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Annual Report of the Ombuds Office
August 1/99 - July 31/00

This is my second report as McMaster’s Ombudsperson and I once again welcome the opportunity to tell you about the Ombuds Office and the types of complaints and concerns that have been brought to my attention during the last year. The Ombuds Office, for those of you who are not familiar with it, provides advice and assistance to students, staff and faculty on any university-related problem. Traditionally, Ombuds Offices are viewed as offices of “last resort” – where people go when they have been unable to resolve problems through the usual channels. However, particularly in the case of students, it is often useful to visit the Ombuds Office earlier in the process where I can assist in reviewing the relevant policy, act as a sounding board and discuss various approaches to handling the conflict.

Helping individuals within the University community is undoubtedly the major focus of my work and consumes the bulk of my workday. However, while addressing individual concerns, I am sometimes in a position to view larger, more systemic issues involving process or policy matters. It is my role to bring these to the attention of the University, make recommendations (where appropriate) and encourage the ongoing discussion and resolution of these matters. The Annual Report provides me with a forum to begin this discussion.

It is often hard to determine whether a case that comes into the Ombuds Office is representative of a more widespread problem or is an isolated case. Visitors to the Ombuds Office often tell me that when they tried to complain they were dismissed on the basis that “nobody else has complained”. Certainly, in some cases this may be relevant, but equally so, the complainant may simply be the most vocal in a larger group of dissatisfied individuals.

This report contains statistical information on the cases brought into the Ombuds Office during the period from Aug 1/1999 to July 31/2000. It also includes a progress report on the issues raised in last year’s report and a discussion of some general policy and procedural concerns. The bulk of the report deals with the substantive issues that have been raised by the individuals who have chosen to visit the Ombuds Office during the last year. I have selected those issues that are, in my opinion, sufficiently serious or widespread to warrant further comment. In some instances, I have included a brief case study (in italics) to highlight the matters discussed. Most Ombudspersons use case studies in their reports as an educational tool to explain the workings of their offices and to demonstrate perhaps more effectively than words alone, where improvement is needed. I support this practice provided that individual identities are fully protected. To this end, I have altered the case studies sufficiently to remove any identifying information.

Statistics

During the year I saw a total of 335 people - 276 of these were classified as “cases” and 59 as “inquiries” (Table 1). The later category is used when people visit the Ombuds Office about matters that are outside my jurisdiction, e.g. landlord and tenant, family, criminal, consumer and commercial law. While I am happy to assist these people in accessing legal and other off-campus resources, I must continue to reiterate that the Ombuds Office does not offer legal advice.

The number of total cases is up over last year by 42%. I do not interpret this increase to mean that more individuals are experiencing conflict on campus. Instead, I feel that it is simply a reflection of the fact that the Ombuds Office is becoming better known. It is important to remember that I saw only 276 individuals out of a campus population of close to 20,000. There can be little question that most conflicts on this campus are resolved by face-to-face discussions between the parties.

This year approximately 75% of the individuals who visited the Ombuds Office were students (Table 2). The number of student issues considered was even higher - probably closer to 85% when you factor in the number of staff and faculty who consulted the Ombuds Office about how to handle a student issue. The number of graduate students who visited the Ombuds Office rose from 15 to 24. These cases are often difficult and may involve providing support for a student over a fairly lengthy period. A total of 45 University and MSU staff contacted the Ombuds Office and 17 faculty members.

I always hesitate to read too much into what types of complaints come to the Ombuds Office. The visitors are self-selected and statistically the numbers involved are very small. Nevertheless, I feel some general observations can be noted. The type of student complaints brought to this Office fall into two main categories: academic and non-academic (Tables 3 and 4). This year the number of academic complaints rose fairly substantially (75%), whereas the number of non-academic complaints stayed fairly static. Within the academic category the issues raised most frequently are examination problems (24%), grade appeals (19%) and academic misconduct (15%). Within the non-academic category, residence and financial issues appeared most prominent. The number of student discipline cases is down, hopefully reflecting a high level of satisfaction with the new Peer Conduct Board.
I have created a number of new categories to include the various issues raised by staff (Table 5) and faculty (Table 6). I thought this might be helpful in assisting people to understand the types of questions these groups bring to the Ombuds Office. It is important to note that many of the inquiries included here deal with policy and process issues.

Once again the statistics seem to bear out that I intervene in approximately one third of the cases (Table 7). The most common form of intervention involves me calling an office to either sort out a “red tape” type of problem or to inquire why a problem was handled in a particular manner. These calls are usually made after a visitor has tried to sort out a problem directly with the individual or office involved. Another form of intervention involves what I like to call “shuttle diplomacy” — discussing an issue with both sides and then shuttling back and forth between the parties looking for some common ground. I also accompany individuals to meetings and occasionally investigate a case and make a recommendation.

The last table (Table 8) illustrates the various methods whereby individuals contact me. I feel very strongly that the Ombuds Office must be easily accessible and people often thank me for just being available to discuss a problem. In addition to standard business hours, the Ombuds Office is open Wednesday evenings.

Review of Last Year’s Annual Report

As part of the process for preparing this year’s Annual Report I went back and reviewed not only last year’s report, but also the reports on file in the MSU archives, many of which date back to the 1970’s. My reaction to this review was mixed. In many ways it was heartwarming to see the incredible strides the University has made in addressing students’ problems and developing processes that students may use when they are dissatisfied with a decision. For example, this year I had a number of calls from faculty who “sensed” that a process in which they were participating, might not be operating fairly. This level of awareness as to the importance of “fair process” demonstrates how far we have come in recognizing the rights of students to certain procedural safeguards. On the other hand, students are still sometimes “left in the dark” about changes in the University that impact them, when a more open process might benefit all the participants. Later in this report I will discuss some concerns about how policy is drafted within the University — a subject that others before me have addressed.

Last year I tried to highlight some areas that I thought needed attention. I want to update you on the progress that has been made and where we seem to be stalled. One of the items raised was the number of hearing levels within the University appeal processes. The Student Code of Conduct has now been amended and the hearing before the Senate Committee on Student Discipline has been eliminated. As well, a summary process has been added in those circumstances where a student admits to an alleged offense. These two changes should increase the efficiency of the process to the benefit of both the students and the University. A similar proposal for academic dishonesty hearings is being considered by the Ad Hoc Committee on Academic Integrity.

A number of questions concerning hearing procedures were reviewed this year and should result in some changes to the Senate Appeal Procedures this year. The substance of some of these amendments is discussed below in the section entitled “Policies and Procedures”.

The Senate has passed the Athletic Code of Conduct. The Housing Office, with the assistance of Human Resources, has spent some time improving and clarifying student employment contracts. Human Resources are continuing to work on the updating of the staff handbook and are planning to review the grievance procedure for non-unionized staff. Mail Services has a draft policy that they hope to have on the web by Christmas. A deal was reached between the University and the students concerning ancillary fees. A new testing facility is now available in the A.N. Bouras Science Building.

The Ad Hoc Committee on Academic Integrity continues to grapple with many difficult issues. It is hoped that their efforts will result in some positive changes in the upcoming year. Another area where continued work is needed involves the use of Petitions for Special Consideration, particularly as they pertain to deferred exams. A committee has been formed by the Associate Deans to consider this matter. One faculty is continuing their review of the use of peer evaluations. There is still no process in place for collecting University legal opinions.

Policies and Procedures

I was involved in a fair amount of policy discussion this year, both as a committee consultant and by providing comments on draft policies. When acting in these capacities, I try and maintain my neutral orientation by concentrating primarily on process issues. For example, I may be able to point out inconsistencies between the policy being drafted and existing policies of the University, or suggest methods of streamlining a process that is being proposed. I can sometimes, as a result of the cases I have seen in the Ombuds Office, pinpoint specific areas of concern and raise the issue of fair and equitable treatment. At the same time, I cannot become so invested in the substantive issues discussed by the Committee, that I cannot fairly consider the cases that may, later, come into the Ombuds Office.

This year I worked on the following policies: the Student Code of Conduct, the draft Policy for Academic Accommodation of Undergraduate Students with Disabilities and revisions to the Senate Resolutions on Academic Dishonesty. I also provided some comments on the Policy and Procedures on Sexual Harassment, the MSU Online Appeals Guide and some of the MSU policies.
(a) Health Sciences

I participated in a number of meetings with the Health Sciences programmes to review how their processes, as outlined in their Handbooks, fit into the general University appeal procedures.

As part of this review we discussed, quite extensively, the use of Reviewing Committees. These committees play a prominent role in Health Sciences largely, I suspect, because of the emphasis in these programmes on “remediation”. As a result, Health Sciences students are more aware, than other students on campus, of the existence and importance of these committees. It was agreed that Reviewing Committees fit within the “informal” procedures referred to in the Student Appeal Procedures and that their primary function is to “settle the students’ grades”. Historically, these committees have been very successful in resolving matters informally. It was recommended that the Handbooks (most of which contained a good description of the composition and general functioning of these committees) be amended to more clearly outline the positioning of these committees within the entire appeal process. Similarly, I have recommended that the Student Appeal Procedures be amended to include a reference to these committees. We worked to obtain some level of consistency within the Faculty on how these committees operate and the topics that might be considered by these committees. For example, it was agreed that students would not appear before these committees (since the students may appeal the committee’s decision), and that the committees would not be involved in academic dishonesty matters. One programme developed a Reviewing Committee for the first time and another programme has plans to simplify what is currently a two step Reviewing Committee process.

As part of this review, we also spent some time tracing how the various types of appeal (e.g. Type 1 (academic judgment) and 2 (non-academic judgment) grievances. Petitions for Special Consideration and Academic Dishonesty appeals) would proceed in the Faculty of Health Sciences. Some of the nomenclature used in the Student Appeal Procedures does not mesh with the administrative framework of the Faculty. This is equally true of some other areas in the University. The Senate Office has suggested that it may be useful to add a short appendix to the Student Appeal Procedures outlining how the procedures are to be adapted within specific Faculties. One primary consideration in this area was our desire to prevent processes from becoming “tainted” by the presence of an administrator in both a “review” and a subsequent “appeal” process. Many of the problems in this area have been eliminated by the development of the Undergraduate Hearing Committee for the Faculty of Health Sciences. This committee, once approved by Senate, will be available to hear Type 1 grievances and appeals under the Academic Dishonesty Resolutions.

The elevation of the Occupational Therapy and Physiotherapy degrees to the Masters level widened the scope of the review to include some of the Graduate School policies that pertain to appeal routes.

Finally, the Medical School Code of Conduct was briefly examined and this has raised some broader questions concerning professional codes of conduct and professional standards for students within the Faculty of Health Sciences.

The work in this area is continuing. I understand that some amendments to the Student Appeal Procedures are planned and this should clarify many of the points. I would like to thank all the people in the Faculty of Health Sciences who have assisted me in this review. Everyone has been very open and receptive to suggestions. I am happy to report that as a by-product of our work, I am now much more comfortable helping students who have questions pertaining to the Faculty of Health Sciences.

(b) Drafting Policy

University policy is drafted by committees and I have yet to be on a committee where the members have not lamented the process. Drafting by consensus is difficult and can lead to some awkwardly worded policies. The actual drafting of the policy is often left to one person (e.g. the chairperson), who may have no training in this type of work and may find the task excessively onerous. I understand that this method of policy drafting is used and accepted by most Universities. We need to retain the benefits of this method while easing the burden it places on individual committee members. I am open to suggestions. One option might be the development of a centralized policy group that could support committee members by:

1. assisting in the initial structuring of the policy once some of the substantive decisions have been made;
2. providing commentary, early on in a process, about how the policy will fit with other university policies and how this will need to be addressed in drafting the policy;
3. offering an institutional viewpoint (that may be missing) on the substantive issues facing the committee;
4. helping to clean up the drafting of the policy.

Currently, the Senate Office performs many of these functions on a fairly informal basis. It might be useful to formalize this step and to draw on the expertise of a more broadly based group. This approach might also be useful in ensuring that the institutional knowledge of the University is shared among a larger group of individuals. I have often heard people remark: “I don’t know what we will do when ‘x’retires.”

Another area that might be reviewed is how the University could better retain student representation on University committees.
(c) Use of Informal Processes

The University’s policies encourage complainants to try and resolve issues informally and certainly the Ombuds Office is committed to this approach. However, I had a few cases this year that made me pause and wonder how long parties should pursue an informal resolution before moving into a more formal process. While there are certainly no hard and fast rules, I think parties should stay alert to a few signs. Extremely contentious cases are sometimes better off following a more formal process, particularly when initial discussions reveal that the parties are very polarized in their beliefs. Similarly, a formal process may be called for when discussions are continually expanding to include more parties, some of which may be involved in a subsequent appeal process. It is important to remember that the first step in many of the formal appeal procedures (e.g. a re-read, a formal inquiry or a peer conduct board hearing) are designed to be quite timely and offer students fairly quick access to decision-makers.

(d) Exceptions to the Rule

The Ontario Ombudsman’s Office has a set of “fairness standards”. These standards include the following statement:

All persons should be treated equitably, with due respect for differences, circumstances and needs. Existing policies, guidelines, procedures and rules should be followed consistently. Any inconsistency should be justified and explained.  

Much of the work in the Ombuds Office deals with “exceptions to the rules” and I am continually searching for the appropriate balance between the need to consistently enforce a rule and the need to recognize individual circumstances. In this regard, it might be useful for the decision-makers to develop some guidelines in the areas where offices are continually being requested to “bend the rules” (e.g. retroactive withdrawals). This might help achieve some consistency, as incumbents change, and generally, across the University. It might also assist offices in their attempts to articulate why a particular case does or does not merit special attention.

(e) Tribunal Issues

I spent some time this year addressing a number of re-occurring questions about the functioning of tribunals within the University. One issue that was considered in last year’s Annual Report involved the role of the Senate Board for Student Appeals (SBSA). The question was raised whether the tribunal was to re-hear a case or whether it was restricted to determining whether the process at the lower levels was “just, fair and reasonable.” My understanding is as follows. The SBSA is required to have a full hearing. At the conclusion of the hearing, the Board is to determine whether the prior decision was “just, fair and reasonable” from both a procedural and substantive perspective. This final tribunal hearing should be conducted with all the appropriate procedural safeguards.

Some questions have arisen about the joinder of cases when an individual is charged with a number of offences, or alternatively, when a number of people are charged in connection with one incident. A review of this issue has confirmed that the Student Appeal Procedures should be amended to provide for the joinder of cases when the tribunal deems that it would be fair and reasonable to do so.

Administrative tribunals are not required, or necessarily encouraged, to maintain precedent systems. One of the primary purposes of proposing such a system is to try and achieve a level of consistency for sanctioning purposes. This goal might also be achieved through the periodic publishing of non-binding sanctioning guidelines.

I am still concerned that appellants (particularly in the case of Type 1 and Type 2 grievances) may reach the final level of appeal before the issue of jurisdiction is addressed. I would like to continue to explore alternative ways of handling this problem.

Suggestions have been made in the past that the University should consider reducing and consolidating its’ appeal tribunals. This could simplify many of the University’s procedures and enable the University to put more resources into better tribunal training. I think this is an interesting proposal, however, I am concerned about the additional time commitment this would require from the tribunal members. The University may need to devise a plan to recognize the ongoing contribution of these individuals.

Finally, I would like to thank the Senate Office for arranging a Tribunal Training Workshop this year. It is very important that tribunal members have access to adequate training - the credibility of the system depends on it.

Student Concerns

(a) University Calendar and Registration Material

A student visited the Ombuds Office, early in the term, to complain about one of his courses. He had attended on the first day of class and received a course outline that differed considerably from the description contained in the University Calendar. The student had already purchased the textbook for the course and was upset that he now had to scramble to find a new course that would fit his timetable.

The Calendar, together with other registration material, forms the basis of the University’s “contract” with the student. In this case, the student had relied on the Calendar and was understandably upset when the University failed to fulfill its’ part of the bargain.
Two students visited the Ombuds Office to discuss a programme requirement that was not clearly explained in the registration material. The material briefly stated that students "may" be required to write competency exams when, in fact, those exams were mandatory and effectively served as prerequisites for a number of subsequent courses. The Faculty redrafted their written and web material to clearly reflect the programme requirements and offered extra assistance to the students who were having difficulty passing the exams.

Potential students rely heavily on the written material provided by a Faculty. The material must be available in a timely manner and it must be worded as accurately and clearly as possible (e.g. "may" does not equal "shall" from a reader's perspective). I had two cases this year involving this issue. Both cases occurred in transition years - years when the programme's requirements were changing. Obviously, extra care must be taken in these circumstances.

A student contacted the Ombuds Office because the programme she was enrolled in had changed the course requirements for her final year. The requirements were different than when she signed up for the programme three years earlier. She wanted to know if this was fair.

I understand that programmes make every effort to advise students as far in advance as possible about programme changes. The practice of allowing changes "mid-stream" is handled differently from department to department. In this case, the student decided not to pursue her concerns. However, from a "fairness" perspective, I would think that if the University wants to be able to make these types of adjustments, then at a minimum, students should be advised at the time of the initial "contract" that such changes are possible.

(b) Academic Dishonesty

A student visited the Ombuds Office and said his instructor was giving him a "D" on a paper because he suspected that it was plagiarized, although he couldn't prove it. Another student claimed that an instructor told her, in front of her entire tutorial group that he was refusing to mark her paper because he was convinced it was copied. (She later returned with her drafts and the instructor apologized and marked her paper.) Students who met with an instructor concerning an academic dishonesty charge reported being told that they had only five minutes to convince the instructor of their innocence. Other students said that their instructor did not give them any chance to explain, but simply lectured them on why they should not cheat.

Academic dishonesty is a serious issue on campus and the current process is frustrating to many instructors who feel that they do not receive the support they need to adequately address this problem. Nevertheless, if an instructor suspects that a student is guilty of academic dishonesty the instructor must follow the policy and cannot simply assign a lower mark. The student must be permitted a fair opportunity to tell his/her side of the story. The case should then proceed in a timely manner.

A student was charged with cheating on a mid-term exam. Three invigilators charged the student after they reportedly saw her copying from the student in front of her. The student appealed the charge and requested information pertaining to the other student's exam. The instructor sought the advice of the Faculty Hearing Committee on what information should be disclosed. The Committee temporarily adjourned the hearing to permit the instructor to produce the information requested by the student. The charges against the student were dismissed.

This case illustrates the principle that parties should be entitled to sufficient disclosure to enable them to meet the charges against them. When a student is charged with copying from the student in front of them, it is relevant how many questions they answered incorrectly. Similarly, the student must have an opportunity to question the witnesses, in this case, the invigilators.

This year the Senate Board for Student Appeals heard a case where a student argued that the sanction they received in an academic dishonesty case was inappropriate. The penalty was said to be inappropriate because another student who was charged with similar offenses (and who may have participated in the incident involving the appellant), received a much (lighter) penalty. The Board held that the case must be considered on its own merits and rejected the idea that they should consider a penalty received by another student in another hearing. The Board's reasoning is understandable and I agree that it is not the Board's function to delve into the specifics of another case. However, in a broader sense, the University should attempt to ensure that penalties are "equitable" and that similar violations are treated in a similar manner. This could be done by issuing a set of sanctioning guidelines or by applying additional resources to the adequate training of tribunals at both the University and Faculty levels. A provision in the Student Appeal Procedures providing for the joinder of cases might have been of assistance in this case.

(c) Examinations

The statement prepared by The Society for Teaching and Learning in Higher Education on the Ethical Principals of University Teaching has the following to say about the valid assessment of students,

Given the importance of assessment of student performance in university teaching and in students' lives and careers, instructors are responsible for taking adequate steps to ensure that assessment of students is valid, open fair and congruent with course objectives.

1 try to bear this statement in mind when I am confronted with a question involving an examination.


\section{Comprehensive Exams}

I saw a number of graduate students this year who were preparing for their comprehensive exams. The Graduate Calendar states that "the form of the exam and its administration is the responsibility of the Department." Some departments have prepared information sheets describing how the comprehensive examination process works. Students tell me that they find this useful, although I am not sure that all departments provide this information. The comprehensive exams appear to be handled quite differently from department to department. In some cases the supervisor is part of the committee, in others cases the supervisor may review the questions but is not part of the committee. Some departments have impartial third parties within the department review the questions. Sometimes the Chair of the Committee is from an unrelated field. Most departments permit one re-write before the same committee but there are some exceptions to this practice. I assume that there are good reasons for these variations, but I wonder if there shouldn't be some uniform principles, e.g. should the supervisor be part of the examining committee? At a minimum, students should be well advised about the process. There still seems to be some areas where students could benefit from additional information. Some questions that I heard from students included the following:

- Is written feedback provided to students who fail their first comprehensive and what format should this feedback take?
- May questions be asked on the oral exam that are unrelated to the written portion of the exam?
- Is one of the purposes of the pre-examination meetings to see if a student is ready for the comprehensive?
- Does the examining committee make a decision based on consensus or majority rule?

This year the Senate Board for Student Appeals considered a fairly complicated case dealing with comprehensive examinations. The Tribunal was of the view that no re-read (or Type 1 grievance) is required (or can exist) when three or more examiners are involved in an oral comprehensive examination. This conclusion was based on the Tribunal's interpretation of the policy dealing with record keeping on graduate oral exams. According to this policy, examinations are only taped when there are fewer than three examiners present. The tribunal interpreted this policy to mean that academic judgment issues would only arise (and hence the need for the taped evidence) in these circumstances. By implication, the Tribunal felt that the presence of three examiners (and a majority vote) ensures the exercise of sound academic judgment and precludes any Type 1 arguments. Notwithstanding this finding, the Tribunal went on to suggest that if the Graduate School continued to offer re-reads for Type 1 grievances, they would need to develop some clear procedures in this area.

For some people, this decision simply confirmed their understanding of the existing rules. However, for others, this decision appeared to be a major departure from the procedure outlined in the Student Appeal Procedures. Personally, the case for not permitting re-reads is clearer to me than is the case for prohibiting all Type I appeals. The question of the suitability of a re-read has arisen in other contexts, for example in clinical and tutorial courses. On the question of general Type I appeals, I am sensitive to the problems associated with appealing the academic judgment of two (or possibly three) faculty members who are, in all likelihood, the individuals on campus with the most expertise in the area under review. However, I find it difficult to say that in no case could an academic judgment error occur when two examiners fail a student.

In any event, I do not think, going forward, that it is adequate to draw inferences from other policies to reach the conclusion that oral comprehensive exams cannot be appealed via a Type I grievance. If this is to be the case then students deserve to be notified through clear amendments to the Student Appeal Procedures. If, on the other hand, the Graduate School decides to continue to offer re-reads, I agree with the tribunal that some guidelines are necessary.

In terms of the taping of oral comprehensive exams, I think there is a good argument that these should be taped regardless of the number of examiners present. No suggestion has been made that graduate students are precluded from Type 2 appeals, where the existence of a tape could benefit all parties. If taping is done routinely, students will not be placed in the awkward position of having to make this request to the same individuals that are evaluating their work.

\section{Deferred Exams}

The issues surrounding the granting of deferred exams continue to plague the University. For my part, I saw 17 cases involving deferred exams this year. Most of these cases involved a request for a deferred exam based on medical reasons.

I continue to hear from students who are upset that other students are being allowed to write deferred exams for what they view as minor or questionable medical reasons. These students want the University to create a system that protects students who are legitimately ill but also prohibits students from unfairly abusing the system. It is my understanding that the University has the right to determine what is a satisfactory reason for missing an exam. To date, this has been done fairly loosely but I think students and faculty alike could benefit from a more detailed discussion of the degree of illness, which would justify the granting of a deferred exam. This could assist students who are considering missing an exam and faculty who are trying to judge these cases with some degree of consistency across the University. Students also need to be clearly advised that a deferred exam is a privilege that is granted at the discretion of the Associate Dean. The use of the words "may grant" in the calendar is not sufficient to convey to students that a deferred exam is not a right. Similarly, students need to be
clearly advised that a medical note does not guarantee that a deferred exam shall, in fact, be granted. I find that this is a common misconception among students.

Some medical cases, for example when a student is hospitalized, are clear-cut. However, there are many more cases that are difficult to evaluate. In these cases, I see a number of criteria being considered, including the following: the existence of a chronic condition that is documented with CSD or the student’s family physician; the timing of the doctor’s appointment - did it occur before the exam or shortly thereafter; the existence of objective symptoms that may have been noted by the physician; the seriousness of the condition; and a history of deferred exams that are not related to a chronic condition. It may be useful to compile a list of these criteria to include in any policy revisions. Once again, the goal is to fairly advise students concerning how these petitions are being evaluated and to achieve some level of consistency between Faculties.

The question of “deferred, deferred exams” has had quite a checkered history over the last two years. Initially, in some Faculties a failure to write a deferred exam automatically resulted in a zero on the exam and often a failure in the course. In other Faculties a request for a deferred exam, when supported by appropriate documentation, could result in a n/c (no credit) on the transcript. Early this year the decision was made to discontinue the granting of n/c’s and, if appropriate, to re-schedule deferred exams. Unfortunately, the logistical problems associated with this approach make it unworkable. A uniform process for the handling of missed deferred exams is urgently needed. Equally important is the University’s obligation to clearly indicate to students any changes in the policy or any changes in the enforcement of an existing policy or practice.

I wanted to briefly comment on two other procedural issues. Some students have indicated to me that their Faculty/programme has rules concerning deferred exams that are more onerous than those used by the University. For example, a rule that a student must contact their programme before a missed examination, or that a student must attend at their physician’s office within one week of their examination. Neither of these rules appears in University policies or on the examination schedule. It is confusing to students when they are confronted with seemingly contradictory regulations and I think it would be preferable, for all concerned, to have uniform regulations throughout the University. If this is not possible, specific exceptions should be included in the University policy. Another procedural item that should be clarified is the role of committees in the review of Petitions for Special Consideration.

A student visited the Ombuds Office to complain that the format of a deferred exam was changed from multiple choice to long answer. The course outline indicated that the final exam would be multiple choice and considerable time was spent in the tutorials practicing this type of question. The student was not warned that the format of the deferred exam might be changed. The student was permitted to re-take the course and was granted an n/c.

Both sides have good arguments in this case. The Faculty believed the student should be sufficiently prepared to write any type of exam, provided the content was the same. Also, the Faculty felt that since the student was obtaining special consideration, the instructor should not be bound by any representations concerning the final exam. On the other hand, the student believed that the course outline should govern the format of both the final exam and any deferred exam. In addition, the student argued that it is perfectly understandable that students would prepare differently for different exam formats and that therefore, a student should be warned of any changes.

iii) Other Exam Issues

A student contacted the Ombuds Office to complain about the fact that he was required to write three mid-terms (two worth 20% of his mark and one worth 25%) during one twelve hour day. He had approached the instructors, prior to the mid-terms, to see if it was possible to re-schedule one of the exams. He was told that nothing could be done. He performed very poorly (below his usual performance) on the last mid-term.

The bunching provisions in the Examination Guidelines apply only to final exams. There are considerable logistical obstacles in extending these guidelines to mid-terms. As well, there are concerns about academic integrity and the feeling by some that if the University continues to interfere in the area of testing, it is effectively diluting the academic rigor inherent in a University education. I understand these arguments but I feel they are difficult to support when the University has already recognized the unfairness in the bunching of final exams. It is true that mid-terms may be worth proportionally less of a student’s mark, but students are also continuing to attend classes and labs during this period. It seems that there will be a limited number of circumstances when a student is required to write three mid-terms in one day. This arose because the student was taking a number of elective courses outside his main programme. It was suggested that the Associate Dean’s offices could intervene in these, relatively rare, situations. In fact, this is often what happens but unfortunately, in this case, the student did not contact his Associate Dean in time. As I have often stated, it is much easier for a student to approach an instructor or an Associate Dean and, in turn, for the Associate Dean to successfully intervene, when there is a policy or guideline in effect. As things stand now, students are relying on the goodwill of their individual instructors and this is bound to create inequities.

I had a number of cases this year involving the “loss” of mid-term examinations and papers. It might be worth considering instituting tighter collection procedures. Take-home exams continue to be scheduled during the “examination ban”. This seems to happen more frequently with sessional lecturers who do not seem to be aware of the regulations.
(d) Quality of Teaching

A review of my case files revealed that I saw over 20 students this year who wanted to discuss (often in conjunction with another issue) the quality of teaching they were receiving. Complaints included an inability to explain concepts or answer questions, failure to show up for office hours, and a general sense that the course was poorly organized. Cases where instructors were reportedly rude or where the student disagreed with the evaluation methods were not considered in this category. At times, the allegations could be attributed to unreasonable expectations on the part of the student, or a general unwillingness on the part of the student to take some responsibility for their own learning. But at other times, the allegations were quite troublesome and led me to speak to a number of people and offices within the University to try and ascertain what a student should do if they have serious concerns in this area. If the issues are very specific, the student may be able to approach the instructor, alone or in a group, to try and rectify the problem. Students are understandably reluctant to do this and I can sometimes help in this regard by raising the issue anonymously or by coaching the student. Sometimes a carefully written e-mail or letter can work. But in many of the cases I see, the student has already tried to informally resolve the issue and is now looking for other options. The path for these complaints is to speak to the Chair of the Department, and if the student is still dissatisfied, to speak to the Dean. The students who have followed this route report mixed success. Often, if changes do not happen in the classroom, students are skeptical that anything is being done. The Deans tell me that the student feedback is used in tenure, promotion and merit pay discussions. Obviously, most of the students I see would prefer positive changes in the classroom.

Instructors who are looking for ways to respond to students concerns might consider a process offered by the Center for Leadership in Learning. The process is entitled “Refining a Course” and it involves the instructor, the students and a third party working together, early in the term, to modify a course. The process is designed to be open and constructive and concentrates on generating specific suggestions for change.

Quality of teaching issues also arise in connection with teaching evaluations. The policy on the Public Release of Students’ Ratings of Teaching Effectiveness was due to be re-examined in the fall of 1999. I would urge the University to proceed with this review and to consider widening the scope of the review to include some of the issues raised in the MSU policy paper on ‘Teaching and Course Evaluations.’

The University needs to hear from students who are dissatisfied with the quality of teaching they are receiving. Obviously, some of these cases will involve differences in teaching styles and unreasonable student expectations. Each case will need to be carefully examined on its own merits. But for those cases where there is a recognized problem, the University must be proactive in demonstrating their commitment to providing students with quality teaching.

(e) Grading and Appeal Issues

i) Re-reads

A student visited the Ombuds Office with concerns about an ambiguous question on a test. She wanted to know how a re-read would be conducted and if she would be entitled to explain why she thought the question was unfair.

Re-reads must be conducted very carefully, as was noted in the Senate Board decision referred to earlier in this Report. The impartiality of the reader must be protected, as well as the confidentiality of the student. It may be best to develop some general guidelines to cover re-reads. Usually, when a re-read is done, the reader will obtain the following: the student’s work, any available answer key, and some representative examples of other student’s work. A cover letter to a reader should not include a history of the work or any subjective commentary. In this case, it was agreed that it would be fair for both the instructor and the student to include a brief explanation of how they interpreted the question. The student’s mark was raised slightly.

Section 16(d) of the Student Appeal Procedures provides that “The re-read results shall be adjudicated in accordance with the procedures approved by the appropriate Faculty.” This section is rarely invoked, but I think students would be surprised to learn that the results of the re-read are not necessarily final. On the other hand, this process provides an instructor with a method of challenging what he/she views as a manifestly unjust decision.

ii) Peer Review

This year the Senate Board for Student Appeals considered a case involving peer review. As part of the Board’s decision, a number of recommendations were made regarding the specific peer review process used in that case. On a more general level, the Board recognized that this method of evaluation, while offering many advantages, must be used with care. Students need to understand how the system works and the criteria for evaluation must be clearly specified. The Board felt that instructors may want to consider whether there should be some upper and lower limits placed on the impact of this kind of evaluation. Personally, I feel that faculty may wish to retain the right to adjust peer evaluations if they conclude that a group has not acted fairly and in good faith. In response to this decision, the Faculty involved is currently in the process of reviewing the Board’s recommendations.

In all cases where students are participating in the evaluation process, I feel that it is critical to have on-going feedback. This is also true where the marking is very subjective, such as a group process mark that may include a peer evaluation component.
iii) Marking Students' Work

A student phoned the Ombuds Office regarding a course where he was required to submit a series of exercises. The exercises were not returned on time and, as a result, the student kept repeating the same mistake. When the exercises were finally returned the student was upset that he was repeatedly marked down for something he could have easily corrected had he been aware of the problem.

The Faculty Code of Conduct states that instructors shall "be conscientious in grading student assignments". The student returned to the instructor and it was agreed that the student would re-write some of the assignments and that his mark would be re-distributed.

iv) Academic Remedies

Can the Senate Board for Student Appeals order an academic remedy, including a grade change, for a Type 2 grievance, or does the final authority for an academic remedy/grade change rest with the instructor/Faculty? In a case this year involving a Type 2 grievance, the Senate Board for Student Appeals refused to interfere with a grade on the basis that the tribunal should not get involved in a remedy involving academic judgment. Practically, this means that if a tribunal finds that, for example, "the method of evaluation was not fair and reasonable", it is put in the awkward position of searching for an academic remedy that doesn't specifically involve a grade change. Sometimes, this works out well and a student might be permitted, for example, to re-take an exam, or a decision may be sent back to the Faculty with specific instructions on what criteria to consider when recalcualting the mark. However, sometimes this futtering of the tribunal's authority results in a very hollow victory for the student. Students do not understand this process. Generally, if a student appeals to the highest level in the University on the basis of an alleged injustice, the student reasonably expects the tribunal to have at its disposal a full range of remedies. If this is not the case, students should be adequately advised in advance.

v) Participation Marks

A number of students complained this year that instructors were using participation marks to bell grades. This is very difficult to establish, given the subjective nature of these marks. Nevertheless, this practice is a "back door" way of belling and is unfair to students who have worked hard all term. It is less likely to occur when instructors include some criteria for awarding participation marks on their course outline.

(f) Financial Services

A student e-mailed the Ombuds Office with a question about his tuition payments. He did not understand how the interest charges were calculated.

This question comes up a number of times each year. Some students do not understand that the University considers all fees for the year payable at the beginning of September and that, therefore, any payments made after that date incur interest until paid. Students object to being asked to pay in full in September when some of their courses do not commence until January. I explain to students that McMaster has made a business decision to operate on a full year calendar and that they are effectively reserving their spot for January. I have recommended that students be advised that since OSAP is paid in two installments, they will incur interest charges for the amount outstanding from September to January. The MSU in their policy paper on the Registration System recommended that payment due dates and interest calculations should reflect the OSAP disbursements of 60% in September and 40% in January. Changes to the calendar have clarified the interest rate on a monthly and annual basis.

A co-op student who was changing to full-time objected to paying the co-op fees for the two remaining work terms.

Inquiries by the Ombuds Office revealed that almost all of the services covered by the fees were delivered in the first two work terms. The programme, to avoid overburdening students with one or two large payments, divided the payments into four installments. The student was satisfied with this explanation and the Calendar will be amended to clarify this point.

(g) Joint Programmes

Increasingly, McMaster is working with other schools to offer new and innovative programmes. A couple of cases I worked on this year emphasized to me, the procedural challenges this may present. When a new programme is being implemented, there is not always time to review and compare the relevant policies from the two institutions in sufficient detail. Sometimes, new policy will need to be drafted, taking into account the policies and procedures of both schools. This can be very time consuming. However, inconsistent and sometimes conflicting policies are confusing to students and equally important, they cast doubt on the professional operation of the University's processes.

Staff and Faculty Concerns

In reviewing my staff and faculty files for this year, I realized that the bulk of these matters are very fact-specific. For this reason, it is often difficult to extract any broadly based, campus-wide issues from these cases. Generally, the staff and faculty who come to talk to me are looking for a confidential listener that can help them look at their situation objectively and come up with a reasonable plan of action. Often these people want to try and resolve the problem themselves, and as a result, I am more likely to work in the background on these cases.

Many of these files involved a staff or faculty member calling
to inquire how to handle a problem from a procedural and/or interpersonal point of view. For example, I received a few calls involving students that were seen to be disrupting either the classroom or the workplace. My experience with these cases has led me to wonder whether the University could benefit from an intervention team that could work collaboratively to assist in these instances.

People call when they don’t understand how to apply their fact situation to a particular policy or they aren’t sure whether a policy permits the type of response they had in mind. Often, the calls result from an “absence of policy” – which I am quick to tell people, is not in itself a bad thing. The goal in these cases is to come up with a reasonable approach that is fair and is in line with how the University deals with comparable problems.

Some of the calls deal, either directly or peripherally, with whom has the authority in a particular situation to make a decision involving a student. The University is very de-centralized and sometimes the lines of authority are quite vague.

(a) Termination

Each year I see a few employees who have been terminated, or expect to be terminated, by the University or the MSU. I do not become involved in the legal aspects of these cases. However, I would like to make one observation. The people who visit me appear to be less concerned about the substantive issues of the dispute than about “how the dispute is being handled.” I hear from people who claim to be “shocked” by the dismissal or “acutely embarrassed” by the manner and tone of the dismissal. Others, feel that the specifics of their problems have been too widely discussed within their department. I would recommend that supervisors, prior to terminating an employee, consider speaking directly to Human Resources or the MSU Business Manger to obtain some guidance in what is, admittedly, a difficult task. I know many supervisors already follow this practice.

(b) Personal Harassment

Again, this year I saw a few cases where, if the allegations were true, the behaviour being complained about would fall into the category of “personal harassment”. I wrote about this problem last year and suggested that the University consider widening the definition of harassment contained in the Policy and Procedures on Sexual Harassment. I understand that this is not one of the recommendations going forward under that policy. I feel this is unfortunate, because some very carefully worded amendments in this area could have provided employees with a forum to raise these concerns. I suspect the arguments against such a proposal rely heavily on the “floodgate” argument. However, my reading in this area does not support that argument. The behaviour we are talking about here is persistent, and very serious in nature. The costs for not dealing with this issue include reduced productivity, absenteeism, high staff turnover, and the potential for violence. All of these costs were discussed in the alleged cases I was involved in. Schools have finally recognized the toll of “bullying in the school yard” and I think it is only a matter of time before employers implement policy in this area. We are where we were with sexual harassment ten years ago. Currently, a number of offices on campus are attempting to deal with these cases on an ad hoc informal basis. However, employees are very reluctant to bring these matters forward when there are no policies in place that support them or provide a process to resolve their concerns. An alternative would be to draft a Staff Code of Conduct that could include references to personal harassment. Presently, there are Codes of Conduct for faculty and students but not for staff. Individual policies may deal with staff conduct but there is no single, comprehensive Code.

(c) MSU Full Time Staff Issues

Some time was spent this year working with the full-time MSU staff to clarify their dispute resolution processes and some specific benefit issues. Thanks to all who participated.

(d) Financial Matters

Two cases this year reinforced the idea that good policy should be in place for dealing with student staff or members who are responsible for overseeing the financial affairs of their floor/residence/club/society/association, etc. Expectations should be clearly outlined and should be as specific as possible. In addition, there should be a mechanism in place that can be accessed by any interested party, in the event of a dispute. This process should probably include the use of an impartial decision-maker if the parties are unable to resolve the matter informally.

Communication Issues

Last year I included a section on this topic and I am doing so again, because I feel that communication is often at the heart of the problems I see. So much about communication is common sense but I, nevertheless, feel it is worth repeating.

(a) Incivility

“Incivility” is a hot topic these days. It is popping up on workshop agendas and people are using the term when they come to me to complain about an individual’s behaviour. I have had complaints from students, staff and faculty about this issue. Nothing brings people to my office faster than an offensive remark. I am quite willing to take these complaints back to the individual involved and ask for their side of the story. Often, when I do so, I hear further allegations of incivility. Courts have an expression, “come with clean hands”. It means that if you are going to complain, make sure that you are not also guilty of what you are complaining about. In my opinion, there is no place on the University campus for rude communications. Surely, one skill University teaches is
how to strongly disagree without reverting to rude personal attacks. Equally upsetting to people is when they are interrupted or not given a fair opportunity to tell their story. Sometimes, I find that the source of the problem is the unwillingness on the side of one party to listen carefully to another party’s explanation of a rule or policy.

(b) Effective Apologies

Often the only remedy available in the case of an inappropriate remark is an apology. Last spring I attended a worldwide Ombuds conference, where one of the workshops focused on “effective apologies”. Here are some of the points that were covered. An apology can be a very effective tool in reconciling differences but if it is done incorrectly, it can actually make a situation worse (think of President Clinton’s first apology). Many people who say they “just want an apology” are not being truthful with themselves. Ombuds can help people evaluate whether they will actually be satisfied with an apology, and what the apology needs to cover to be acceptable.

An effective apology starts with a common understanding of the nature of the offense. This sounds obvious but, in fact, often the parties have not talked enough to actually understand what part of their behavior upset the other party and why. The person making the apology must accept responsibility and express his/her regret directly with such words as “I am sorry”. There must be some acknowledgment of the impact of his/her actions on the other party. Above all, the apology must acknowledge that his/her actions/words/behavior were wrong and not suggest that the other person is hypersensitive or prone to over-reacting. This is where most apologies fall down. An effective apology should include a statement about the person’s future intentions. A neutral third party, such as an Ombuds, can coach people on how to make an effective apology and discuss such issues as timing, scope, setting, format, and obstacles to apologizing. The Ombuds may also be sensitive to the legal implications of an apology in any given situation.

During my two years in this Office, I have seen a number of apologies, both verbal and written, and I feel this is an area where most people could benefit from some coaching.

(c) Communication Between Departments

The University is a big place and often there is not enough time for offices to get together and discuss how their roles overlap and how they can cooperate in providing students or staff with the best service possible. This year a case came up that resulted in the Graduate Student Association, the Financial Aid Office, and Graduate Studies meeting to discuss their respective roles in advising students of financial aid opportunities. Students and staff alike will benefit from this exchange of information and ideas.

(d) E-Mails

My workload would have been reduced this year if students, staff, and faculty had followed one simple rule - don’t send e-mails after 10pm. Whenever anyone brings me an e-mail that they feel warrants some action, I check the time the e-mail was sent. I find that e-mails after 10pm should have been saved in the “draft” section and re-read in the cold light of day. Mass e-mails are also problematic. In these cases, the method of communication often becomes the issue, overshadowing the substantive concerns of the complainant. If people viewed e-mails as analogous to letters, I suspect that they might be more careful in what they wrote. People often express surprise to me that the person they are in conflict with has kept all their e-mails. E-mails that go beyond “inappropriate” and fall under the classification of “harassment”, are now specifically addressed in the Student Code of Conduct, as well as through the SHADO and Security Office. The “Stop-it” programme last winter was useful in drawing to people’s attention the improper use of e-mail on campus.

(e) Front-line Offices

Last year the Housing Office directed all inquiries to their information desk. I was pleased to see that they have re-instituted office hours. Personally, I support every effort to stay as accessible as possible to students who have questions or concerns. The Associate Dean’s Offices continue to make accessibility a key priority.

(f) Confidentiality

I had a very contentious case this year that involved a student in a relatively small programme. The problem was academic in nature and involved, in part, an interpersonal problem between the student and the instructor. The file was active over a three-month period, and throughout this period, there was a certain amount of confusion over the appropriate process to be used. The student participated in numerous meetings with various faculty members within the programme. In the end, the matter was informally resolved but the student was left with the impression that everyone in the programme knew her story. Indeed, at one point I was copied on a memo that included the names of four administrators in the programme.

It is often difficult to know how many individuals consult when attempting to resolve an issue informally and certainly in this case, the student was partly responsible for involving some of the additional players. However, overall, I think instructors, particularly in the smaller programmes, need to be very cautious when involving fellow faculty members and in turn, those consulted need to consider the principle of who really “needs to know” about an issue. Justice must be done, and equally, it must be “perceived to be done”. It is understandable when students are upset that their future instructors have prior, perhaps unnecessary, knowledge of past incidents. This practice can also taint future appeal routes.

(g) A Compromise

A student planned the Ombuds Office when she discovered that
her application for a graduate programme had been denied because her transcript was missing. The application instructions clearly stated that transcripts should be forwarded directly to the department. Further, the application stated that students were responsible for ensuring that their applications were complete and that they would not be notified of any deficiencies by the school. The student subsequently discovered that her transcript had been sitting for many months in the Registrar’s Office. The student’s previous school had forwarded it (in accordance with the student’s instructions) but there was nothing accompanying the transcript to suggest where it should be directed. The student acknowledged that she had not followed the instructions as contained in the application material.

This was a case where the Department agreed that in a perfect world they would write students to notify them of any deficiencies in their applications. However, current resources prohibited this practice. Instead, the Department tried to phone students to tell them about missing material and only if this proved unsuccessful, did they send a follow up letter. No phone call or letter was reported to be received by the student in this case, although the office believed a letter had been sent. The department had set up a practice different from their stated policy. The approach was understandable, but it would be preferable to find a way that students could be informed within the resource limitations of the department. It was suggested that potential students be told, in the application material, that they were free to contact the school by phone to confirm whether their application was complete. This placed the responsibility for following up clearly on the student, but also gave the students a means to determine whether their application was complete. For this approach to work the department must have fully trained individuals answering these requests and making a note of their response in the file. The department was pleased with this suggestion.

(h) The Ombuds Office

Marketing the Ombuds Office continues to be a challenge. Every effort is made to inform people about the Ombuds Office, but I still meet many people that are unaware of its existence on campus. Last year I wrote a column in The Silhouette to increase awareness of the Ombuds Office, and I feel that this was quite successful. The Ombuds Office appears in the Calendar, many Faculty Handbooks and the Almanac. The Ombuds Office web page has been revamped (see www.mcmaster.ca/ombuds), and I am available for presentations whenever the opportunity arises.

A new logo was designed for the Ombuds Office. It consists of three links in a chain, each link representing one of the parties in a dispute. The Ombuds Office is represented by the middle link that is placed slightly below the other two. Its role is to assist the parties in coming together while leaving the primary responsibility for resolving the problem to the parties themselves. The other two links are equal in size and stature, confirming that all parties’ interests are important, and that “fairness”, not “power”, should be the guiding principle in resolving disputes. The circle surrounding the links reminds us that any decision must take into account the interests of the community as a whole. The image of the chain was selected to demonstrate that our strength lies in working together.

Thanks

I wanted to thank everyone who contacted the Ombuds Office this year. It is often difficult to take the first step to resolve a problem. Other thanks go to the Associate Dean’s Offices. These offices continue to be one of my primary sources of referral. The individuals who staff these offices are always open to discussing issues and sharing their knowledge. A thanks also to the Senate Office - you always answer your phone and are willing to discuss process and policy concerns. Thank you to Debbie Good and Pauline Taggart from the MSU Office for your administrative and computer assistance. I continue to experience excellent co-operation from all segments of the University. Thank you for your continued support.

End Notes:
