

# OMBUDS

Ombuds Office Report: May 2008 - April 2009

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*“Canadian Ombuds practice is characterized by diversity, dynamism, and adaptive design informed by multicultural realities and a general commitment to ensuring accountability, transparency and fairness in decision-making.”*

*(LeBaron Summary 1)*

This year is the two-hundredth anniversary of the first modern Ombuds(man) in Sweden in 1809. Since then, the concept of the Ombuds has taken hold in many countries, including Canada. Ombuds can now be found in all levels of government as well as in many public and private sector institutions, including universities.

Despite its long history, the role of the Ombuds is still not always well understood. For a recent international conference commemorating this historic anniversary, the Forum of Canadian Ombudsman (FCO) commissioned a paper by author and UBC law professor, Michelle LeBaron, to provide an overview of the range of Ombuds practices in Canada in order to increase awareness and understanding of the role, particularly as it relates to fairness.

In the same spirit, we are dedicating this year’s report to addressing the question: *What Does a McMaster University Ombuds Do?*

Most university stakeholders familiar with the Ombuds office will know that we are available to assist students, staff and faculty with the resolution of university-related problems or disputes. But it is important to note that we are not the only, and, in fact, not even the primary office that deals with unresolved issues. Complaints, conflicts and problems are addressed across campus by a range of different offices everyday.

Unlike other dispute handlers, however, an Ombuds is characterized by **neutrality, independence, confidentiality** and a **commitment to fairness**. These qualities uniquely position us to identify, ameliorate and anticipate a range of University-related problems, and to encourage best practices, thereby enhancing the experiences of all members of the University community and assisting to make McMaster University the best it can be.

***“Ombudsman work at a distance, familiar with the system but not a formal part of it... They are an interface, practicing dynamic in-between-ness in ways that promote voice, procedural satisfaction and accountability.” (LeBaron 5)***

Because of our qualities of neutrality, independence, confidentiality, and fairness, Ombuds are able to listen to and hear visitors in unique ways. We recognize the inherent value of listening, and as a result are generous, in terms of both our time and our attitude, when meeting with students, staff and faculty members who come to our office to discuss a university-related problem or concern. By actively and empathetically listening to the concerns of our visitors, the Ombuds office is a safe place to express the negative emotions that can sometimes arise out of unresolved grievances.

Yet active listening is more than and different from simply giving individuals lengthy meetings to vent their frustrations. On the contrary, active listening involves giving individuals an opportunity -- without the fear of being judged negatively -- to take the time to clearly articulate and clarify their concerns. They are able to test their thinking with someone who has no stake in the matter, and who can give them neutral feedback and evaluate the reasonableness of their concerns. As a result, these individuals are able to develop a better understanding of their situation, and, in some cases, this may be all that is required.

***“Ombuds listen a great deal. In many cases, they are not able to assist a complainant in achieving their preferred outcome. But they do offer salve for the open sores of feeling rebuffed and disregarded, and this is often hugely important.” (LeBaron 20)***



Active listening also allows us, as Ombuds, to hear what a visitor is saying – or perhaps not saying -- so we can help to prioritize his or her concerns. Frequently, we encounter students who have complex multifaceted problems, often involving the intertwining of both personal and academic issues. For example, a student might come in to the office with a complaint about a grade on a paper, but after listening to the student’s concerns, it may become apparent that the student is struggling academically and may benefit from academic counselling and guidance, and may also be experiencing difficulties in their personal life and may require personal counselling.

Because the Ombuds office is structured to be outside the institutional hierarchy, we have a unique knowledge of the wider university culture. This perspective allows us to develop the acumen necessary to direct individuals to appropriate resources and dispute resolution channels. As Ombuds, we may also see a path to an effective and orderly way to approach a conflict that may have eluded others, situated in a specific unit, who have listened to the same

story. This perspective also allows us to recognize gaps or contradictions in university policies and practices, identify ways to improve existing dispute resolution processes, and identify emerging systemic issues.

*“Ombuds Offices are arguably even more necessary in the increasingly mechanized, bureaucratized and impersonal systems that characterize contemporary private and public sector organizations.” (LeBaron Summary 1)*

As a confidential service, we also allow people to be heard who might otherwise not be, such as those who may wish to report a case of wrongdoing or abuse of power and who are not comfortable using the official channels to do so. As more and more of the interactions students have with the University occur online, Ombuds help to offset the impersonal and, sometimes, depersonalizing nature of these experiences by demonstrating that McMaster values its individual stakeholders above all else.

*“Common threads run through the conceptual fabric of every ombudsman’s office -- all aim to humanize administration, to support fairness, accountability, and equity. All ombudsmen can be approached in confidence. No ombudsman has enforcement or disciplinary powers. All depend on the power of persuasion, as well as the credibility of the office which leads individuals to trust it. Although the process in achieving objectives of fairness and accountability may differ, the product is the same: a chance for ordinary people, those without power or prestige, to be heard and to get fair treatment.” (Steiber 56)*



As Ombuds we differ from other complaint-handlers on campus in that our overarching responsibility is to promote fairness in all aspects of University-life. When listening to visitors, we are listening not as decision-makers, but with a focus on whether or not the visitor has been treated fairly. We are encouraged when instructors and other decision-makers seek our input on possible fairness issues before addressing difficult situations. The notion of administrative fairness continues to evolve and is often dependent on the particulars of any given situation. At a minimum, however, fairness requires; transparency of University rules, equal treatment for individuals in similar circumstances, judicious exercise of discretion, hearing all sides of a story before making a decision, fair hearings, principled decision-making, and the duty to provide reasons for unfavourable decisions.





*“Ombuds are challenged to make determinations of fairness based on responsive, flexible applications of clear criteria, rather than substituting their own opinions about what might be fair.” (LeBaron 21)*

After having empathetically listened to a visitor we have often established the trust necessary to allow the visitor to listen to us as we, where appropriate, reframe the situation in ways that might be more constructive. We can help to generate options based on our understanding of University practices, policies and services to facilitate a resolution to a problem or concern. In the majority of cases, visitors may decide they have enough information and advice to allow them to resolve the situation themselves, and in these cases, we can provide coaching on how to approach individuals in positions of authority.

*“Ombuds can guide people in the organization to gain insight into the quality of their interactions with others and can address the climate of interactions.”*

*(Wagner 51)*

## Case Studies

The following section contains summaries of a selection of representative cases we handled during the 2008-2009 academic year. On many occasions, our response to the visitor's story is based solely on the information they provide and without the benefit of speaking to others. Any identifying information has been removed to protect the confidentiality of those involved. We have also included a corresponding table that indicates in short form the theory behind the practice in order that our stakeholders can have a more in-depth understanding of our role.

**FACTS PRESENTED:** A student visited the Office a few minutes after completing an in-course evaluation. According to the student, the instructor administered the evaluation and personally collected the forms.

**RESPONSE:** We reviewed the relevant policy with the student and confirmed that the instructor should not have been present during the evaluation. The student was unhappy with the instructor's teaching and we suggested that the student consider talking to the Chair of the department about one or both of the issues and let us know the outcome.

Each year we hear from a handful of students who report that their instructors have not followed the rules on how to administer the in-course evaluations, or that it has been done in such a manner as to detract from the usefulness of the exercise. We wonder if it might be helpful to develop a strategy to ensure that evaluations are properly administered. One possible strategy might be to add a line to the evaluation asking if the student is satisfied with how the evaluation has been conducted. This could be used to directly highlight any problems when the Chair reviews the evaluations.



**FACTS PRESENTED:** A student who was charged with academic dishonesty visited the Office. The student was employed full-time and had used a document that he had helped develop in his workplace for a class assignment. He believed that the professor had consented to this arrangement; however, the professor recalled insisting that the work be the student's own.

**RESPONSE:** We often see students who have been charged with academic dishonesty and are looking for advice on how to defend themselves at a hearing. In these cases we help students to organize their thoughts, identify documentation and/or witnesses they need to bring to the hearing and answer any other process and policy questions. We also use this opportunity to check in with students to see how the charge may be affecting them personally and academically.

This particular case also alerted us to the need to turn our minds to the unique issues that may arise in professional development programs where the students are often older and employed full-time in related fields. Occasionally, these students are asked to produce non-scholarly, professionally based assignments for which templates may exist in their workplace e.g. safety checklists, consent forms, practice protocols. Consideration of these issues may lead to policy changes and subsequent educational initiatives.

Provide Policy Information and Interpretation

Referral to Appropriate Dispute-Resolution Channel and Watchdog

Informal Recommendation Aimed at Preventing Future Problems and Protecting the Integrity of the Process

Educate about Policy and Hearing Process

Help Organize and Evaluate Arguments and Prepare for Hearing

Active Listening to Gauge Ability to Cope

Identify Emerging Systemic Issue and Linking it to Ongoing Academic Integrity Training

**FACTS PRESENTED:** A second year student visited the Office to inquire if there was anything that could be done about her poor first year marks. The student experienced a serious mental health issue that was not diagnosed and treated until after she completed her first year.

**RESPONSE:** We explained to the student that the University is very reluctant to revisit completed courses particularly when a student did not request accommodations at the time. Because of the disability-related nature of the issue, we suggested that the student visit the Human Rights and Equity Services Office (HRES) to further discuss her concerns.

One part of our job as University Ombuds is to identify systemic problems. In last years report we identified several issues surrounding the accommodation of students with disabilities; however, we felt that the issue of retroactive accommodation needed to be canvassed more thoroughly because we were seeing a proportionally significant number of visitors who made the link between poor past performance and disability, and we were unclear what principles were being used to decide whether or not any action should be taken in these cases.

We arranged to meet with the HRES Office to review our concerns. Since our meeting last spring, Milé Komlen, the Director of HRES, has had an opportunity to review this issue in more depth, and we understand that he will be bringing a report on this matter to the Associate Deans this Fall.



**FACTS PRESENTED:** A former student e-mailed us after he received his Yearbook, The Marmor, to complain that an incorrect name appeared beneath his picture. To date, he had been unsuccessful in resolving the matter on his own.

**RESPONSE:** We acknowledged how frustrating this would be. With the student's permission, we contacted the Editor of the Yearbook and the relevant officials at the MSU. As is often the case, we learned that the other party, in this case the MSU, was already in the process of addressing some of the same concerns. Asked for our input, we suggested that the MSU arrange a meeting that would include representation from both the Alumni Association and the Registrar's Office to see if they could improve the process whereby they match names to faces. The volume of information involved in this task is such that a few mistakes are probably inevitable. Therefore, we also suggested that they develop some guidelines to address these complaints in a prompt, fair and reasonable manner.

Knowledge of University Practice

Referred Student to Appropriate Office

Identified Systemic Problem and Made a Recommendation

Continuing to Focus University Attention on an On-going Issue

Showing Empathy, Humanizing the University

Fact-finding

Improving the Dispute Resolution System

Informal Recommendation Aimed at Preventing Future Disputes and Fostering Goodwill with Alumni

**FACTS PRESENTED:** A McMaster faculty member received a request for information regarding a former McMaster student from a professor at another University who was considering accepting him as a graduate student. The McMaster faculty member knew the student but was reluctant to reply to this request.

**RESPONSE:** We contacted the University Privacy Officer who, in turn, directed us to the University Secretariat website that contains “Frequently Asked Questions” on the Freedom of Information and Protection of Privacy Act. In order for personal information to be released to a third party, the student would need to formally consent. It is the responsibility of the third party to obtain this consent from the student. Because this consent had not been provided, the faculty member could not release any information about the student.



**FACTS PRESENTED:** A graduate student visited the Office. He did not want to identify himself or his department. He had just learned that a problem he had innocently helped a friend and fellow student to solve a few weeks earlier had been part of his friend’s take home assignment. He was angry with his friend for tricking him and using his work, but he was also concerned about telling his department what had happened.

**RESPONSE:** The graduate student had come to the Office after reading our website and assuring himself that anything he revealed to us would be held in confidence. The student was torn between his desire to “do the right thing” (his words) and the practical problems involved in stepping forward. He was also worried about his relationship with his fellow student; an individual he liked and respected before this incident. We were able to provide some additional information to the student pertaining to the *Academic Integrity Policy* and how the scenario might play out if he brought the matter to the department’s attention. But more importantly, we were available to help the student consider, in a non-judgemental fashion, the underlying ethical and relationship issues that were upsetting him. By the end of the meeting, the student still had not decided how to proceed but he thanked us for our time and our thoughts. We did not hear back from him.

Knowledge of Where to  
Obtain Correct Information

Providing Policy  
Information

Safe Place to Discuss  
Sensitive Issues

Provide Policy Information

Sounding Board on Ethical  
Issues

**FACTS PRESENTED:** A student wrote a mid-term exam in a crowded classroom where unfortunately, there were not enough exam papers for everyone and some students were unable to write. In addition, the resulting confusion and cramped conditions led to allegations of widespread cheating throughout the class. The student was not satisfied when the Instructor announced that the mid-term mark would not be included in the final grade.

**RESPONSE:** Over the years we have seen a number of cases where a test or mid-term exam does not proceed as planned. Obviously, this is upsetting for everyone involved and it is difficult, if not impossible, to find a solution that is perceived as “fair” by everyone. Nonetheless, certain principles have emerged from these cases and, for this reason, it is important that someone familiar with the challenges inherent in this type of case be involved from the beginning. One principle that has emerged is that students who have prepared for a test or mid-term exam and written it in good faith should, if possible, receive the marks they have earned. In the above fact scenario, the Chair became involved and ultimately a more flexible grading scheme was offered to the students. In another case where there were allegations of widespread cheating, the Associate Dean’s Office was consulted. In an effort to avoid “remaking the wheel” and to encourage consistency based on some overriding principles, we were wondering if it would be advisable to automatically include the Associate Vice President (Academic) in all cases where there has been a major glitch in the administration of a test or mid-term exam.

**Facilitating Fair Resolution Where there are No Clear Rules**

**Fairness Principle of Consistency**

**Recommendations to Encourage Further Discussion of Recurring Issue**





## Office Activities and Thanks

As always, we participated in a number of fairs and orientation sessions to bring attention to the services the Office has to offer to students, staff and faculty. Our Volunteer Ambassadors hosted several Ombuds Awareness events and helped us distribute informational bookmarks and posters across campus. This year, we also took part with the HRES Office in a Chairs and Directors workshop. Carolyn attended the mid-year conference of the national educational Ombuds association (ACCUO) and both Carolyn and Shelley attended the joint all sector Canadian/American conference in Montreal last spring.

A special thank you this year to Dr. Phil Wood, Associate Vice President (Student Affairs) and Dean of Students. Dr. Wood, along with the VP Education of the MSU, is a member of our Management Committee and we appreciate that he is always available to assist us. We have seen many examples over the years of his commitment to ensuring that students receive the services and support necessary to succeed. Through his initiatives in the area of mental health, Dr. Wood has recognized the needs of some of our most vulnerable students.

And as always, thank you to all those members of the University community who brought their concerns to us or were willing to listen when we raised the concerns of others.

## Contact Information

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## Works Cited

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# Statistics for Ombuds Office

## May 1, 2008 – April 30, 2009

**TABLE 1 - NUMBER OF CASES**

<b>Cases</b>	<b>371</b>
<b>Inquiries*</b>	<b>46</b>

\* 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.

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

**TABLE 2 - WHO VISITS THE OFFICE**

Full-time undergraduate	219
Part-time undergraduate	4
Graduate – Masters	22
Graduate – PhD	13
Continuing Education	5
Staff McMaster University	
• Student	4
• TMG	13
• Union	6
• Other	3
McMaster Students Union	
• Full-time	10
• Student	12
Faculty	27
Other	
• University Applicants	2
• Former Students	17
• Former Employees	2
• Other	12
<b>TOTAL</b>	<b>371</b>

**TABLE 5 - STUDENT CASES (ACADEMIC)**

<b>Student Cases - Academic</b>	
Academic Misconduct	38
Accommodation	19
Admission	
• Program	9
• University	2
Course Rules/Mgmt	22
Examinations	14
Grad Thesis/Supervision	5
Grade Appeal/Practice	50
Interpersonal	3
Petition	
• Deferred Exam	7
• Other	13
• Retro Withdrawal	12
Program Requirements	7
Teaching Quality	3
Transcripts	9
Withdrawal/Reinstatement	22
Other	6
<b>TOTAL</b>	<b>239</b>

**TABLE 6 - STUDENT CASES (NON - ACADEMIC)**

<b>Student Cases - Non Academic</b>	
Association/Clubs	2
Fees/Financial	
• Financial Aid	3
• University/MSU	10
Interpersonal	1
Registration	7
Residence - Discipline	
Residence – Other	5
Services	
• MSU	7
• University	9
Student Code of Conduct	5
Other	4
<b>TOTAL</b>	<b>51</b>

**TABLE 3 - STAFF CASES**

<b>Staff - University and MSU</b>	
Employment Issues	
• Hiring	2
• Terms of Employment	4
• Supervisor	
• Discipline	4
• Termination	2
• Working Conditions	4
Interpersonal with co-worker	4
Issue Involving a Student	7
Process/Policy	18
Services	1
Other	4
<b>TOTAL</b>	<b>50</b>

**TABLE 4 - FACULTY CASES**

<b>Faculty</b>	
Employment Issues	3
Hearing Process	
Interpersonal	4
Issue Involving a Student	11
Other	
Policy Interpretation and process	7
Practices in Other Programs	
Role/Authority of Offices	
Services	1
Other	1
<b>TOTAL</b>	<b>27</b>

**TABLE 7 - TYPE OF ACTION ON CASES**

Information	10
Referral	25
Advice	259
Intervention:	
Clarification	43
• negotiation	25
• mediation	7
• investigation	2
<b>TOTAL</b>	<b>371</b>



