

VERMONT LABOR RELATIONS BOARD

Grievance of:)	DOCKET NO. 79-29S
VERMONT STATE COLLEGES FACULTY)	
FEDERATION, AFT Local 3180, AFL-CIO)	
)	
v.)	
)	
VERMONT STATE COLLEGES)	RE: Workload of Catherine Wheeler

FINDINGS OF FACT, OPINION AND ORDER

Statement of the Case

On May 10, 1979, the Vermont State Colleges Faculty Federation (the "Federation") filed a petition with the Vermont Labor Relations Board (the "Board") alleging that the Vermont State Colleges ("VSC"), Lyndon State College (the "College") in particular, violated the collective bargaining agreement between the parties (State's Exhibit #1) by assigning an 11 credit hour workload to part-time faculty member Catherine Wheeler for the 1979 Spring Semester. In that petition, the Federation further charged that Ms. Wheeler had been discriminated against by the College on the basis of sex.

An answer to the allegations contained in the May 10, 1979 petition was filed by VSC counsel on May 31, 1979, denying the alleged workload violation and claiming the sex discrimination aspect of the petition was defective due to its untimely filing.

Two hearings were held on this matter before Board members Kimberly B. Cheney, William G. Kemsley, Sr., and Robert H. Brown. The first hearing was held on July 9, 1979. On September 6, 1979, the Board granted the

VSC motion to dismiss the sex discrimination aspect of the grievance for lack of timeliness. See 2 VLRB 222 (1979).

A second hearing was held on October 18, 1979, to hear the remaining substantive aspects of the case. During both hearings, the Federation was represented by Stephen T. Butterfield, Grievance Chairperson for the Federation, and the VSC was represented by Peter R. Hicks, Esq.

Briefs and requests for findings were filed with the Board by both parties on October 7, 1979.

FINDINGS OF FACT

1. The relevant contract provision in this grievance, Article XXIX, "Workload", states:

"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. 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. Department heads with five or more members in a department shall be assigned one less course per semester than the faculty average for that person's department, except that department heads with three or more members in a technical department shall be assigned one less course per semester than the faculty average for that person's department."

2. Ms. Catherine Wheeler was initially hired as a part-time lecturer of biology for the 1977 Fall Semester at Lyndon State College.

3. Thereafter, Ms. Wheeler continued to teach and to be regarded as a part-time faculty member for each semester from the fall of 1977 to the spring of 1979.

4. Ms. Wheeler's employment has been effected by a letter appointing her to the position of part-time lecturer for each semester for which she was employed. (VSC Exhibits #II, III, IV, and V.)

5. In the spring of 1979, Ms. Wheeler was scheduled to teach two lecture sections of biology, one lecture section of human anatomy and physiology and two laboratories, for a total of 11 credit hours for that semester. (Grievant's Exhibit #1)

6. Ms. Wheeler shared office space with other science department faculty members, in which she prepared her lectures and consulted with students enrolled in her courses.

7. Ms. Wheeler, voluntarily, attended departmental meetings of the science department.

8. The science department at the College at the time material to this grievance was comprised of six full-time faculty, all of whom were assigned either 12 instructional credit hours or its equivalent for the 1979 Spring Semester.

9. Those faculty within the science department not responsible for teaching 12 credit hours during that period, and considered full-time faculty members were Douglas, Conant and Ferrault.

a) Professor Douglas, in addition to the 10 instructional credit hours assigned him was responsible for developing a new course in organic chemistry for which he was credited with 3 credit hours.

b) Professor Conant, in addition to the 9 instructional credit hours assigned him, was credited with 3 additional credit hours for responsibilities assumed as department head.

c) Professor Perrault, in addition to the 10 instructional credit hours assigned him, was engaged in developing two new department majors during the 1979 Spring Semester, and given credit for 3 additional hours.

10. In addition to assigned instructional duties and its equivalent academic work, full-time faculty are required to assume other responsibilities. These additional responsibilities include advising and consulting students with respect to their selection of an educational program and their individual progress, engaging in co-curricular activities such as coaching athletics, drama productions, college literary publications, etc., and participation in the faculty governance of the College by serving on various faculty assembly committees. The additional duties of a full-time faculty member beyond teaching or its equivalent require approximately 15 hours per week.

11. There is no significant pattern or practice in the hiring policies of the College which would indicate that the hiring of part-time faculty is intended to eliminate full-time faculty positions and thus reduce the number of individuals in the bargaining unit. The extra duties of a full-time faculty member beyond teaching or its equivalent are an important consideration within the faculty evaluation process, and determine, in part, whether the individual will receive tenure or be reappointed.

12. Although Ms. Wheeler has taught two consecutive semesters in any given academic year of her employment, in none of those academic years did the sum total of credit hours equal 24 credit hours.

OPINION

We conclude, for the reasons given in Grievance of Ramage, 1 VLRB 279 (1978), that Ms. Catherine Wheeler is a part-time faculty member at Lyndon State College.

The facts found in this case distinguish it from Ramage, only in that Ms. Wheeler worked less than 12 hours while Mr. Ramage did, in fact, teach 12 credit hours per semester. According to the rule laid down in that case, Ms. Wheeler should be regarded as part-time.


While the Board is mindful that a rule of decision which looks solely towards credit hours may be simplistic, it has the virtue of prohibiting the Colleges from assigning workloads in excess of that amount or manipulating other factors of employment in order to classify a person as part-time. Once an individual is assigned to teach 12 credit hours, we assume the administration would insist that many of the various factors indicative of collegiality would be taken on by that individual. Under this rule, there is a precise dividing line between the part-time and full-time faculty member in the overall performance expected of him, both by the Employer and by the students.

Dated at Montpelier this 13th day of December, 1979.

VERMONT LABOR RELATIONS BOARD



William G. Kemsley Sr.

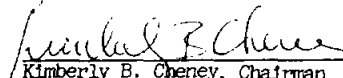


Robert H. Brown

CONCURRING OPINION

Application of the reasons given by me in my dissent in Ramage would not lead me to conclude that Ms. Wheeler is a full-time faculty member.

The evidence of her "collegiate" work beyond teaching 11 credit hours is not sufficient to carry that burden. Accordingly, I agree with the result reached by the majority. I do, however, dissent from the reasoning of the majority in this case. I still adhere to the view that an institution of higher learning can use subtlety in making substantive comparisons of workload and effort. This is not a factory we are considering, it is a college. The case might be different, for example, if the evidence showed Ms. Wheeler to be a person who spent many hours with students, or that she demonstrated excellence or leadership in her field and brought distinctions to herself and the college. That evidence is absent.


Kimberly B. Cheney, Chairman

VERMONT LABOR RELATIONS BOARD

Grievance of:)	
VERMONT STATE COLLEGES FACULTY)	
FEDERATION, AFT LOCAL 3180,)	
AFL-CIO)	
v.)	DOCKET NO. 79-29S
VERMONT STATE COLLEGES)	Re: Workload of Catherine Wheeler

ORDER

The following Order shall be appended and made part of the Vermont Labor Relations Board's Findings of Fact, Opinion and Order dated December 13, 1979:

For the foregoing reasons, it is hereby ORDERED that the grievance of Vermont State Colleges Faculty Federation, AFT Local 3180, AFL-CIO be DISMISSED, and it is DISMISSED this 11th day of January, 1980.

Dated at Montpelier, Vermont, this 11th day of January, 1980.

VERMONT LABOR RELATIONS BOARD

Kimberly B. Cheney
Kimberly B. Cheney, Chairman

William G. Kemsley, Jr.
William G. Kemsley, Jr.

Robert H. Brown
Robert H. Brown