

VERMONT LABOR RELATIONS BOARD

GRIEVANCE OF:	)	DOCKET NO. 87-2
	)	
VERMONT STATE COLLEGES	)	
FACULTY FEDERATION,	)	
AFT LOCAL 3180, AFL-CIO	)	
AND PROFESSOR THOMAS HIGGINS	)	

FINDINGS OF FACT, OPINION AND ORDER

Statement of Case

On January 13, 1987, the Vermont State Colleges Faculty Federation, AFT Local 3180, AFL-CIO ("Federation") filed a grievance on behalf of the Federation and Professor Thomas Higgins of Vermont Technical College ("VTC"). The grievance alleged that the Vermont State Colleges ("Colleges") assigned Higgins an unreasonable schedule and an excessive student load in violation of Articles 3D, 14B, 17 and 23 of the collective bargaining agreement between the Federation and the Colleges, effective for the period September 1, 1986 to August 31, 1988 ("Contract"). In addition, the grievance alleged that the College violated its own registration procedures in increasing the published maximum limit for Higgins' classes and continues to increase workload at VTC without bargaining in violation of the Labor Relations Board Order of October 31, 1985, Vermont State Colleges Faculty Federation v. Vermont State Colleges, 8 VLRB 310..

A hearing was held on July 16, 1987, at VTC, before Board Members Charles H. McHugh, Chairman, Catherine L. Frank and Louis A. Toepfer. Attorney Paul Sutherland represented the Colleges. Attorney Michael Schein represented the Federation.

Briefs were filed by the Colleges and the Federation on August 10, 1987.

#### FINDINGS OF FACT

1. VTC has four academic departments directly concerned with engineering: 1) Electrical and Electronics Engineering, 2) Mechanical Engineering, 3) Architectural and Building Engineering, and 4) Civil Engineering.

2. Students in each of these departments are offered an introductory graphics course. Prior to the 1981-82 academic year, the graphics courses were not specific to the particular engineering field the student was in and were taught by the faculty from the Mechanical Engineering Department. Gradually, over a three-year period of time commencing in academic 1981-82, these courses became offered and taught by faculty of the various departments and became content specific to the particular engineering field of the department.

3. At all times relevant herein, Professor Higgins was a faculty member of the Civil Engineering Department. Beginning in the Fall 1981 semester, Higgins developed and taught the graphics course designated for civil engineering students. Higgins rewrote the course syllabus and redesigned the course content. The course focused more on the civil engineering component of graphics than did the previous course. The older course was basically a mechanical vocational drawing course while the course taught by Higgins was a technical design course, where students learned to solve problems through physics and mathematics.

4. Higgins taught the graphics course every fall semester from 1981 through 1986. The course had essentially the same content and structure from 1981 through 1986, with the addition of Computer Aided Drafting and Design (CADD) when that technology became available in 1984.

5. For each of the Fall 1984, Fall 1985 and Fall 1986 semesters, Higgins taught two sections of CT 111, the engineering graphics course. Each section consisted of two three-hour labs per week. In addition to the time spent in course preparation and in the labs, Higgins spent approximately one-half hour per week per student grading papers. During those semesters, Higgins also was the CADD Coordinator for VTC. As such, VTC Academic Dean Harry Miller granted Grievant a half load reduction for his courseload (Federation Exhibit I).

6. From the Fall 1981 semester through the Fall 1985 semester, the stated maximum class size limit for the civil engineering graphics course taught by Higgins was 20 (Federation Exhibits A, B, C, D).

7. The civil engineering graphics courses never had more than 20 students in a section until Fall 1986. The enrollments were as follows:

<u>YEAR</u>	<u>SECTION 1</u>	<u>SECTION 2</u>
1981	19	15
1982	11	13
1983	15	14
1984	20	20
1985	12	18
1986	23	23

(Federation Exhibit F)

8. At some point before July 31, 1986, and before Higgins was consulted, Dean Miller, in exploring his options, changed the maximum limit for CT 111 to 24 in the computer which was used to compute student schedules. After exploring the options, Miller apparently concluded that the previous maximum limitation on students would be too low and that there should be a permanent increase. (Federation Exhibit E).

9. In August, a few days before the start of the Fall 1986 semester, Miller approached Higgins and explained that there was a problem, as more students -46- had enrolled in the Civil Engineering Department than was expected. Dean Miller explained that they could create 3 sections of CT 111, but that this would create problems at that late date, or that they could have two larger sections. Higgins indicated that he would agree to teaching two larger sections for that semester. Higgins understood from this conversation that he had not agreed that it would be appropriate to change the maximum class size to 24 for CT 111, but had simply agreed to allow a temporary over-enrollment for the Fall 1986 semester only. Miller understood this conversation to relate to a permanent increase in maximum class size. We find by a preponderance of the evidence that the permanent increase in maximum class size was not specifically discussed and that Higgins was reasonable in his understanding that the increase related only to the Fall 1986 semester.

10. Higgins did not request additional compensation for the increased students in his conversation with Miller, and indicated at the hearing that he is not seeking additional compensation as a remedy in this grievance.

11. The published maximum class size limitation for CT 111 for the Fall 1986 semester was 24 students.

12. Forty-six students were actually enrolled in the two sections of the civil engineering graphics courses during the Fall 1986 semester. The addition of more students made it more difficult for Higgins to give adequate time to students during the labs. Also, Higgins consequently spent more time per week grading students' papers.

13. The graphics courses taught in the other three engineering departments at VTC had stated maximum class size limitations ranging from 18 to 40 during the period from the Spring 1982 semester to the Fall 1986 semester (Colleges Exhibit 4).

14. The Contract provided in pertinent part as follows:

Article 17, Advising and Registration Procedure

D. If there is disagreement, the faculty member and the Dean or appropriate administrative official shall discuss the maximum number of students allowed to register in each course before decision by said Dean or other designated official. This said maximum number shall be established within the provision of Article 23, Workload.

Article 23, Workload

The normal individual workload shall be 24 credit hours or its equivalent per year...

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. In making assignments, due consideration shall be given to time devoted to co-curricular activities, such as coaching, direction of student teaching and independent studies, advising student newspapers and clubs, directing dramatic or musical productions, and directing athletic programs. In addition, the faculty agree to post and maintain reasonable office hours, and to participate in the operations of their Faculty Assemblies and committees thereof as the Assemblies may require (Joint Exhibit 1).

#### OPINION

At issue is whether the Colleges violated Article 17D and Article 23 of the Contract in assigning more students to two sections of a course taught by Professor Higgins than the previously established maximum class size limit for the course.

We conclude the Colleges violated Article 17D in the procedure followed to assign students to the course. Article 17D provides that the Dean "shall discuss the maximum number of students allowed to register in each course before decision" by the Dean and that "the maximum number shall be established within the provision of Article 23, Workload."

Here, Dean Miller contemplated changing the established maximum class size limit for the course from 20 to 24 before any discussion with Higgins. When Miller did discuss the matter with Higgins, he led Higgins to reasonably believe that the increase related only to a temporary over-enrollment for the semester and not to a permanent increase in the established maximum class size limit. Article 17D clearly contemplates that the Dean is required to discuss any permanent increases in the class size limit with the involved faculty member; these discussions must be unambiguous and the faculty member must understand that what is being discussed is a permanent increase. Dean Miller failed to meet this contractual obligation.

We believe we need go no further in this case, and decide whether Higgins was assigned an unreasonable schedule and an excessive student load in violation of Article 23, given Higgins' stated position at the hearing that he was not seeking additional compensation as a remedy in this grievance. Under such circumstances, we conclude it is suffi-

cient to require the Colleges to rescind the increase in the maximum class size limit for the sections of the graphics course taught by Higgins.

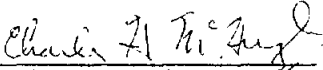
ORDER

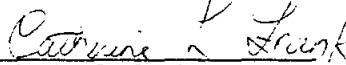
Now therefore, based on the foregoing findings of fact and for the foregoing reasons, it is hereby ORDERED:

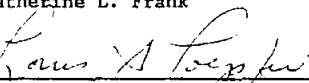
1. The grievance of the Vermont State Colleges Faculty Federation, AFT Local 3180, AFL-CIO and Professor Thomas Higgins is SUSTAINED; and
2. The Vermont State Colleges shall rescind its increase in the maximum class size limit for the sections of the graphics course for civil engineering students at Vermont Technical College, designated CT 111, to 24 students, and shall reinstitute the maximum as 20 students.

Dated the 17th day of September, 1987, at Montpelier, Vermont.

VERMONT LABOR RELATIONS BOARD

  
Charles H. McHugh, Chairman

  
Catherine L. Frank

  
Louis A. Toepfer