

Ombuds Office Annual Report, May 1 2005 – April 30, 2006

We have a new slogan for our office B *Our Focus is Fairness*. We're hoping that in highlighting this principle B *fairness* B it will help us in our efforts to convey to new members of the community the role of the University Ombuds. As our slogan suggests, our primary mandate is to promote and uphold the principles of fairness in university and student governance. Our impartiality and independence are ensured through the joint-funding structure of the office B we are supported equally by the University and the MSU, B as well as our Terms of Reference that position us outside the usual organizational hierarchies.

The Ombuds office fulfils its unique mandate in a number of ways, first and foremost, by offering advice and assistance to members of the University community. These individuals are, by and large, students who feel they may not have been treated fairly in some aspect of their university life; especially where the issue in question has not been adequately addressed through the usual channels. But they also include many decision-makers who are faced with resolving unusual or complicated situations. Some typical examples of the kinds of issues brought to our attention include, policy and process questions, student evaluation, supervisor-student relationships, and student, faculty, or staff behaviour.

As Ombuds, we view the complaints, concerns, or questions brought to our attention primarily through the lens of administrative fairness, a concept that has itself many facets. One core tenant of administrative fairness that we seek to uphold is that of *natural justice*. *Natural justice* requires that before a decision is made that affects an individual, he or she must be afforded an opportunity to be heard on the matter; and, equally importantly, the decision-maker must not have pre-judged the case.

Other fairness issues of particular interest to us include such things as: are policies and procedures correctly followed; are policies written in such a way as to minimize confusion over interpretation; when decisions are made, are adequate reasons given for those decisions; are similarly-situated individuals being treated in the same way; and, if informal processes are used to resolve issues, are adequate protections in place to ensure a fair outcome.

In addition to assisting individuals on a case-by-case basis, the Ombuds office, through annual reports and other less formal avenues, provides upward feedback to the University and MSU, highlighting what appear to be emerging areas of concern, and, where needed, making recommendations for systemic changes.

A/ Statistics

Each year we track the cases that come into the Office which provides us with an overview of the types of concerns raised by the various constituents at McMaster. Relative to the campus population, our numbers are small; but they can provide a figurative snapshot of the various issues that students, staff and faculty face on a daily basis. As a result, we are frequently in a position to identify a new area of concern; however, we are rarely alone in our observations. In the course of our discussions with other University offices, we usually find that there are others talking about the same issues, be they a worrisome trend, the need for a specific policy review, or a communication problem. Our hope is that our report may help to capture some of these discussions, and, thereby, jumpstart whatever further steps are needed to address these issues.

This year we saw 386 individuals regarding campus issues and an additional 85 whom we helped connect with off-campus legal or community resources (Table 1). The total numbers are up slightly (about 5%) from the same period last year. The number of students was down slightly, although the number of graduate students rose from 29 to 43, about evenly split between Masters and Ph.D. students. The decrease in undergraduate student numbers was off-set by a corresponding increase in staff numbers (Table 2).

Student academic issues accounted for exactly half of the cases brought to the Office (Table 3). This ratio is in line with a continuing trend in which the number of non-academic cases (Table 4) has been decreasing in relation to the number of academic cases. We attribute this decline in non-academic cases, in part, to the University's increasing expertise in handling non-academic discipline cases. Within the academic category, the most common concerns included: academic integrity (38), grade appeal/practice

(34), withdrawal/reinstatement (23), petitions (17) and examinations (17). The only notable change under non-academic cases was the increase in cases involving associations and clubs, up from 5 to 13. The MSU has recently converted the position of Clubs Administrator to full-time in recognition of the growing scope and complexity of this role.

Staff cases break down into two main groups: staff consulting us about a policy or student issue (about 2/3rds); and staff who have questions and concerns about their terms of employment (e.g. compensation, benefits, probation), and/or the work environment (e.g. bullying, interpersonal problems, confidentiality) (Table 5). Faculty cases made up approximately 9% of the total caseload, and, while there has been an increase in recent years in the number of interpersonal problems brought to the Office, the bulk of the inquiries continued to involve policy and student issues (Table 6).

The Ombuds Office continues to play an important role in directing visitors to the Office to the appropriate resources. This year we categorized the type of action we took in 40 cases as being primarily **referral** in nature (Table 7). This means that after listening to someone's story, we referred him or her to an office or service on campus with more specific expertise. Some visitors are reluctant to make this link, in which case we offer to set up an appointment, and, occasionally, we will accompany a visitor to a meeting. The number of cases listed under the **referral** category does not include cases where the issues fall predominately within our mandate but the student is still referred to another department or service for further academic or personal assistance.

In the great majority of cases (62%) our involvement was advisory in nature. The **advice** category includes things like; listening impartially, helping to generate options, giving feedback, explaining policies, and articulating what *fairness* might look like in a particular fact situation. We may meet with the visitor just once or many times over a longer period. In cases where we consider it appropriate, we encourage visitors to go back to the other party(ies) involved in the dispute and attempt to resolve the issue on their own. With some information and coaching from us, many visitors find this option a beneficial educational experience.

Under the broad heading of **intervention** we have listed four different approaches: **clarification** (contacting someone to informally discuss a problem and act as a communication go-between), **negotiation** (actively trying to resolve an issue after hearing from both sides and determining that some action needs to be taken), **mediation** (face-to face discussions between the parties with a view to resolving the issue) and **investigation and recommendation** (a more formal investigation resulting in written recommendations). This range of approaches represents a continuum of varying degrees of intervention, with clarification being the least interventionist and investigation and recommendation being the most. Of the 22% of the cases in which we intervened, the majority (60%) fell into the clarification or least-interventionist category.

Each year, we highlight one or two of the categories of cases, in an effort to provide more detailed information about the scope of problems brought to the Office. This year, we looked at the issues of **former students** who contacted the office, and the type of **examination** issues raised by all visitors. There were 17 former students who approached the Office about a range of issues. Of these, some wanted very concrete advice, such as how to get a notation for academic dishonesty removed from his/her transcript, or what information the University would release if contacted by a potential employer. Others wanted to discuss past issues that continue to bother them, or express their concerns about current events on campus that are being reported in the local newspaper. Some former students wanted to know whether they could have their transcript amended because when they left the University (often many years earlier), they had done so for medical or personal reasons and had failed to seek special consideration at the time. Two former students called to discuss discrimination and harassment concerns, one regarding events that took place several years ago, and one that involved concerns about on-going behaviour that first began when the visitor was a student. There has been an Ombuds office at McMaster since the 1970s, and it is encouraging that former students continue to perceive this Office as a safe place to raise sensitive concerns.

Given the number of examinations that are written each year, it is not surprising that we continue to see students with examination complaints. This year, the complaints were as follows: the format of the deferred exam

was different than the final (3), the exam paper was lost (2), the student was denied access to the final exam for review (5), the student arrived at the exam late (1); the exam was very poorly organized and information was missing (1); the student failed to receive information about a make-up midterm exam (1); a test was scheduled during the exam ban (1); the student was worried about writing multiple deferred exams (1); a laptop was stolen during an exam (1); a student registered with CSD had difficulty scheduling an exam (1).

Our experience over the years has been that many examination problems resolve themselves: lost exams are often found, instructors recognize poorly prepared exams and make allowances, reviews of exams are scheduled when the relevant policy is presented, and it is recognized that cars occasionally breakdown on route to an exam. This is not to minimize the angst that students feel in the moment, particularly when they are stranded on the shoulder of Hwy 403 -- everyone is tired and emotions are running high. In these cases, the Ombuds Office can provide a place to vent, a contact name, and, sometimes, a solution.

B/ Policy Work

As Ombuds, we are always pleased when we are invited to join policy discussion groups. We believe that we are uniquely positioned to contribute to these discussions because the nature of our role requires that we routinely contemplate, explain, analyze and justify policy. We enjoy discussing policy issues with others in the university community who are similarly using their knowledge of the institution in an effort to improve McMaster's policies and procedures. Unlike others in the policy group perhaps, we serve as advisors and limit our participation primarily to raising issues we have seen in our casework. Our goal in attending these sessions is not to create policy, but to highlight principles of *fairness* and ensure that these principles are embedded in our policies and procedures.

Each year, we report on updates to University policies and on-going policy work that comes to our attention. A new Student Event Risk Management policy was developed, and changes were made to the policy on the Recognition of Student Groups. As with any new policy, the Student Event Policy may need to be modified as issues arise, but generally, it provides a

good framework to ensure that events on campus are run safely. Much anticipated sanctioning guidelines were developed for the Academic Integrity Policy, and a sub-committee of the Associate Deans group is reviewing the Senate Resolutions on Course Outlines. When this work is completed, the group is planning to consider the various exam policies with a view to amalgamating them into one document. This work has been on the backburner for some time, so it is great to see it started. We would like to recognize the work done by the GSA to improve the GSA Election Policy.

Two MSU policies, the Clubs Operating Policy and the Teaching Awards Policy, are in need of review.

Issue: Review of MSU policies

Recommendations:

(1) that the MSU review their Clubs Policy with a view to:

(i) incorporating into the policy the changes from the Student Event Risk Management policy and the amendments to the University policy on the Recognition of Student Groups, and

(ii) adding a dispute resolution mechanism.

(2) that the MSU review their Teaching Award Policy in accordance with the written recommendation made by the Ombuds Office earlier this year.

Also in need of review is the Student Appeal Procedures. The School of Graduate Studies has raised some new concerns about the Policy this year including: the role of the Associate Deans in the process, the number of investigative steps in the procedures, and the ability of students to petition after being required to withdraw from a program. To assist in the review, we have collected the issues highlighted by the Ombuds Office in previous reports and included them in the following recommendation.

Issue: Review of the Student Appeal Procedures

Recommendation: that the Student Appeal Procedures be reviewed and that the committee consider, as part of its review, the following items:

1. *whether a settlement mechanism should be incorporated into the Student Appeal Procedures*
2. *whether student names should be included in the appeal decisions reported to Senate*
3. *whether petition appeals would be better processed under the University equity policies*
4. *whether the guidelines for missed work should be included in the procedures*
5. *whether the current procedures are suited to appeals on the basis of sanction exclusively*

The Ombuds Office spent some time this year discussing policies pertaining to student fees with various groups and individuals. Problems continue to occur in cases where: (1) students transfer between part-time and full-time status (2) students whose disabilities prevent them from taking a full course load, wish to access full-time student benefits. Another issue that arises periodically is the fee structure for students involved in co-op or internship programs. It is hoped that university-wide discussions will continue on these complicated issues.

C/ Emerging Behavioural Issues

The conduct of members of the university has always been one of the themes we regularly see in our cases. The university has a number of policies dealing with unacceptable behaviour (approximately 16) that may or may not apply depending on one's status at the university - (student, staff, faculty member) B the type of conduct engaged in, (disruptiveness, harassment, academic dishonesty), and where it occurs (classroom, residence, lab or cyberspace). There have been efforts made in recent years to revise some of these policies in an effort to make them more seamless; for example the sanctions and procedures in the Residence Code of Conduct are now similar to those in the Student Code of Conduct. We commend these efforts and point out that further work needs to be done, particularly in reviewing the behavioural policies that describe acceptable conduct, but lack procedures and sanctions.

One of the trends we have noted over the past year has been an increase not so much in numbers of cases involving behavioural concerns, but

rather in the complexity of the issues these cases raise. More and more, we are hearing complaints about troubling conduct that does not fall neatly into any of the University policies.

a) Off-Campus Behaviour

Traditionally, unless connected to a university-approved event, sanctioning students for their inappropriate behaviour off-campus has not been viewed as the University's responsibility, or, indeed, prerogative. Because of McMaster's location in a largely residential area however, there has always been local pressure on the University to extend the reach of its policies to the surrounding neighbourhood. Added to this local pressure, has been the occurrence in recent years of high-profile cases at other universities where the off-campus behaviour of some students, has, in the minds of some, damaged the reputation of their universities.

Although the Student Code of Conduct has limited jurisdiction as discussed, the University has, nonetheless, taken positive steps to address to some extent the concerns of local community members about the behaviour of McMaster students while off-campus. This past year, the Student Affairs Office has created a new initiative, the Community Accountability Program or CAP. Under this program, McMaster students who admit to having committed minor violations of the *Criminal Code* are given the option of participating in a restorative justice program as an alternative to facing criminal charges. Unlike the criminal justice system which is largely punitive, this program requires offending students to take responsibility for their actions by proffering forms of redress that are acceptable to the victims. Although this program exists outside the University judicial process, the principles of the program are the same, namely, educating our students to become caring and responsible citizens, and, thereby, reducing recidivism.

Because it is limited to criminal code violations committed in Hamilton and does not have any University sanctions associated with it, the CAP program, while an important initiative, does not eliminate all of the concerns around students' off-campus behaviour. The issue of using University policies to address students' behaviour while off-campus, however, remains a thorny one: how much would the university, with its finite

resources, want to get involved in the difficult task of investigating these kinds of complaints, would it be able to do so in a way that is equitable to all students, and would it want to restrict its off-campus jurisdiction to the surrounding locale or in some other way, so as not to risk opening the floodgates. There is, no doubt, validity to these concerns and, perhaps, to others we may not have considered.

Moreover, as we now live in an electronic age, we must be mindful of the fact that much harassment and other anti-social behaviour occurs on-line and, unless it originates from the University network, it is doubtful whether it would be caught by any of the existing policies. It should also be noted that there have been a small number of situations where the University has used its overarching authority to, “regulate student conduct”, to sanction students for conduct that, for whatever reason, falls outside our current policy regime, where the behaviour at issue was serious and the nexus to the University was clear. As with many of the issues raised in this report, officials within the university community are discussing whether and how to address serious conduct that currently falls outside our policies. We encourage these discussions, and, as decisions are made in regard to this issue, it is hoped that they will become codified as much as possible.

b) Professional Behaviour

Another similarly problematic behavioural issue we have dealt with lately is that of unprofessional behaviour. With the exception of academic integrity violations, universities have historically viewed student conduct issues as distinct from academic performance ones. So, for example, a student who misbehaves in class cannot, as a result, be subject to a direct academic sanction for that behaviour, such as failing that course. Rather, he or she would be subject to a non-academic sanction, such as a reprimand, fine or loss of University privileges. Some professional programs, however, evaluate students not only the basis of their academic performance, but also on some aspects of their conduct. For example, a student in the School of Nursing who breaches a patient’s confidentiality in a clinical course could receive a direct academic sanction, such as a poor mark in the course, as a result.

A situation occasionally arises in one of these professional programs where the behaviour at issue has occurred outside the context of a course, tutorial, or clinical setting, for example, in the community or during an admissions process. It is this behaviour that conduct codes in professional schools are typically designed to address. For example, the undergraduate MD program has a Student Code of Conduct that views, as serious breaches of ethical and behavioural standards outside the supervised tutorial or the supervised clinical setting as serious academic matters.@

In conducting an informal survey of professional codes across campus, we found that there are relatively few at the moment. In addition to the undergraduate MD program, the School of Social Work has drafted a Professional Suitability Policy for graduate and undergraduate social work students that has yet to be approved, and the MBA program has a MBA Students Code of Conduct and Ethics developed by students; however, it has no process nor sanctions. There are on-going discussions in some of the other the professional schools, in particular those in Health Sciences, about the possibility of developing professional behaviour codes.

There has also been some discussion of whether these codes should extend beyond professional schools, for example, to Graduate Studies. Moreover, there has also been musings about whether the unprofessional behaviour of undergraduate students during a fieldwork component of a course should affect their evaluation. In some cases, we may be conflating unprofessional conduct with disrespectful or otherwise unacceptable behaviour that, arguably, should be addressed through the *Student Code of Conduct*, as has traditionally been the case.

c) Unsafe Behaviour in the Lab

We have noticed an increase in the number of behavioural issues involving safety concerns, however, it is not clear to us how these matters should be addressed.

Issue: Unsafe behaviour in the labs

Recommendation: that the University consider how best to process complaints involving student behaviour in the labs where safety is an issue.

d) Consulting Experts

While situations involving concerns about a student's behaviour are often very difficult to address, one thing we can suggest is that instructors or supervisors who are concerned about the behaviour of a student should consult as early as possible with people who are experts in behaviour such as CSD, HRES, and Health Services. One example of what was, in our opinion, a well-handled case, involved an instructor who consulted several offices (without using names) regarding the alleged bullying behaviour of a graduate teaching assistant. By the time he met with the teaching assistant, the instructor had a good understanding of what constitutes bullying, how to investigate the allegations, and several strategies to address the situation if he were to conclude that bullying had occurred.

D/ Communication

As Ombuds we spend a fair amount of our time on communication issues. We find ourselves counselling visitors on how to communicate in a way that permits the other party to hear what is being said without becoming defensive. We talk about *Active listening skills* and the dangers of dashing off e-mails in the middle of the night. Language and cultural differences, power imbalances and exhaustion further complicate our visitors' efforts to communicate clearly with other individuals on campus.

Increasingly, the University is communicating administrative information to students in writing, often electronically. This is an incredible time-saver and generally the University seems to be striking a good balance between personal and electronic interactions with students and staff. We are always looking for ways to help make the University's written material clearer. The goal is to avoid unwelcome surprises as much as possible. The following are a few examples of our efforts in this area.

1. A number of students complained that they were surprised when they wrote a deferred exam that contained essay questions. The final exam for the rest of the class was multiple choice, as discussed in class.

From an academic perspective, it is generally accepted that an instructor is entitled to set exams as he/she sees fit and that a student should be prepared to write an exam, regardless of the format. Following a request from the Ombuds Office, it was agreed that when students are notified of the date and time of their deferred exam, they will also be told that the format of the deferred examination may be different.

2. A staff member received a tuition bursary for his/her spouse. The spouse was not able to complete the course and withdrew. The staff member was surprised when the University withdrew the bursary and requested payment in full for the course.

The relevant policy states that the, “bursary benefit will not be credited for charges for courses that are cancelled by the student@. The Ombuds Office requested that this warning be added to the Bursary application form and also be added under the heading **Frequently Asked Questions** on the website.

3. A student who commutes to the University had his laptop stolen while writing a final examination. The laptop was put at the front of the room, as requested by the invigilator.

An Ombuds met with the Assistant Registrar, Exams and Scheduling, to discuss this issue. We reviewed the warnings given to students confirming that all personal items brought into the examination room are at the student’s own risk. These warnings appear on the exam timetable, on the outside of the examination doors, and inside the examination rooms. An announcement is made at the beginning of each exam telling students that they are permitted to put small personal belongings (e.g. purses) under their desks. It is anticipated that most students will elect to leave valuables at home, in their car, or in a friend’s residence room. Unfortunately, the University does not have the resources to protect students’ belongings while they write exams. The Ombuds concluded that the student was adequately warned and that, from an academic integrity standpoint, it is reasonable that the University limit the number of items brought into exam rooms. The Ombuds, while sympathizing with the student’s loss, could only suggest that the student consider renting a locker if this was going to present on-going problems.

4. A student applying for refugee status in Canada was surprised to learn that she was responsible for paying international student fees until her application for refugee status was granted.

As a direct result of this case, warnings were added to both the International Student Advisor website and the fees section of Financial Services website.

5. A Graduate student who received an external award during the summer was surprised when he received his first pay cheque in the fall. His level of internal university funding had been decreased by the amount of the external award. The student's acceptance letter specified that any external funding could decrease the amount of money available from the University, but the student acknowledged that he had not looked at his acceptance letter for some time.

The Ombuds Office has brought this matter to the attention of the Graduate Studies Office. While this matter may be handled quite differently from department to department, it was recommended that whatever practice is used, it should be communicated to students on a more regular basis.

6. Following the completion of the course, one of the students in the class was notified that there was a potential problem with the assignment that he had handed in the previous term. During the course, the instructor had responded to the student's e-mail questions concerning the assignment through WebCT. The student felt strongly that the matter could be resolved if he were given access to that e-mail exchange but, unfortunately, the course no longer appeared on WebCT.

The Learning Technology and Resource Centre agreed that students should have access to inactive WebCT courses during the period in which they may choose to appeal their grade.

Last year, we wrote about the changes expected as a result of the inclusion of universities under the provincial *Freedom of Information and Protection of Privacy Act*. University officials have been working very hard this year to implement the required changes, many of which involve communication

issues. If you have any questions about how this legislation is impacting the University's practices and procedures, for example, in areas such as record retention or release of student grades, please consult the University Secretariat website at: <http://www.mcmaster.ca/univsec/fippa.cfm>

University policy is not static and, given how frequently some policies are amended, it is perhaps not surprising that we have come across outdated policy excerpts in several current program handbooks and other documents.

Issue: Providing up-to-date policy information

Recommendation: that when departments want to refer to a specific policy in their written material, they should avoid including excerpts from the policy and, instead, provide a link to the up-to-date policy as it appears on the University Secretariat webpage

This year, we attended several TMG Core Competency training sessions, including the one on Communication. I was impressed, although not surprised, by the communication skills demonstrated by the managers in attendance. It would be great if this program could be extended to other groups on campus who might benefit from this training.

E/ Academic Issues

(a) Authorship issues

Depending on the discipline, it is not unusual for students and professors to work together on projects or co-author papers as part of the students' course of study. While these arrangements benefit students greatly, difficulties occasionally arise. We have seen a few cases this year in which graduate students have felt that their research has not been adequately protected. The Ownership of Student Work Policy provides the basic framework in which these issues are to be viewed; however, it lacks a process to resolve disputes once they arise.

Issue: Ownership of Student Work information and policy review

Recommendations:

- (i) *that Graduate Studies provide more information (including on-line) to Graduate Students on this issue.*
- (ii) *that the University consider developing a dispute resolution mechanism to resolve ownership of student work issues that initially provides students with an opportunity to discuss their ownership concerns confidentially with a trusted and knowledgeable individual, and includes non-adversarial resolution methods such as mediation, as well as a decision-making process.*

(b) Academic Integrity

Some changes were made to the Academic Integrity Policy this year. General penalty guidelines were added including several sections directed specifically at graduate student work. It is now clear that draft theses are subject to the policy, and a new sanction, a letter in the student's file, has been added. It will probably take some appeals to the Senate Board level to help delineate factors that are relevant in considering whether or not to impose a penalty greater than those suggested in the Guidelines. Students who have visited our Office appreciate the University's efforts to provide some consistency in penalties. Moreover, cataloguing the range of possible sanctions further underlines for students the importance the University places on academic integrity. The section in the Guidelines entitled, **Consequences**, helps students understand that a finding of academic dishonesty may trigger other academic consequences such as academic probation, or a request to withdraw from a program.

The Senate Committee on Academic Integrity also considered the role of *intent* in academic integrity cases. This resulted in a new definition of academic dishonesty that includes those cases where a, "student ought reasonably to have known that they were "acting, or failing to act, in a way that results or could result in unearned academic credit or advantage." Again, it is anticipated that this definition will result in greater consistency in the decision-making process.

The increased vigilance with which the University pursues allegations of academic integrity violations was reflected in our casework this past year. For example, we saw an increase in the number of cases involving cheating on applications, including problems involving the required English proficiency test (TOEFL) for students whose first language is not English. This is obviously a disturbing trend. At the same time, we had fewer cases involving inappropriate collaboration on group projects, a reflection, perhaps, of the fact that instructors are spending more time clarifying their expectations with students, and students, as a result, are approaching group work more carefully.

Of the academic integrity cases involving group work that came to our attention, two involved allegations that students working on a group presentation had unfairly used the research work done by one student in the group. These are very difficult cases. Students often pool their research efforts and then divide up the topics to be presented to the class. They are then evaluated individually and as a group. Occasionally, a student feels that his or her presentation mark does not reflect their overall contribution to the assignment. Students should be able to approach instructors with these types of concerns, and instructors should look into the matter and satisfy themselves that the student has been fairly evaluated.

Another academic integrity case of note involved a student who was writing a makeup test. Prior to the test the instructor asked the handful of students writing the makeup whether any of them had spoken to other students in the class about the original test. One student raised her hand and she had spoken to some of her classmates. She had assumed, based on her prior experience, that the rewrite would be different than the original test. Unfortunately, this was not the case, and the student was not allowed to write the makeup, although the instructor offered to re-weight the student's final exam. The student was disappointed with this option; she had prepared for the test and did not want to have her final examination so heavily weighted. To us, this case demonstrates that both students and instructors have a responsibility to promote academic integrity. Even though it is extra work for instructors, make-ups and deferred exams need to be different than the tests and exams written in the usual time period.

The Senate Board for Student Appeals made a recommendation at the end of one of the cases they heard this year, suggesting that Tutorial Assistants should have some training on how to invigilate examinations. It is my understanding that many instructors do provide such training, however, the content and extent of the training may not necessarily be consistent and, it may not be available in all cases. The Academic Integrity website contains some pointers on how to invigilate see www.mcmaster.ca/academicintegrity. It would be helpful for TAs to have some direction on when a student should be warned or moved to another seat. The issue of TA training could be considered in conjunction with the work that remains to be done in developing procedures for conducting mid-term examinations.

F/ Staff/ Faculty Issues

Staff members bring a range of issues to the Ombuds Office. Typically, members of the management group (TMG) bring questions about policies and how to deal with student issues. Questions from unionized staff are more likely to be about conflicts with a manager or a difficult work environment. Sometimes a union steward will bring a staff member to see us when their collective agreement does not seem to be the appropriate method for resolving a dispute. Employees are offered a “safe place” to tell their story and to explore options for improving their work life.

In terms of our cases this year, we saw a few employees who were having trouble returning to work after a period of absence due to illness. Sometimes, these employees are trying to return to a work environment that was, from their perspective, already challenging. While McMaster has, over the years, increased the resources available to assist these individuals, it can, nevertheless, be a difficult transition when individuals sense that they have minimal support within their department. Personal safety issues seem to be cropping up more often. Staff and faculty are increasingly vocalizing their concerns about inappropriate behaviour displayed by other members of the McMaster community.

a) Mandatory Retirement

On December 12, 2006 mandatory retirement will be abolished in Ontario. The new legislation applies to all workers, both staff and faculty, within the University, although certain positions may be excluded if age is a bona fide occupational requirement (e.g. the usual example in the larger community is firefighters) and the individual in the position cannot be accommodated. Prior to the enactment of the legislation last year, there was considerable discussion about the pros and cons of this practice within Ontario universities.

Issue: Abolishment of mandatory retirement

Recommendation: (a) that the University review their employment policies and practices and general workplace conditions to determine if any changes are needed to address issues that may arise as a result of the elimination of mandatory retirement for staff and faculty (b) that University staff and faculty be provided with clear information on how this change may impact the terms of their employment.

b) Vulnerable Groups

The Ombuds Office is always interested in reaching out to groups within the University who may feel that they have “fallen in the cracks” or that they are not included in University affairs to the same extent as other groups. A couple of years ago, it came to our attention that the Post Doctoral Fellows (PDFs) appeared to fall into this category, and the University responded by drafting a policy outlining their role within the University community. While, we are not suggesting that we need a policy to cover every group in the University that does not belong to a union or TMG, we do feel it is important that every group has sufficient information about their employment situation. Obviously, some of this information may be included in their Offer of Employment but it is our experience that some employees are still quite uncertain about how they fit in. For example, we have come across the titles of Research Associates and Research Fellows. We do not have a specific policy to cover these employees (unlike some Universities) and while they seem to resemble PDFs, they are not specifically included in that policy. Other examples of groups that might be reviewed include: Roll 3 employees, senior demonstrators, and instructional assistants.

Issue: Sufficient information for all employee groups on campus

Recommendation: that the University review the types of employee groups on campus to ensure that those groups that fall outside the recognized management and union structures, have sufficient information on such matters as: their terms of employment including all benefits and services they are entitled to, which policies and procedures apply to them, who they can contact if they have a complaint or concern (including an issue with a supervisor), and ways in which they can become more involved at McMaster.

c) Healthy Workplace Group

Finally, We would like to acknowledge the work of the people involved in the Healthy Workplace Group. This group is doing a tremendous job scheduling interesting talks and events, and helping McMaster employees to focus on improving their general health and wellbeing B thanks.

G/ Reflections on the Range of Ombuds (and Ombudsman) Practices

Andre Marin, the Provincial Ombudsman, has re-branded the provincial office as **Ontario's watchdog**. The slogan signals a change in direction for the Office as it moves to increase its visibility and establish itself as a powerful force for change within the province. The Ontario Ombudsman oversees **some 500 government ministries, agencies, tribunals and corporations**¹ Mr. Marin is outspoken in his desire to expand the Office's jurisdiction to include a host of private bodies that rely heavily on provincial funding including hospitals, municipalities, long-term care facilities and **universities**. Needless to say, University Ombuds in Ontario are watching these developments with interest.

University Ombuds have been in existence since the 1960s and while their Offices are based on the classical governmental model, their practice has adapted to the university setting. It is for this reason that we doubt most University Ombuds would select a watchdog as their mascot. While they

¹ Andre Marin, **Getting Oversight Right** speech delivered at the Canadian Property Tax Association, 40th Annual Workshop, Montreal, Quebec, on September 26, 2006.

are equally committed to justice and fairness, University Ombuds oversee only one organization and, therefore, their approach needs to be different. Many University Ombuds do not just advise John Q. Public, student; they also hear complaints from staff and faculty, the people employed to deliver educational services. In our experience, University Ombuds while clearly recognizing their roles as change agents and investigators are just as likely to describe themselves as facilitators, problem-solvers, advisors, negotiators, process specialists and, on bad days, diplomats-in-training.

One question about our role that comes up quite routinely is: are you advocates? The answer is no, not initially. We listen impartially to anyone who comes to visit us; but, if we intervene in a matter, and after we have heard both sides, we may become advocates **B** not for the individual complainant, as such, but for a complaint-resolution that has merit. Equally, while we talk about >neutrality=, we do have a predisposition to support certain principles that ensure fair processes, fair decision-making, and fair outcomes for all members of the University community. We work hard to uphold these principles, but if people ever feel that we have strayed off the fine line we endeavour to walk, we appreciate and are open to their feedback.

H/ Services Issues

We see a number of visitors every year who have concerns about the service they have received from the University or MSU. We often refer people back to the head of the unit they are complaining about, and suggest they come back if they are not satisfied. In most cases, the visitors do not return, indicating to us that the issue has been resolved appropriately.

a) CSD

We have heard from a number of students this year who have had difficulty booking counselling appointments with the Centre for Student Development. CSD is aware of this issue and has taken steps to address it, such as increasing the number of crisis and drop-in appointments available. Drop-in sessions are designed to ensure that no student who

may be at risk has to wait longer than one day to see a counsellor. After attending a drop-in appointment, the average wait time for a regular counselling appointment is approximately 19 days. Given the vulnerability of the population seeking these services, the University should continue to monitor and evaluate these wait times.

b) Legal Aid

For several years now, the Ombuds Office has arranged for a Legal Aid sponsored lawyer to be available weekly on-campus, free of charge. Unfortunately, Legal Aid has withdrawn this service because of insufficient demand. Although Legal Aid clinics are available in other venues in the area, students are often disappointed that this service is no longer available on campus. We have brought this change to the MSU executive's attention, and they are considering whether there is anyway in which they could assist students in obtaining legal services.

Activities of the Ombuds Office

We continue to promote awareness of the Office by our participation in a number of fairs and orientation sessions. This year we have a group of volunteer ambassadors who have assisted us in our efforts. They have distributed posters and bookmarks around campus and will be organizing presentations to residences, faculty societies and clubs in the new year. We continue to serve as advisors on a number of committees and have met individually with key offices on campus to touch base on recent trends. We have attended off-campus seminars and workshops, and remain active in our national organization - Association of Canadian College and University Ombudspersons (ACCUO). At our most recent ACCUO conference, we jointly presented a talk on the "Art of Intervention". In addition, Shelley is involved in the ACCUO Mentorship Program for New Ombuds.

In Appreciation

We would not be able to help the visitors to our office without the co-operation and goodwill of countless individuals across campus. Thank you to all those who have listened patiently to our concerns. And to our visitors - many of you who come knowing that time has effectively rendered your complaint moot, but you come anyway, determined to help the ones who follow - thank you for taking the time to drop by.

Recommendations

1. Issue: Review of MSU policies

Recommendations:

- (1) that the MSU review their Clubs Policy with a view to:
 - (i) incorporating into the policy the changes from the Student Event Risk Management policy and the amendments to the University policy on the Recognition of Student Groups, and
 - (ii) adding a dispute resolution mechanism.
- (2) that the MSU review their Teaching Award Policy in accordance with the written recommendation made by the Ombuds Office earlier this year

2. Issue: Review of the Student Appeal Procedures

Recommendation: that the Student Appeal Procedures be reviewed and that the committee consider, as part of its review, the following items:

- (i) whether a settlement mechanism should be incorporated into the Student Appeal Procedures
- (ii) whether student names should be included in the appeal decisions reported to Senate
- (iii) whether petition appeals would be better processed under the University equity policies
- (iv) whether the guidelines for missed work should be included in the procedures
- (v) whether the current procedures are suited to appeals on the basis of sanction exclusively

3. Issue: Unsafe behaviour in the labs

Recommendation: that the University consider how best to process complaints involving student behaviour in the labs where safety is an issue.

4. Issue: Providing up-to-date policy information

Recommendation: that when departments want to refer to a specific policy in their written material, they should avoid including excerpts from the policy and, instead, provide a link to the up-to-date policy as it appears on the University Secretariat webpage

5. Issue: Ownership of Student Work information and policy review
Recommendations:
 - (1) that Graduate Studies provide more information (including on-line) to Graduate Students on this issue.
 - (2) that the University consider developing a dispute resolution mechanism to resolve ownership of student work issues that initially provides students with an opportunity to discuss their ownership concerns confidentially with a trusted and knowledgeable individuals, and includes non-adversarial resolution methods such as mediation, as well as a decision-making process

6. Issue: Abolishment of mandatory retirement
Recommendation:
 - (1) that the University review their employment policies and practices and general workplace conditions to determine if any changes are needed to address issues that may arise as a result of the elimination of mandatory retirement for staff and faculty
 - (2) that University staff and faculty be provided with clear information on how this change may impact the terms of their employment

7. Issue: Sufficient information for all employee groups on campus
Recommendation: that the University review the types of employee groups on campus to ensure that those groups that fall outside the recognized management and union structures, have sufficient information on such matters as: their terms of employment including all benefits and services they are entitled to, which policies and procedures apply to them, who they can contact if they have a complaint or concern (including an issue with a supervisor), and ways in which they can become more involved at McMaster

STATISTICS FOR OMBUDS OFFICE
May 1, 2005 – April 30, 2006

Table 1 – Number of Cases

	May	June	July	Aug	Sept	Oct	Nov	Dec	Jan	Feb	Mar	Apr	Total
Cases	49	23	13	15	38	31	34	30	34	35	43	41	386
Inquires*	5	8	0	3	11	6	3	9	15	10	8	7	85

*Inquiries involve matters outside the jurisdiction of the Ombuds Office e.g. landlord and tenant, employment, family, civil cases. These matters are often referred to an outside resource.

Table 2 – Status of Individuals Who Initiate Cases

Full –time undergraduate	201
Part-time undergraduate	9
Graduate	43
Continuing Education	3
Staff – McMaster University	
▪ Roll 3	5
▪ Student	8
▪ TMG	37
▪ Union	20
McMaster Students Union	
▪ Full-time	5
▪ Student	1
Faculty	34
Other –	
▪ University Applicants	3
▪ Former Students	17
▪ Former Employees	
TOTAL	386

Note: These statistics are collected by the manual inputting of data and while every effort is made to ensure accuracy, there may be minor discrepancies.

Table 3 – Student Cases (Academic)

Student Cases– Academic	Primary	Secondary
Academic Misconduct	38	3
Accommodation	3	7
Admission		
▪ Program	9	1
▪ University	3	1
Course Rules/Mgmt	14	3
Examinations	17	
Grad Thesis/Supervision	7	6
Grade Appeal/Practice	34	8
Interpersonal	6	14
Petition		
▪ Deferred Exam	4	
▪ Other	8	4
▪ Retro Withdrawal	5	
Program Requirements	6	2
Teaching Quality	4	2
Transcripts	7	1
Withdrawal/Reinstatement	23	3
Other	6	
TOTAL	194	55

Table 4 – Student Cases (Non-Academic)

Student Cases – Non Academic	Primary	Secondary
Association/Clubs	13	
Fees/Financial		
▪ Financial Aid	7	
▪ University/MSU	17	2
Interpersonal	4	7
Registration	2	
Residence – Discipline		
Residence – Other	7	
Services		
▪ MSU	5	1
▪ University	10	2
Student Code of Conduct	9	2
Other	8	2
TOTAL	82	16

Table 5 – Staff Cases

Staff – University and MSU	Primary	Secondary
Discipline	3	2
Disability/Accommodation	1	
Interpersonal	1	7
Issue Involving a Student	25	4
Other	4	
Process/Policy	21	5
Termination		
Terms of Employment	10	10
Working Conditions	11	3
TOTAL	76	21

Table 6 – Faculty Cases

Faculty	Primary	Secondary
Employment Issues	1	
Freedom of Information/Confidentiality	1	1
Hearing Process		
Interpersonal	6	1
Issue Involving Student	12	
Other	3	
Policy Interpretation	9	5
Practices in Other Programs	1	
Role and Authority of Offices		
Services	1	
TOTAL	34	7

Table 7 – Type of Action on Cases

Information	19
Referral	40
Advice	242
Intervention	
▪ clarification	51
▪ negotiation	24
▪ mediation	7
▪ investigation and recommendation	3
TOTAL	386

