accepted upper limit of 14 students in senior labs was not a figure etched in stone, never to be exceeded, since at least 10% of the senior labs exceeded that number. Given these circumstances, the assignment of one additional student in each of two labs above the upper limit did not constitute an excessive student load.

The remaining issue is whether the assignment of 17 contact hours to Kittel for the semester constituted an excessive number of contact hours. Contact hours are the number of hours per week a faculty member is assigned to be in a classroom or laboratory with students.

We similarly conclude this assignment was not excessive within the meaning of the Contract. The evidence indicated that it is not unusual for Electrical Engineering Department faculty to be assigned more than or less than 16 contact hours per semester, with semesters

being "balanced out" during the academic year such that a faculty member is not assigned more than 32 contact hours for the year. Here, no "balancing out" was possible because Kittel was on sabbatical leave for the academic year. Under these circumstances, the contact hour assignment, while not favorable to Kittel, was not excessive. The assignment of 17 contact hours for one semester during the academic year was within established norms.

We appreciate the Federation's concern of preventing the "rachet" effect on faculty workload; that if components of faculty workload are revised upward, then the new practice becomes the new standard. We do not believe our decision will have this "racheting" effect. As the Board has previously stated, the assessment of faculty workloads in view of numerous factors is difficult, complex and imprecise. VSCFF v. VSC, supra, at 321. Grievance of Brandon, supra, at 404. We have simply concluded that given the norms of the VTC Electrical Engineering Department and under the circumstances herein, the assignments to Kittel were not excessive within the meaning of the Contract. We do not intend to revise upward the established norms of the Department concerning acceptable limits on student load or contact hours.

In conclusion, we note, that since the assignments to Kittel were not in violation of the Contract, they obviously were not in contravention of the Board's order in VSCFF v. VSC, supra, as the Federation alleges.

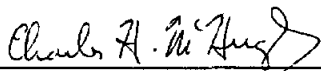
ORDER

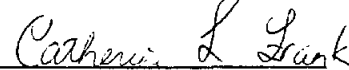
Now therefore, based on the foregoing findings of fact and for the foregoing reasons, it is hereby ORDERED:

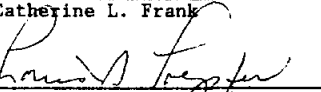
The Grievance of Professor Joseph Kittel and the Vermont State Colleges Faculty Federation, APT Local 3180, AFL-CIO, is DENIED.

Dated the 20th day of January, 1987, at Montpelier, Vermont.

VERMONT LABOR RELATIONS BOARD


Charles H. McHugh, Chairman


Catherine L. Frank


Louis A. Toepfer