

LABOUR RELATIONS CODE  
(Section 104(4) Appointment)  
EXPEDITED ARBITRATION DECISION

CAMOSUN COLLEGE FACULTY ASSOCIATION

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CAMOSUN COLLEGE

COLLEGE

(Re: Nursing Department Part-time Percentage Workload Calculations)

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Arbitration Board:	James E. Dorsey, K.C.
Representing the Faculty Association:	Kas Pavanantharajah and Rachel Sombach
Representing the College:	David Penner and Joyce Chiang
Referral to Director:	April 9, 2024
Appointment:	May 8, 2024
Case Management Conference:	May 15, 2024
Hearing:	July 2, 7, 8 and 9, 2024
Decision (statutory 7-page limit):	July 16, 2024

[1] The dichotomous difference in this arbitration is whether the College is underpaying part-time Nursing Department faculty workloads or gratuitously overpaying full-time faculty workloads. The difference arises because the percentage workload of part-time faculty is calculated by dividing their weekly contact hours (the numerator) by the “established weekly contact hours in effect for full-time faculty.” The core of the difference is over the number of contact hours to be used as the denominator in the fractions producing part-time workload percentages.

[2] The evidence consists of an agreed statement of facts, joint book of documents, other exhibits and testimony by four persons. There were lengthy written and oral arguments and reference to many sources and arbitration decisions.

[3] Nursing has courses in three terms: Fall (September to December); Winter (January to April); and Summer (May to August). There are 480 students in three academic years with four cohorts of 40 students in each year taking 25 practicum (clinical), theory and lab courses. Because the third year ends in the Fall, there are only 320 students in the Winter and Summer terms.

[4] The only Summer term course is a 6-week Consolidated Practice Experience composed of 22 practicum and 2 seminar weekly contact hours. Each faculty member is allocated a 100% workload. There are no courses in July and August.

[5] In the Fall and Winter terms with 14 instructional weeks, teaching assignments for full-time continuing or term faculty have a combination of courses for which the total weekly contact hours do not exceed 20 hours and is frequently 18 or 19 hours. The one exception in the evidence is an assignment in the 2022 Fall term when a full-time faculty member taught courses 332 (6 hrs), 342 (3 hrs) and 380 (13 hrs). Course 380, only taught in the Fall term, resulted in 21 total contact hours. The total can be less than 18 hours if a full-time continuing faculty member has a partial release from a full-time (100%) instructional workload to do other work or an accommodation.

[6] Article 7.01 - Workload addresses departmental determination of annual workload. It lists 16 factors to be considered and guiding principles which allow a range of outcomes within a flexible, department grounded framework. The principles include:

All full-time faculty covered by this agreement shall be expected to work within the same range of hours, although some may work more or less in response to specific circumstances.

This range shall be thirty-five (35) to forty (40) hours per week averaged over the 205 day year. The resulting annual total of working hours for fulltime faculty shall be in the range of 1435 to 1640 hours. Working hours for part-time faculty shall be prorated at the same percentage as their percentage of a full-time assignment.

Faculty workloads should span the expected range. Thus the average annual workload within a department should be in the order of 37.5 hours per week.

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Faculty members who do not experience substantial variation on work assignments should expect to work an average of between seven (7) and eight (8) hours per day.

Faculty workloads will reflect departmental, rather than school-wide or College-wide conditions.

The workloads of Faculty Members within each department must fit the department's normal workload pattern.

[7] Faculty work is not limited to instructional contact hours. It includes course preparation and assignment and student evaluations, hosting office hours, attending mandatory course and department meetings and other non-teaching responsibilities, which are not express factors in allocating workload. To contain the average annual workload across the College for faculty with a full instructional load to something "in the order of 37.5 hours per week," there is an agreed guideline for the normal maximum contact hours. Article 7.02 – Weekly Contact Hours states, in part:

(a) The number of contact hours per week for an Employee carrying a full instructional load shall vary between sixteen (16) and twenty-four (24). It shall be based on the following guidelines prorated for each situation.

Normal maximum contact hours:

- (i) Lecture (substantial preparation or marking generally large group) 16 hrs/wk
- (ii) Laboratory 24 hrs/wk
- (iii) Tutorial or seminar (20 or fewer students engaged in individualized or small group study) 24 hrs/wk
- (iv) Shop, clinical or classroom 24 hrs/wk

Weekly contact hours may vary to a maximum of thirty (30) hours in any one (1) week, and these guidelines may refer to annual averages in instructional assignments.

In departments in which a lower number of weekly contact hours has been established, either through past practice or through modifications resulting from the workload assessments carried out as part of the 1989-1991 workload review, the lower number shall be considered the maximum.

[8] How is the workload and accompanying remuneration calculated for those with less than a full instructional workload? Article 7.02(a) includes:

The percentage workload of part-time Faculty Members shall be calculated by using their weekly contact hours as the numerator and the established weekly

contact hours in effect for full-time faculty in their department as the denominator.

[9] This applies for Nursing. The denominator in the percentage workload calculation for part-time faculty is to be based on “the established weekly contact hours in effect for full-time faculty” with no adjustment. The Nursing courses with their weekly contact hours are as follows:

<b>Course Number</b>	<b>Designation</b>	<b>Weekly Contact Hours and Allocation</b>
110	Theory	3 (Lecture)
111	Theory	3 (Lecture)
112	Theory	3 (Lecture)
132	Theory	3 (Lecture)
133	Theory	3 (Lecture)
142	Lab	4 (Lab)
143	Lab	4 (Lab)
160	Theory	3 (Lecture)
180	Practicum (Fall)	Lecture + Practicum: Effectively 12 total
181	Practicum (Winter)	1 (Seminar) + 5 Practicum: 6 total
190	Practicum (Summer)	2 (Seminar) + 22 Practicum: 24 total
232	Theory	4 (Lecture)
233	Theory	4 (Lecture)
242	Lab	3 (Lab)
243	Lab	3 (Lab)
252	Bridge	2 (Lecture) + 2 (Lab) + 2 (Seminar): 6 total
253	Bridge	2 (Lecture) + 2 (Lab) + 2 (Seminar): 6 total
260	Theory	3 (Lecture)
280	Practicum (Fall)	2 (Seminar) + 10 Practicum: 12 total
281	Practicum (Winter)	1 (Seminar) + 5 Practicum: 6 total
290	Practicum (Summer)	2 (Seminar) + 22 Practicum: 24 total
342	Lab	3 (Lab)
360	Theory	3 (Lecture)
380	Practicum (Fall)	1 (Seminar) + 12 Practicum: 13 total

[10] The departmental Chair, with approval by the Dean, manages workload assignments and staffing for upcoming academic terms of which the Summer term is relatively straightforward. The Chair considers continuing faculty preferences and experience, departmental needs and a May 2022 statement of 10 guidelines on the allocation of teaching assignments and scheduled professional development (SD) time. The guidelines were developed:

... in collaboration with continuing faculty and the office for the purpose of applying fair and equitable guidelines for the allocation of SD and teaching assignments with a view to - support student learning, instructor flexibility, and sessional mentorship. It is understood that within applying these guidelines there will be exceptions and flexibility to meet both the needs of the department and faculty.

Equitable is defined as “dealing fairly and equally with all concerned, free from bias or favouritism.”

[11] For at least a decade, the long-standing “normal workload pattern” of a 100% workload assignment for full-time faculty in the Fall and Winter terms consists of one or two practicum courses (12 hrs) plus either (a) two lab courses (6 or 8 hrs total) or (b) one theory course (3 or 4 hrs). The percentage release for full-time continuing faculty from a practicum or theory course assignment is 50%. For one lab course, it is 25%.

[12] During the same period of time, it was generally known within Nursing that there was disparity between the percentage workload allocation to full-time faculty for these combinations of courses and the percentage workload allocation to part-time faculty teaching a component or part of a component of a full-time combined course assignment. The part-time percentages are used for full-time overload assignments.

[13] From 2022 to 2024, there were three Chairs. Associate Dean Dwayne Pettyjohn, who testified, was Chair from mid-2019 through 2022. He was followed by Kirstin McLaughlin in May 2023, who took maternity leave in November 2023. Dr. Robin Humble, who testified, became Interim Chair in January 2024.

[14] Each Chair received from their predecessor six pages of workload composition notes of unknown origin dating from 2012 and 2013 on assigning Fall and Winter term full-time workloads. The notes include:

Principles

All practice courses have 24 as a denominator.

All lab courses together (without teaching any practice or theory) have 24 as a denominator.

Any course paired with a theory course has 16 as a denominator.

Practice courses paired with lab courses have a denominator between 18-20, depending on the year teaching.

Practice courses with a theory have 16 as a denominator.

Theory alone has a denominator of 16.

[15] A denominator of 24 is only used when the assignment consists entirely of practicum courses. Otherwise, the denominator is between 16 and 20. The course combinations include academic year variations. The notes state, in part:

Fall Workload percentages

DENOMINATORS

Practice = 24

Lab = 18 or 19 ["in combination" added in pen at unknown time]

Theory = 16

#### FULL TIME COMBINATIONS

1 Theory and 1 Practice (2<sup>nd</sup> or 3<sup>rd</sup> year) = 16/16

2 Labs and 1 Practice (2<sup>nd</sup> or 3<sup>rd</sup> year) = 18/18 or 19/19

2 Practice (Year 2 only) = 24/24

1x Year 1 Practice + 2 Labs + 2 theory = 16/16

3x Year 1 Practice + 1 Theory = 15/16\*

3 Labs + 2 Theory = 15/16\*

A practice group in Year 2 or 3 can be combined with a theory or 2 labs in first year to make a 100% assignment.

- These are not exactly 100% assignments. Anyone choosing this option may be asked to consider being available for sick replacement, contributing to other departmental needs, or taking a slightly higher assignment in the following term.

[16] Part-time term faculty with contracts for a term have the same course planning, team and delivery duties and responsibilities as full-time faculty teaching the same course in the term. They have all the non-instructional responsibilities of full-time faculty without access to annual two months of SD time (Article 10).

[17] For Dr. Humble, who began as part-time faculty in 2014, the discrepancy in workload percentage allocation between part-time and full-time for teaching the same course was a mystery. She speculated it might be because of some non-instructional factor. In November 2023, she received a folder with the workload composition notes, which she reviewed with Ms McLaughlin, and learned the basis of the discrepancy.

[18] Working with the notes as Interim Chair, she found them internally incongruent, incomprehensible and inconsistent with the established practice for full-time faculty. The approach disadvantages part-time faculty, who are difficult to recruit for low percentage workload contracts and who feel undervalued when not paid equal to continuing faculty. There is no equivalency between the 50% workload allocation to full-time faculty to teach two lab courses and a 16.5% allocation to part-time faculty to teach one of the two lab courses. Because she could not resolve or explain the workload percentage discrepancies, she experienced moral distress. She testified that despite the discrepancies some part-time faculty stay "in the game" hoping to become continuing.

[19] In September 2023, Dr. Peter Ove became Chair of the Faculty Association Contract Management Committee. The Association employs 1.6 FTE administrative

support and a 0.6 FTE Labour Relations Advisor. There are over 600 faculty in 45 departments.

[20] In September 2023, after discussion with a member who sought workload advice, Dr. Ove and President Lynelle Yutani realized there was something unusual about the calculation of the percentages for part-time workload and full-time faculty overage assignments. The Faculty Association obtained a copy of the workload composition notes in October and grieved immediately.

[21] The normal work week for Nursing full-time faculty is 37.5 hours. They do not have a light load for which they are gratuitously overpaid. Within this normal work week, the longstanding workload pattern of course combinations with differing total contact hours seeks to fairly and equitably support student learning, instructor flexibility and sessional mentorship in program delivery. It recognizes the limitations of lab courses mean fewer students are enrolled than in theory courses. The established course combinations are permissible for full-time workload assignments.

[22] However, some part-time faculty are not being allocated and paid a percentage workload calculated by using the “established weekly contact hours in effect for full-time faculty” as the denominator in the calculation. They are not having their working hours prorated “at the same percentage as their percentage of a full-time assignment.” Instead, the College uses a higher College-wide “normal maximum contact hours” as the denominator.

[23] This practice benefits full-time faculty over part-time faculty and denies some part-time faculty a prorated workload. Using the same approach to allocate workload percentage to full-time faculty for overload work does not create the intended equality of treatment. I find some part-time faculty workload percentages have not been calculated as agreed in Article 7.

[24] Monthly receipt by the Faculty Association of copies of Nursing term contracts among the approximately 200 College-wide contracts it receives did not give the Faculty Association explicit or constructive knowledge of the Nursing department’s unpublished full-time workload allocation calculations in the notes passed from Chair to Chair. The Faculty Association did not and is not expected to scrutinize contracts from each

department in search of collective agreement breaches. Like most unions with limited staff and resources, it acts in response to member inquiry and complaint.

[25] From the administrative process of receiving and filing term contracts for any necessary future reference, the Faculty Association made no unequivocal representation expressly to, or reasonably inferred by, the College that the varying denominators used for some part-time workload percentage calculations were acceptable in place of the requirements of Article 7. There is no evidence when this alleged representation was to have occurred or when the College expressly or by implication relied on such a representation. The Faculty Association is not estopped from strict enforcement of the terms of the collective agreement on the calculation of the percentage workload of part-time faculty.

[26] The grievance is allowed for faculty part-time percentage workload calculations made during the term of the current collective agreement in contravention of Article 7.

[27] The College is ordered to comply with the strict language of Article 7 beginning in the 2025 Winter term. For now, it is left to the Faculty Association and College to determine an approach which is compliant with Article 7 to determine the denominator by averaging or otherwise.

[28] The College is ordered to make-whole all affected part-time faculty from the 2022 Winter to the 2024 Fall terms by paying them lost wages and benefits, including any moves up the salary scale, any regularization as a result of salary and FTE adjustments and pension contributions. There is no order for interest on any of these payments.

[29] As agreed, I retain and reserve jurisdiction to resolve any matter arising from the implementation of this decision.

JULY 16, 2024, NORTH VANCOUVER, BRITISH COLUMBIA.

*James E. Dorsey*

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