

Ombuds Office Annual Report
August 1, 2003 – April 30, 2004

Introduction

I am always heartened when I attend Clubsfest and have an opportunity to meet upper year students who know about the Ombuds Office. Sometimes they have a story to tell about how a friend or roommate visited the Office or how they learned about the Office at a residence, Faculty Society or SRA meeting. Often they tell me that they are pleased that this resource is available – although, they hope they never have to use it! It is hard to summarize for first year students what the Ombuds Office does in a few sentences, particularly if they are not familiar with the term “ombuds”. Sometimes I wish I could just call the Office the “Complaints Office” and be done with it and sometimes, when people’s eyes glaze over, I resort to this shortcut.

But the Ombuds Office is much more than a Complaints Office. It is a confidential service available to students, staff and faculty - one that is equally supported by both the University and the McMaster Student Union (MSU). Many visitors to the Office do not come to “complain” but come seeking a neutral listener who, hopefully, will be able to give them some tools to assist them in resolving their own problems. These tools may include a referral, information on University policies and procedures, coaching advice or just a chance to organize their response to a situation in which they unexpectedly find themselves. An Ombuds, in contrast to a complaint handler, works for fair treatment, fair process and the fair resolution of disputes. Issues of justice concern an Ombuds. An Ombuds will only intervene with a visitor’s consent, but may then investigate and where appropriate, make case-specific recommendations. Once a year the Ombuds reports to the University and the MSU to review the work of the Office, highlight any trends and make recommendations for change. To understand the wide range of concerns that come to the Office, I would encourage newcomers and those unfamiliar with the Office to visit the Ombuds website at www.mcmaster.ca/ombuds and review the charts at the end of this report.

This has been a year of transitions in the Ombuds Office. Carolyn Brendon joined the Office in 2003 and was involved in some of the casework included in this report. When Carolyn left on her maternity leave in January 2004, Marge Huntley (also the Leadership Program Coordinator of the Mary Keyes Leadership Certificate) stepped into the role. She has also worked on many of the cases reported here, and her reflections are included in this report. It has been a pleasure job-sharing with both Carolyn and Marge. Each has brought a new perspective to the Office that has been incredibly useful – it is always great to have a second pair of eyes. Other changes to the Office include the development of a database and the hiring of a student, part-time, to assist in the marketing of the Office. Unlike previous reports, this report covers only a nine-month period. The change of the Office’s year-end from July 31st to April 30th was done to ensure the timely reporting of our statistics and recommendations.

A/ Statistics

The attached tables are designed to provide some basic information about the number and types of cases handled by the Ombuds Office from August 1, 2003 to April 30, 2004. In total, there were 319 cases during this nine-month period, an increase of 12% from the same nine-month period last year (Table 1). As always, there were in addition a handful of fairly complex cases carried over from the previous year. The number of inquiries remained fairly constant at sixty-one. Inquiries involve issues outside the Office's jurisdiction, such as real estate, family or immigration law matters. Inquirers are often referred to outside resources including the community legal clinics, the Ontario Ombudsman Office, and other government services. The Ombuds Office continues to arrange the attendance of a Duty Counsel on campus every Wednesday night during the school year from 7:30-9:00 in MUSC 302. This service is free-of-charge to students.

With the development of a database, the statistics contain a few additional categories this year. This is the first year we have tracked the number of cases that involved an interpersonal component (68 cases), as well as the number of cases where an illness (33) or disability (28) was a factor in the case. In the past, there was a heading under the category "student non-academic cases" for "student employment issues". This year the student staff cases have been included in the general staff statistics. This was done to recognize the true nature of these relationships and to emphasize the responsibility of the University and the MSU to promote good employment practices for all staff, including student staff.

Students comprised approximately 80% of the cases to the Office (Table 2). Many staff and faculty cases also involve questions about specific student issues. Graduate student (28 visitors), staff (47 visitors) and faculty (24 visitors) cases are up slightly. More "former students" are contacting the Office (9), perhaps reflecting a greater awareness of the Office by upper year students. A number of cases this year involved individuals who were seeking some closure to past experiences. The University and individual faculty and staff seem receptive to these types of initiatives if they are reasonable and honestly sought.

One continuing trend that I have observed is the steadily increasing number of student cases that involve academic issues (Table 3). Most of the growth in the Office's overall numbers in the last few years has been in this area. In contrast, student non-academic issues (Table 4) have remained steady or declined slightly. It is hard to pinpoint what is behind this trend and, as always, I am cognizant of the fact that the number of cases per year relevant to the size of the University (approximately 16,000 students) makes drawing too many conclusions statistically suspect. However, I would like to hazard a guess. Since I arrived at the University seven years ago, there has been an explosion of information available to students on the web. Many of the student non-academic cases involve registration and fee issues, as well as concerns about other services. Through the

web, the University has been able to give students more accessible and up-to-date information and advice. Now, students may not have to leave their rooms to find answers to questions that might previously have involved multiple trips to multiple offices. A considerable amount of time and effort goes into creating the web pages for the various University and MSU offices and services and as a frequent user of these web pages, I am consistently impressed by the quality of information and help available.

The breakdown of the types of academic and non-academic cases remained relatively constant. Under academic cases the most common types were: academic misconduct (19%), petitions (17%), grade appeals (15%), and examinations (10%). Later in the report I will comment on the increase of cases in the area of academic misconduct. Petitions are now broken down into three categories: deferred exams, retroactive withdrawal and others (e.g. missed work, request to remain in an Honours program). Under non-academic cases the most common types were: fees (27%), other (21% e.g. safety, cost of books etc.) and residences (14%). The bulk of residence cases no longer involve discipline matters, but are more likely to be administrative in nature.

Staff and faculty cases (Tables 5 and 6) once again focused on policy questions and inquiries about how to approach a problem or concern involving a particular student. If the student has independently approached the Office, I include any independent advice I give the staff or faculty member under the student inquiry and do not count this as an additional staff or faculty case. Included below is a sampling of the types of questions staff and faculty raise under the “policy” and “issues involving a student” categories.

Policy: Does a specific policy apply in a given situation? (e.g. Conflict of Interest, Privacy, Faculty Code of Conduct, Examination Ban). What am I required to do under this policy? What is the reasoning behind a policy or a specific section of a policy? Am I interpreting this policy correctly? Is there a gap in University policy in a specific area and, if so, how should I proceed? Can you review some policy material that is going to be included in a Handbook, Guidelines or a letter? (YES) Whom should I speak to if I am unhappy with the content of a University policy or want to raise a new policy issue?

Issues Involving a Student: How do I deal with a student whose behaviour I find difficult? Should I pursue a specific matter with a student? Given the policies involved and past precedents is my decision reasonable? Where should I direct a student with a particular type of problem?

It is always challenging to try to accurately reflect the involvement of the Ombuds Office in a case (Table 7). To this end, the “intervention” category has been broken down under four headings; each representing an increased level of involvement. The most common type of intervention is described as “clarification”. This is a fairly benign type of action where an Ombuds may call a department or faculty to request clarification concerning what is happening in a particular case, or to inquire about a delay or suggest that someone might consider meeting with a student or employee. The second heading is “negotiation”. This usually involves a case where the Ombuds Office has more

thoroughly reviewed the matter and is then attempting to actively resolve the case. In these situations, the Ombuds Office may make some informal recommendations based on her view of the merits of the case. The third heading is “facilitation and mediation”. This involves the Ombuds facilitating or mediating between the parties in a face-to-face setting. The final heading “investigation and recommendation” refers to those few instances when an Ombuds conducts a formal investigation followed by formal recommendations. During the period covered by this report, the Ombuds Office intervened in 30% of the cases. The bulk of these interventions fell under the first two headings; “clarification” (59%) and “negotiation” (32%). In nine (9%) of the intervention cases an Ombuds acted as a facilitator or mediator and there were no formal investigations or case-specific formal recommendations made this year. Of course, the greatest number of cases (roughly 2/3rds) do not involve any form of intervention. The percentage breakdown of these cases compared to the total number of cases is as follows: “information” (5%), referral (8%) and advice (57%).

B/ Grading Practices

Each year a number of students visit the Ombuds Office to discuss what they perceive to be “unfair grading practices”. Since I am not an expert (or even close to it) on teaching evaluation methods, my usual response in these situations is to contact the instructor (with the student’s consent) for an explanation of why he/she feels comfortable with a particular method of evaluation. In addition, I may call or refer the student to the Centre for Leadership and Learning to obtain their input on a particular practice.

Students have a very strong sense of what is “fair” and often their instincts are good. However, there are some instances when a grading practice, while it may seem unfair on first blush, can be reasonably explained from a teaching and learning perspective. I reviewed the grading practices listed below with Dale Roy, Executive Director of the Centre for Leadership and Learning. As he noted, communicating the intent behind the practice is often the key to preventing disputes. If there is a good reason to adopt a particular and perhaps unusual method of evaluation an instructor would be well advised to explain it clearly to the class and to be open to discussion. Students are very quick to pick up on the “intent” behind the practice, and will usually respond positively if the intent is benevolent in nature. However, if students suspect any sort of ill will, an instructor can rightly expect to be challenged. As the following list demonstrates, there are some grey areas when it comes to unfair grading practices.

1. Students are given seven assignments but only two are marked. The students do not know which two will be marked when the assignments are handed in.

The student who visited the Office was not impressed by this marking scheme. He perceived that the instructor liked to “make the students suffer and was too lazy to mark all seven assignments”. Is there another possible explanation? Perhaps the instructor knew that if the students were to master the material in the course they needed to learn all the skills contained in the assignments, however

he/she recognized that it was totally unrealistic to try and mark all the assignments for a large class. The instructor is focused on the students learning and understanding the course content, whereas the students may be focused on the grading. Whether we agree or disagree, grades are the “currency” of the University and unmarked assignments, in many students’ minds, do not fit into this scheme.

2. An instructor adjusts the marks on a multiple-choice exam by deleting ten of the easiest questions from the marking scheme.

Instructors may use this technique when they are interested in improving the pool of questions they use to set an exam. So, if the purpose of an exam is to separate those students who know the material from those who don’t; questions are gradually excluded that are almost always answered correctly - or incorrectly. These questions are simply not effective in discriminating between the two groups. In this case, this grading practice was used on a specific exam (not to help develop a pool of questions) and students were not warned in advance that this might happen – although, they were told that their grades might be adjusted. Of course, it is doubtful that any students would have brought this to the attention of the Ombuds Office if it had been used to delete ten of the hardest questions. The instructor viewed this as a form of “belling” and was satisfied that the process was fair. Unfortunately, it didn’t feel “fair” to the students and, once again, earlier and better communication would have helped in this case.

3. Students can earn less than zero for a component of a course.

Most people seem to view this practice as inherently unfair.

4. Students are marked on attendance but do not start earning attendance marks until after the first 40% of the classes are attended.

The instructor’s position was that students should attend close to half of their classes without expecting any marks for showing up. After that, he felt that it was reasonable to reward students who attended and participated on a regular basis. The student who attended at the Office seemed to accept this reasoning, however he was understandably upset that this evaluation “twist” had not appeared on the course outline. The student was advised that he could appeal on that basis.

5. Students are tested on material included in the course outline under “additional reading”.

Most people seem to view this practice as fair, so long as it relates more to understanding concepts and ideas, and less to specific factual points. Again, a thorough discussion with the class about expectations might have avoided a misunderstanding in this case.

6. Attendance in a lecture class is considered mandatory and has grading repercussions beyond a decrease in participation marks.

Again, the instructor's intent in making this rule may be paramount. Does the instructor feel that the students attendance is critical to learning the material, perhaps because of an experiential component to the lectures or because the lectures contain additional or hard to convey material? Or is attendance being demanded because the instructor wants a full class to listen to him/her read their notes/overheads? Alternatively, is he/she concerned about how dwindling class numbers reflect on the quality of his/her teaching?

7. Papers are returned to the students but later taken back for re-grading when an instructor realizes that the grades given by a TA are too high. The alternative to re-grading the papers is to set a hard final exam.

This can be extremely upsetting for everyone involved. It may occur due to poor course management practices by the instructor or, on occasion, by TA's returning papers before they have been reviewed by the instructor, contrary to the instructor's directions. It is particularly problematic when it involves a course with multiple sections and students in the different sections have divergent views on what is "fair" in the circumstances. The best approach in these cases may be to conduct a frank discussion with the class on what has occurred and the possible ways it can be, at least partially rectified (there is probably no "perfect solution"). In two cases this year, these situations were resolved through class discussions.

8. A student approaches an instructor about a question on a test that he/she feels was marked incorrectly. The instructor will not consider re-marking less than the whole paper and warns the student that the mark may go down as a result.

Again, intent may be everything. If a student perceives that the instructor cannot be bothered re-marking papers and uses this as a form of "threat" to discourage students from challenging his/her marking, it is understandable that the students feels this is "unfair" – particularly when a paper is returned and a student has lost as many marks as he/she has gained. However, if an instructor explains to a student that he/she does not claim to be a "perfect marker" and that there may be instances in the paper where the student has benefited from imperfect marking, the student may be more inclined to reconsider whether the practice is fair. The instructor in this case may further explain that if the student is looking for "total accuracy" in marking, it is only fair that he/she reviews the whole paper. One problem in this area is that students often view marking as very scientific ("it's right or it's wrong"), whereas instructor may know that the process is more subjective than anyone really wants to admit.

As you can see from the above examples, what constitutes a “fair grading practice” is not always as obvious as it first appears. Students who are not satisfied with the explanation they receive about a grading practice may file a Type 2 appeal under the Student Appeal Procedures on the grounds that “the method of evaluation was not fair and reasonable”.

1. Recommendation: Faculty members should be encouraged to continue to discuss fair grading practices at departmental meetings or in other appropriate venues and to consult the Centre for Leadership and Learning when they have any concerns about a grading practice.

C/ Appeals

a) **Re-reads**

The Student Appeal Procedures provide that a student who believes that there has been an error in academic judgment in assessing his/her work may, on payment of fifty dollars (to be returned if the mark goes up), request to have the work “re-read” by a qualified reader. The department takes steps to ensure the anonymity of the student and the impartiality of the reader. Students who are interested in availing themselves of this process are requested to complete an application for a re-read. The application clearly warns the students that their marks may go down and gives some statistics on what percentages of the marks go up (~ 16%), go down (~33%) and remain the same (~51%). Students rely on these statistics when they make decisions about whether or not to appeal. In an effort to determine the current accuracy of these statistics, the Ombuds Office circulated a survey to the Associate Deans Offices. While this was the primary intent of the survey, it was also designed to elicit any variations in process across the campus. While it is recognized that different Faculties may have slightly different processes (due to the nature of the work being reviewed) it was felt that the processes should be as consistent as possible. Thank you to all the Faculty Offices for taking the time to complete the survey! Last year, a total of fifty-four students chose to have their work re-read.

2. Recommendation: The Associate Deans should review the results of the re-read survey to determine any needed changes in practice or statistical reporting.

b) **Petitions for Special Consideration**

Under Part V of the Student Appeal Procedures, a student may file a Petition for Special Consideration where they acknowledge that the rules and regulations of the University have been applied fairly, but they are requesting an exception on the basis of compelling medical, personal or family reasons. Last year, 29 students visited the Ombuds Office with questions or concerns involving this process. Sometimes, a student visits prior to submitting a Petition, but more often than not, the student’s Petition has been denied by the time we meet them. In these cases, we listen to the students’ stories and review their Petitions. Where we think it is appropriate, and with the student’s consent, we may

contact an Associate Deans Office to request they review a file on the basis of:

- more complete information (e.g. a student may have been reluctant, at first, to reveal relevant personal information)
- new information or documentation;
- a Faculty's practice being inconsistent with our understanding of practices in other Faculties
- an inconsistency in how we have seen similar cases handled within the same Faculty
- a petition being denied due to late filing when there is an explanation of why it was filed late

Petitions are decided by the Faculty's Associate Dean or Reviewing Committee or in the case of missed deferred exams by a committee of Associate Deans. These decisions are final with one exception. The Student Appeal Procedures state "a student who believes that the Petition decision violated his/her human rights may appeal to the Senate Board for Student Appeals". It is assumed that this section was originally added to the policy in recognition of the fact that Petitions are one of the few decisions in the University that cannot be appealed and a general concern that this should not preclude human rights challenges. Also, Petitions by their nature often involve disability type issues that may veer into the human rights arena. In a sense, however, this section is an anomaly. For example, if a student believes that an instructor has violated his/her human rights during an evaluation process, the student would proceed under the Anti-discrimination policy. As I have discussed in previous reports, this route is not without its' own problems since the Anti-discrimination policy does not contain academic remedies. It is presumed, however that if discrimination were to be established under the Anti-Discrimination policy the matter would be informally resolved.

In the last couple of years, three cases involving Petitions have been appealed to the Senate Board. In two of these cases the student proceeded via a Type 3 appeal where they needed only to establish that a decision of a University authority had not been "fair, just or reasonable" – quite different than establishing the violation of their human rights. All three cases involved detailed medical evidence and while it was uniformly recognized that the Faculty Offices acted appropriately based on the information they had at the time, all three decisions were overturned in favour of the student. A couple of themes emerged from these cases. First, it was recognized that where students with disabilities diligently attempt to organize their affairs, there should be some latitude in enforcing University regulations in such areas as drop and add. Secondly, it was recognized that the nature of some students disability may make it extremely difficult for them to be diligent in their efforts to follow University regulations and that the University may need to take this into account in some instances.

These cases are extremely difficult because they often revolve around medical issues and conflicting views on what level of responsibility can be expected from a student who is experiencing difficulties. On reviewing these cases, I wondered whether they were being heard in the right forum and whether they could have been resolved earlier in the process with the assistance of more detailed medical/human rights advice.

3. Recommendation: The Senate Board for Student Appeals should review the process of appealing a Petition decision. Issues they may wish to consider include: the scope of the appeal provision, how the process fits with other University policies, whether the SBSA is the appropriate forum for these appeals and what steps could be taken to encourage settlement of these cases at a lower level.

In some Faculties when a student defers a mid-term exam for compelling medical, personal or family reasons, the marks are automatically re-distributed to the final exam. The more usual process and the one outlined in the Undergraduate Calendar involve the student approaching the instructor (once a petition has been approved) to see how the instructor wishes to proceed (e.g. redistribute marks, write a make-up etc.). In two cases this year students familiar only with their Faculty's process of automatically re-distributing the marks to the final exam, failed to approach their instructors in elective classes outside the Faculty. In both cases the students missed the opportunity to write a make-up and the instructors refused to add the marks to their final exams. The Ombuds Office successfully intervened in one case. Sometimes I think it is unrealistic to expect students to pick up on all the nuances of various processes unless these matters are clearly and directly drawn to their attention.

4. Recommendation: Faculties and instructors need to clearly advise students that different Faculties handle missed tests and mid-term examinations differently and that they need to check with their individual instructors once a petition has been granted

c) Senate Board for Student Appeals

When the Ombuds Office conducts policy workshops we are often asked how many student appeals go to the highest level – the Senate Board for Student Appeals. Our answer is “usually a handful” and as the table below illustrates, this is normally the case.

	94-95	95-96	96-97	97-98	98-99	99-00	00-01	01-02	02-03	03-04
Appeals heard	3	2	3	12	7	6	2*	3	3**	7 - 12***

* 1 individual launched 3 actions that are counted as 1 in this table

** 1 individual launched 12 actions that are counted as 1 in this table

*** 7 cases have been heard but 5 are still pending

**** Thank you very much to the University Secretariat for providing these statistics

It is important when viewing these statistics to remember that they do not include the cases that were withdrawn prior to a hearing. For example, in 03-04, five cases were withdrawn, sometimes just prior to a scheduled hearing. While the number of appeals is still relatively low when compared to other similar-sized institutions, the numbers do not adequately reflect the amount of time and effort required to process these cases. The

University as a quasi-public body created by Statute is governed by the principles of administrative law and is therefore, required to provide mechanisms (such as tribunals) for resolving disputes. The Senate Board for Student Appeals follows the procedural fairness guidelines found in the *Statutory Powers Procedure Act* and while these are not as stringent as those that apply in a court setting, they nevertheless must be carefully adhered to. Sending out notices, arranging for students' lawyers to be present at a hearing, carefully documenting the progression of a case – these all take time and are an important part of the University's commitment to provide students with a fair hearing.

The subject breakdown of the seventeen cases initially filed (some where withdrawn) in 2003-2004 is as follows: 1 Code of Conduct, 1 Petition, 2 Grade Appeals and 13 Academic Dishonesty. Of the seven appeals heard to date: 4 were denied, 1 was granted, 1 had a sanction reduced and 1 was settled. The increase in academic dishonesty cases this year is a result of changes in the new policy that resulted in the elimination of one level in the process. Cases that were previously heard by the Senate Committee on Academic Dishonesty now proceed directly to the Senate Board. This change, combined with some general uncertainty surrounding the appropriate level of sanctioning under the new policy resulted in a high number of appeals in this area. It is too soon to evaluate whether this trend will continue. Certainly it is taxing the resources in the University Secretariat and the tribunals and if it continues, the University may want to explore consolidating the appeal processes into a Judicial Affairs Office, as has been done at some other Universities.

This year I was approached by an international graduate student who had been found guilty of academic dishonesty by a Faculty Adjudicator. The student was very keen to defend himself at the Senate Board for Student Appeals until he learned that the entire decision would be distributed, in closed session , to the members and observers of Senate (Student Appeal Procedures Appendix A section 32-35). While he was confident that he had not intentionally committed a dishonest act he was concerned that other members of his department who sit in Senate might interpret his actions differently. On that basis, he decided not to appeal. A great deal of effort goes into protecting the anonymity of students under the Academic Integrity policy and also in connection with their medical records. However, this protection does not extend to a student who chooses to appeal to the Senate Board. This is the case whether or not the hearing is "open" or "closed"— the only difference between the two being the amount of information that is available to the public. I recognize that in most court cases, the identity of the appellant and the details of the case are not protected. However, University tribunals are not courts, and the appellants here are predominately young adults who have an on-going relationship with the institution. Students are understandably worried about any future repercussions stemming from the disclosure of this type of information. I recognize the need for transparency in our processes and the educational value of Senate receiving these decisions. However, I wonder if these goals could not be achieved by circulating the decisions with all identifying characteristics removed. I am not particularly receptive to the argument that having their names and circumstances distributed should constitute part of the penalty for these students. Certainly, there may also be cases where a student wants a decision circulated to clear their name.

5. Recommendation: The Senate Board for Student Appeals should review Sections 32-35 of the Student Appeal Procedures to consider how appeal decisions should be reported to Senate.

Occasionally, cases headed to the Senate Board for Student Appeals settle before the hearing. This has occurred in situations involving lawyers and in other cases where lawyers were not involved. Obviously, this can be a great relief to the parties and can save time and valuable resources. However, as currently drafted the Student Appeal Procedures do not contain any guidelines on how cases are to be settled. This can be confusing to parties that are interested in exploring possible resolutions. It can also result in the University's interests being inadequately protected in settlement discussions and inappropriate resolutions being proposed. There are certain types of cases the University may routinely be uninterested in settling without a hearing (e.g. conduct cases), whereas some cases may lend themselves more naturally to more informal resolution (e.g. some petition cases).

6. Recommendation: The Senate Board for Student Appeals should review whether it would be beneficial to incorporate a settlement mechanism into the Student Appeal Procedures, bearing in mind that any mechanism would need to ensure that the University interest is clearly represented in any settlement discussions.

The number and complexity of Senate Appeals appears to be increasing. The members of the Senate Board for Student Appeals have a challenging task and they need to continue to receive the University's full support. In the past there has been some training for Board members, however, it may be time to expand and formalize this training to give the members the tools they need to be comfortable hearing these cases.

7. Recommendation: The University Secretariat should review the training of tribunal members and make recommendations for any needed improvements.

D/ Examinations

Sometimes I find statistics extremely helpful in putting a matter in perspective.* That having been said, the Registrar's Office scheduled 522 exams last December (70,494 seats) and 600 exams last April (69,845 seats). Scheduling examinations is a huge undertaking and these statistics do not even reflect all the midterm examinations scheduled directly by departments and instructors. Given the number of examinations across campus, it is not surprising to me that there are occasional "glitches", although this past year we saw a few more than usual. The Registrar's Office is working hard to prevent problems and they need the continued assistance and co-operation of faculty members and departments.

**Another statistic I find very handy: there are approximately 12,000 vehicles a day on campus from Sept-April! So don't expect the Parking Officer to be able to read your mind when you just leave your car for a couple of minutes to run into a building!*

While some mix-ups are inevitable, it is obviously still very important to investigate and address examination concerns, both to protect the integrity of the system and in recognition of the considerable angst these situations can cause students. One student described how, prior to an exam, he had been told by his instructor that he could proceed directly to an “overflow” room because it was the closest in proximity to his previous class. However, when he arrived the next day the room was full and he ended up going to two other locations before he was able to start his exam - ten minutes late. Some students can roll with these kinds of changes, but others find it extremely difficult to calm down and get back on track.

The Academic Integrity Office has done some work in the area of raising awareness of academic integrity issues in non-registrar invigilated examinations. Inadequate testing facilities continue to be an issue. Every year the Ombuds Office sees a few cases that suggest the need for further work in this area and it has been the subject of previous recommendations.

It has come to the attention of the Ombuds Office that varsity athletes on campus may be receiving varied messages from their respective Faculties on what to do if they are faced with conflicts between their school and sports activities, particularly in the area of mid-term examinations. I understand that Therese Quigley (Director, Athletics and Recreation) will be raising this issue at an up-coming Associate Dean’s meeting. This issue also applies to students who represent McMaster in a host of other activities e.g. teams, clubs, bands etc.

- 9. Recommendation: The Associate Deans should review how various Faculties address the academic scheduling challenges faced by students who represent the University on teams, clubs, bands etc., with a view to obtaining some consistency in policy across campus.**

E/ Academic Integrity

McMaster University is a leader in recognizing the importance of academic integrity and investing in the development of an Academic Integrity Office. It is remarkable what the Office has accomplished in the past two years. When the Academic Integrity Office was first developed, it was assumed that it would result in a decrease in the number of students bringing academic dishonesty concerns to the Ombuds Office. This has not proven to be true, probably because of differences in the type of advice offered by the two Offices. Both Offices are neutral in orientation and offer procedural advise to students, staff and faculty. However, the drafters of the original policy were right in their prediction that faculty and staff would tend to gravitate to the Academic Integrity Office while students looking for advice on whether or not to appeal and how to present their case would seek the advice of the Ombuds Office. The arrangement seems to be working well and the Academic Integrity Officer, Andrea Thyreat-Kidd, and I frequently discuss policy and procedural issues.

I have the following observations based on the cases that the Office has seen this year.

1. As an educational institution, our primary emphasis must be on educating students in the area of academic integrity. While most students entering University have a general grasp of what constitutes academic dishonesty, there are still many first year students that are not well versed in the subtleties and unfortunately, this is often where they run into trouble. Education must come before enforcement and we continue to make good progress in educating McMaster students in this area.
2. A recent decision of the Senate Board for Student Appeals highlighted the need for further education directed at the specific needs of international students. During my time at McMaster I have met with a number of international students, both graduate and undergraduate, who simply do not understand our rules regarding such concepts as plagiarism. They believe that if they clearly reference the articles they use in their Bibliography it is appropriate to include entire sections of the articles in their papers. Including a reference to academic integrity in a course outline is not sufficient in these cases, since the student believes that he/she fully understands the concept. The University of Melbourne has prepared “A Cross Cultural Case Study Guide for Supervisors”. This guide has the following to say about plagiarism from a cross cultural perspective:

“Plagiarism as a concept relates to individual ownership of ideas. The way other people’s ideas and opinions are acknowledged in writing is quite culturally bound. The fact that a student plagiarises need not necessarily reflect on his/her capacity for critical analysis, nor need it reflect a lack of original thought. In some cultures copying the writing style of experts to the point of using their words is actually considered to be the appropriate academic style.”

(www.umpa.unimelb.edu.au/advice/diversityq.html)

While I recognize that students have an obligation to familiarize themselves with the University’s regulations, I feel that there is also an obligation on the University to educate students who come to study here on the principles of academic integrity, as they are understood at McMaster.

I strongly endorse the Senate Tribunal’s recommendation, as it pertains to increased academic support and academic integrity education for international students. The Office of the International Students’ Advisor provides many programs and initiatives to assist international students with non-academic concerns.

9. Recommendation: “The Tribunal recommends that McMaster University assess the supports that are currently available to its international students and consider providing additional services to these students that will assist them in dealing with ethical academic issues, allow them to more readily acclimatize to the culture of the University and provide them with basic supports, such as writing clinics, to help in their academic work.” (Senate Appeal Tribunal Sept 2004)

3. Students have a right to know the case they are expected to meet before they attend a hearing. An issue arose when a student requested to meet with an invigilator prior to a hearing to establish the nature of the invigilator's testimony. To avoid this problem in the future the Academic Integrity Officer and the Registrar's Office have agreed to discuss preparing a more detailed form to be completed by invigilators who are involved in potential academic dishonesty cases. This will hopefully, result in a student having a clearer idea of the type of evidence that will be introduced at the hearing. If a student is still surprised by the nature of the allegations, he/she may request an adjournment. It is hoped that a similar process can be set-up for non-registrar invigilated examinations.

4. Often students admit to committing academic dishonesty and the hearing focuses on determining the appropriate sanction. On reviewing the academic dishonesty cases this year I had the following questions pertaining to this issue:

- (1) are the types and level of sanctions used at McMaster commensurate with those imposed by other Canadian universities in similar situations? (this is not to say that they necessarily should be – only that we may wish to review this);
- (2) generally when a student receives an "F" in a course as a result of academic dishonesty, this also results in a transcript notation. Should an "F" in a course with no transcript notation be added as a possible sanction?;
- (3) do decision-makers adequately take into account the nature and circumstances of previous offenses when determining what is an appropriate sanction for a subsequent offence?;
- (4) should there be a limit on how long a student can be suspended?

5. Now that the Academic Integrity policy has been in place for over a year, it is probably time to review some of the process issues that have emerged. These include:

- (1) the role of the adjudicator in appeals to the SBSA;
- (2) whether the appeal procedures are appropriate considering that the bulk of the appeals to the SBSA (11 out of 13 this year) were limited to a reconsideration of the sanction;
- (3) the role of "intent" in determining whether an offence has been committed and an appropriate sanction;
- (4) the standard of proof in serious cases;
- (5) a discussion of when "sloppy referencing" becomes "academic dishonesty"

10. Recommendation: The Senate Committee on Academic Integrity (in conjunction with the Senate Board for Student Appeals, as required) may want to consider reviewing the types and levels of sanctions imposed by Faculty Adjudicators and the SBSA, as well as, the procedural concerns that have arisen in the first year of the policy's operation.

F/ Odds and Ends

Last year the Office received a number of complaints about people smoking within 9 meters of the designated main floor entrance of various buildings on campus as

prohibited by the relevant Risk Management Policy (#402). This policy clearly defines the role of Risk Management Services, the Faculty of Health Sciences Safety Office and Security Services as “assisting in the resolution of unresolved smoking compliance issues”. If the issue cannot be resolved through the efforts of these departments, the Municipal By-law Enforcement Officer or the Regional Public Health Inspectors can be contacted to intervene.

“Quarters” the MSU bar on campus, has the authority to declare individuals unwelcome on their premises (commonly referred to as being “PNGed” – declared “personae non gratis”). In the past this step has been taken fairly informally, sometimes resulting in misunderstandings between the Bar and its patrons. Students are entitled to some basic information when they are excluded from a portion of the campus.

11. Recommendation: The MSU may want to consider sending letters to individuals who are no longer welcome in Quarters. Such a letter could include: the reasons for the decision, the length of time they are to be excluded from the bar, and any appeal route available to them.

Each year a number of students visit the office with questions about reinstatement applications. Students often assume that any summer school courses they take will be included into their Cumulative Average (CA) and, therefore, factored into the reinstatement decision. In my experience, this is usually not the case. Faculty Offices try to inform students about this issue but with mixed results.

12. Recommendation: Faculty Offices may want to consider whether there are any additional methods by which they can inform students whether or not their summer school courses will be factored into any future reinstatement decisions .

G/ Update on Policies and Prior Recommendations

Policy development and improvement is an on-going project at the University that draws on the expertise and knowledge of many offices and individuals. The Annual Report provides an opportunity to reflect back on the work that has been accomplished and to review what remains outstanding. The following list is not meant to be comprehensive and includes only those policies that have come to the attention of the Ombuds Office.

Recent policy changes: The Student Code of Conduct has been revised, incorporating the Welcome Week Discipline Code. The combined Code appears to have worked well during Welcome Week. The Management Group (TMG) Grievance Procedure is now in effect and has been used, successfully, in two cases to date. This policy needs to be included in training or orientation sessions for TMG employees. The Senate has approved a proposal requiring instructors to return graded material equal to a minimum of 10% of the session’s total mark prior to the final date by which a student must withdraw from a course without academic penalty (with some exceptions for supervised

study, thesis and independent research/study courses). The Ombuds Office has not received any complaints concerning the implementation of this policy.

On-going policy work: Work is continuing on the Residence Discipline Code and the MSU Harassment policy. The MSU has commenced a review of their employment policies and the Valedictorian Restructuring Committee is considering a number of issues, including the incorporation of an appeal process into the policy. The Graduate Student Association (GSA) has a Bylaw Committee currently reviewing the Corporations By-laws and considering the inclusion of an Election policy. The Senate Committee on Appointments is currently considering a draft policy for Postdoctoral Fellows. The review of departmental graduate handbooks is complete and a template for such handbooks has been developed. The Registrar has proposed a process for students wishing to defer their attendance at convocation. The Senate Committee on Ceremonials and Insignia will consider the proposal shortly.

Policy issues that appear to be stalled: (1) Clarification of who has the authority to alter grades at the University (recommended originally in 2000-2001) (2) Review of the policy on the ‘Public Release of Students’ Ratings of Teaching Effectiveness’ (recommended originally too long ago to be remembered). The last I heard this was referred to the Provost and Vice-President (Academic) to arrange to meet with MUFA to discuss a number of issues (3) Religious Accommodations in Examination (recommended originally in 2000-2001) A sub-committee of the Presidents Advisory on Building an Inclusive Community (PACBIC) made some recommendations in this area but, to the best of my knowledge, they have not been implemented. (4) Review of the “Examination Guidelines” (5) Development of guidelines for non-registrar invigilated exams

Karen Belaire, the Vice-President (Administration), hosted a meeting this summer to review a previous recommendation involving the possible development of a Staff Code of Conduct. It was concluded that there had been a number of changes on campus since that recommendation had been made and that a separate Code was no longer needed. The changes included: the development of the TMG Grievance procedure, changes to the collective agreements, the formation of PACBIC and increased education directed at developing a respectful work environment. I appreciate Karen’s review of this recommendation.

H/ Other Activities and Thanks

I completed my term on the ACCUO (Association of Canadian College and University Ombudspersons) executive after helping to develop a Mandate and draft Standards of Practice. The Office presented policy workshops to a number of different groups on campus and was once again involved in the Mary Keyes Leadership Certificate program. The policy work continued as did the participation in a number of committees on campus.

A tremendous thank-you to Carolyn and Marge for joining the Office this year. It has been delightful to work with both of them! I will miss you Marge – you are a truly excellent counsellor and one of the most highly organized people I have ever met!

Welcome back Carolyn – as always, we have lots to do but I know you are up for the challenge.

Special thanks to the dedicated educators at the Centre for Leadership and Learning-Dale, Del, Paola and Erika – thank you so much for your input and for including the Ombuds Office in many of your events. As well, a special thank you to Andrea Thyret-Kidd and the staff in the Human Rights and Equity Office (Mark, Vilma, Nuzhat and Elaine) – our policy work often overlaps and it's great to be able to confer with such insightful colleagues!

And once again, a heartfelt thanks to all the individuals – students, staff and faculty – who brought their concerns to the Office. You are why we are here!

Table 1 -Number of Cases/Inquiries During the Period from Aug. 1 2003 to April 31, 2004

	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	TOTAL
Cases	26	46	37	28	30	40	34	44	34	319
Inquiries*	2	17	10	4	1	10	6	6	5	61

* 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	199
Part-time undergraduate	7
Graduate student	28
Staff - McMaster University	33
McMaster Students Union	4
Student staff	10
Continuing Education	3
Faculty	26
Other: Miscellaneous	7
University applicants	1
Former students	9
Parents	4
TOTAL	331

** The number of inquirers are greater than the number of cases because sometimes 2 people or a group come in with the same problem

TYPES OF CASES

Table 3 - Student Cases - Academic

Student cases - Academic	
admission	
university	3
program	4
course rules and management	13
program requirements	5
grade appeal	25
petition	
deferred exam	8
retroactive withdrawal	10
other	11

academic misconduct	33
interpersonal	3
examinations	17
transcript	1
accommodation	6
teaching quality	2
withdrawal/reinstatement	12
graduate thesis/supervision	7
other	11
TOTAL	171

Table 4 - Student Cases - Non-Academic

Student cases - Non-Academic	
registration	3
fees/financial	
university/MSU	13
financial aid	8
residence	
discipline	2
other	9
interpersonal	1
student discipline	3
associations/clubs	5
other services	11
harassment	6
other	16
TOTAL	77

Table 5 - Staff Cases

Staff - University and MSU	
terms of employment (salary/benefits)	7
working conditions (physical/incivility)	6
inter-personal	1
services	
disability	
discipline	

termination	3
process/policy	18
issue involving a student	10
other	2
TOTAL	47

Table 6 - Faculty Cases

Faculty	
employment issues	1
services	
Faculty Code of Conduct	
policy	9
hearing process	
practices in other programmes	2
role and authority of offices	
issue involving student	9
interpersonal	2
other	1
TOTAL	24

Table 7 - Type of Action on Cases

Information	16
Referral	25
Advice	183
Intervention:	
-clarification	56
-negotiation	30
-facilitation and mediation	9
-investigation and recommendation	0
TOTAL	319

Ombuds Office Annual Report, August 1, 2003- April 30, 2004
Recommendations

- 1. Recommendation:** Faculty members should be encouraged to continue to discuss fair grading practices at departmental meetings or in other appropriate venues and to consult the Centre for Leadership and Learning when they have any concerns about a grading practice.
- 2. Recommendation:** The Associate Deans should review the results of the re-read survey to determine any needed changes in practice or statistical reporting.
- 3. Recommendation:** The Senate Board for Student Appeals should review the process of appealing a Petition decision. Issues they may wish to consider include: the scope of the appeal provision, how the process fits with other University policies, whether the SBSA is the appropriate forum for these appeals and what steps could be taken to encourage settlement of these cases at a lower level.
- 4. Recommendations:** Faculties and instructors need to clearly advise students that different Faculties handle missed tests and mid-term examinations differently and that they need to check with their individual instructors once a petition has been granted
- 5. Recommendation:** The Senate Board for Student Appeals should review Sections 32-35 of the Student Appeal Procedures to consider how appeal decisions should be reported to Senate.
- 6. Recommendation:** The Senate Board for Student Appeals should review whether it would be beneficial to incorporate a settlement mechanism into the Student Appeal Procedures, bearing in mind that any mechanism would need to ensure that the University interest is clearly represented in any settlement discussions.
- 7. Recommendation:** The University Secretariat should review the training of tribunal members and make recommendations for any needed improvements.
- 8. Recommendation:** The Associate Deans should review how various Faculties address the academic scheduling challenges faced by students representing the University on a club, team etc., with a view to obtaining some consistency in policy across campus.
- 9. Recommendation:** The Ombuds Office endorses the following recommendation from the SBSA (as it pertains to increased academic support and academic integrity education): "The Tribunal recommends that McMaster University assess the supports that are currently available to its international students and consider providing additional services to these students that will assist them in dealing with

ethical academic issues, allow them to more readily acclimatize to the culture of the University and provide them with basic supports, such as writing clinics, to help in their academic work.” (Senate Appeal Tribunal Sept 2004)

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