

Confidential

Independent

Impartial



SIXTH ANNUAL REPORT

JUNE 1, 2015, to MAY 31, 2016

OFFICE OF THE
OMBUDSPERSON



To the University community,

Pursuant to articles 8.1 and 8.2 of the Terms of Reference for the Office of the Ombudsperson, on my own behalf and on behalf of the members of my team, I hereby submit our sixth annual report, which covers the period from June 1, 2015, to May 31, 2016. This report is the accountability instrument provided for in the ombudsperson's mandate:

"8.1. The Ombudsperson shall submit an annual report to the University Community, and in particular to the Senate of the University, the Board of Governors of the University and the Student Unions. The Ombudsperson shall make the report public via the Ombudsperson's website.

8.2. The report shall detail the activities of the Ombudsperson, including statistics on all complaints received, and shall make recommendations, as necessary".¹

I am very grateful for the privilege of being asked to assist the University community in resolving disputes and problems and in seeking fair and equitable solutions. I wish to thank all those who called on our services throughout the year, as well as the many people within the University and the student associations we worked with to resolve disputes and problems in a manner that is equitable for all. I am also grateful to the members of the Ombudsperson Advisory Committee for their work and their support during the year. Lastly, we thank the relevant authorities at the University and the two student associations who took our recommendations and suggestions into account and who continue to support our office's mandate with the University community as a whole.

Respectfully,

Lucie Allaire



This year's team

Lucie Allaire, Ombudsperson since 2010.

Marie Boglari, Assistant Ombudsperson since April 15, 2016.

Camille Brochu-Lafrance, Coop student, Promotion Officer.

Sana Khalil, Assistant Ombudsperson, currently on maternity leave.

¹ Terms of Reference, <http://www.uottawa.ca/administration-and-governance/board-of-governors/committees/ombudsperson-advisory-committee>

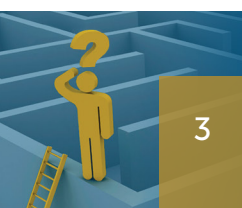


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Introduction

This report shows how the Office of the Ombudsperson at the University of Ottawa carries out its mandate. This mandate has remained unchanged since the Office was created in 2010.

"The mandate of the Ombudsperson is to provide an independent, impartial and confidential process through which members of the University Community may pursue the just, fair and equitable resolution of University-related concerns. In addition, the Ombudsperson may make recommendations, where appropriate, for changes in policies and procedures and promote discussion on institution-wide concerns."²

This report will present the work we did this past year, updates on the follow-up to past recommendations, and two new recommendations made in response to concerns and complaints received this year.

Follow-up on past recommendations

1. Since last year's annual report, the Student Associations have addressed our recommendations on the UPass to correct by improving the information provided on their website. They did not agree with our recommendation to consult their members residing on the STO territory. To date, we continue to make suggestions to improve both the distribution and the exemption process of the UPass. (see **p. 11**)
2. In our fourth annual report (2013-2014), we raised our concerns with the absence of guidelines and process with respect to academic measures imposed for non-academic conduct. We had also recommended that Protection Services clarify the situations when they forward Incident Reports to Faculties. The University has now replied that it is presently developing a protocol or guide that will include the different steps and considerations to be taken into account before imposing an academic measure. Although the guide is intended for situations where the student is experiencing serious health and mental health problems, the University expects the guide to be used in situations where health is not a factor. Students who are the object of these type of measures' will now be informed by their Faculty that they can file an appeal with the Vice President, Academics. (see **p. 14**)
3. In last year's annual report, we indicated that we continued to observe problems with the management and treatment of complaints of discrimination made by students. The University has responded that the review of Regulation 67 A and Methods 36-36-2 which had begun in 2013 had been suspended to give priority to the Policy on Sexual Violence Prevention which has now been approved as of June 27, 2016. The University has now indicated that it intends to resume the review process and that it will take into account our observations and suggestions contained in our 2011 publication, *Issue Paper on Handling Complaints of Discrimination at the University of Ottawa*, available on our website. (see **p. 17**)

² Ibid.

4. Over a few years now, we have made recommendations with respect to the process of academic accommodation for students who have disabilities. More specifically, we continue to press the University to adopt appropriate regulations to provide the necessary framework. The University continues to indicate that it is committed to adopting regulations and that it is now considering draft documents; it has not specified a timeline for the approval process. We reiterate that it is essential to adopt adequate regulations without further delays and that the implementation plan should include sensitisation and training initiatives. (see **p. 19**)
5. The Senate Appeals Committee agreed with our recommendations aiming to ensure that all students are adequately informed of their right to appeal. All Faculties must now include relevant information in their decision letters and the Secretariat of the University will oversee the implementation of this requirement. (see **p. 20**)

New recommendations

We make two new recommendations this year for the consideration of the University.

1. Firstly, we report that we have observed numerous errors in the application of the Academic Fraud regulation by Faculties, at times obstructing the right of students to present an informed defense to the allegations and to an objective examination of the allegations. Our report contains details of the type of errors we have observed. (see **p. 21**)
2. Secondly, we have raised concerns with a practice adopted by Faculties in the examination of requests for retroactive drop of courses for health reasons, the no "cherry picking" informal practice. We have put forth a recommendation to ensure that each request is considered on a case by case basis depending on the specific circumstances and that the informal practice be discontinued. (see **p. 24**)

Of interest, as of January 1, 2016, the Ontario Ombudsman has been accepting complaints from universities. The Ombudsman is an independent officer of the Legislative Assembly of Ontario who investigates complaints from the public about provincial government services, universities and colleges. However, he does not have a mandate to hear complaints about student associations. The Office of the Ontario Ombudsman will want to ensure that an individual who files a complaint has availed him or herself of the various remedies and resolution options – including contacting the University's Office of the Ombudsperson – before stepping in.



I am finishing my term as President of the Association of Canadian College and University Ombudspersons (ACCUO), a network of professionals that promotes the mandate and the value of the contributions made by ombudspersons at Canada's institutions of higher learning. We are counting on this network and on the linkages with our colleagues in a number of European countries and a number of Central American countries and the United States to further develop our knowledge and to share the best practices of various institutions.



"Where, after all, do universal human rights begin? In small places, close to home – so close and so small that they cannot be seen on any maps of the world. Yet they are the world of the individual person; the neighbourhood he lives in; the school or college he attends; the factory, farm or office where he works. Such are the places where every man, woman and child seeks equal justice, equal opportunity, equal dignity without discrimination. Unless these rights have meaning there, they have little meaning anywhere. Without concerned citizen action to uphold them close to home, we shall look in vain for progress in the larger world."

— Roosevelt, Eleanor. 1958. 'In Our Hands - 1958 speech delivered on the tenth anniversary of the Universal Declaration of Human Rights'. <http://www.un.org/en/globalissues/briefingpapers/humanrights/quotes.shtml>



The Ombudsperson's objectives, responsibilities and principles

The institution of ombudsperson has been in existence in the public sector for many years. At the University of Ottawa it has only been in place since 2010. There are still many questions and misconceptions of our role. For the benefit of the reader, the following section recalls the history, objectives, functions and principles that apply to ombudspersons more broadly and highlight the usefulness of such a service in a university setting.

1. Objectives

The Swedish *Justitieombudsman*, instituted in 1809, is often taken as a reference point to mark the advent of an independent public body tasked with overseeing respect for citizens' rights, justice and good governance. The ombudsperson's primary objectives have changed little since that time, as can be seen from the resolution adopted by the UN General Assembly on December 21, 2010, which reads in part as follows:

"Reaffirming its resolution 63/169 of 18 December 2008 regarding the role of the Ombudsman, mediator and other national human rights institutions in the promotion and protection of human rights, [...]

Welcoming the rapidly growing interest throughout the world in the creation and strengthening of the Ombudsman, mediator and other national human rights institutions for the promotion and protection of human rights and recognizing the important role these institutions can play, in accordance with their mandate, in support of domestic complaint resolution,

Recognizing the role of the existing Ombudsman, whether a male or female, mediator and other national human rights institutions in the promotion and protection of human rights and fundamental freedoms, [...]

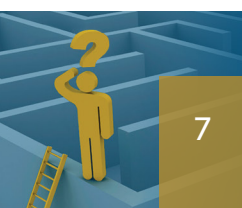
Considering the role of the Ombudsman, mediator and other national human rights institutions in promoting good governance in public administrations, as well as improving their relations with citizens, and in strengthening the delivery of public services, [...]"⁴

a. Facilitation of access to justice for the public

In most instances, ombudsperson's offices are created to provide a "safety net", a final remedy before the courts, to people who feel they have been unfairly treated by a government entity. They are intended to be easily accessible to all, free of charge and confidential in order to facilitate informal and rapid resolution of injustices.

³ Paquet, Jean-Claude. 2014. *L'ombudsman au Québec*. Éditions Yvon Blais. pp. 5-8, 23-25, 35, 36, 315-317.
Levine, Gregory J. 2012. *Ombudsman Legislation in Canada: An Annotation and Appraisal*. Carswell. Toronto. p. 33.

⁴ United Nations General Assembly. 21 December 2010. Resolution 65/207: *The role of the Ombudsman, mediator and other national human rights institutions in the promotion and protection of human rights*. A/RES/65/207.



b. Strengthening of justice, democracy and the rule of law

The institution of the ombudsperson is designed to help defend and strengthen the rights of citizens in relation to the state administration. The ombudsperson verifies that the administration is conducting itself in a lawful and legitimate manner, ensuring that the administration does not exceed its authority and abides by the law. The ombudsperson is a highly democratic institution in that it oversees respect for the separation of powers and administrative justice and enables citizens to have their voices heard more directly than by voting.

c. Equity and good governance

An ombudsperson must verify that the service provided by the administration is equitable. The ombudsperson's objective is always to ensure that decisions that are taken not only are lawful but take the specific circumstances into account. The ombudsperson is also an institution that fosters good governance and accountability by ensuring compliance with the administration's objectives and policies and is able to recommend changes to it.

2. Responsibilities

An ombudsperson's primary responsibilities have changed little over the centuries. Regardless of the field or area concerned, an ombudsperson's primary role is to accept and investigate complaints and to follow up on them if an injustice has been noted.

Through informal research and the facilitation of fair and equitable solutions, ombudspersons are also able to help redress injustices that are reported to them.

The ombudsperson also has the opportunity to draft recommendations for the administration concerning those areas in which improvement is needed. In many cases, an annual report is written so that the ombudsperson can make public the types of complaints that have been received, the recommendations made available to the administration and the changes it has made.

3. Principles

The three principles that ombudspersons widely adhere to, and which are found in the Terms of Reference of the Ombudsperson of the University of Ottawa, are as follows:



a. Independence

This is the foundation of the institution of ombudsperson. Independence from the administrations that ombudspersons oversee enables them to preserve their legitimacy, objectivity and impartiality.⁵

b. Impartiality

An ombudsperson always seeks to determine whether a particular decision is fair and equitable. This is achieved by being impartial: by not showing bias and by taking the interests of all parties into account in assessing a situation objectively (Paquet, 2014: 57, 61).

c. Confidentiality

The Office of the Ombudsperson does not disclose the name of an individual who has consulted it without the individual's consent. Confidentiality means that services are provided in confidence and that anyone can feel comfortable sharing a concern, discussing a problem or seeking help. Confidentiality also protects and strengthens the credibility of the service in that all complaints, even anonymous ones, are accepted.⁶

4. Ombudsperson in a university setting

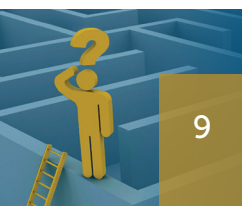
The Ombudsperson of the University of Ottawa abides by these same principles and offers independent, impartial and confidential service to the entire University community. The office is open to everyone and provides access to fair and equitable solutions. The Ombudsperson adheres to the *Standards of Practice* established by the ACCUO, which carefully set out its role:

"With a focus on fairness, equity and respect, the ombudsperson builds capacity to help the institution be accountable to its own value and mission statements. In working with individuals, the ombudsperson facilitates fair resolutions that build trust and fortify the relationship between individual and institution."⁷

⁵ Fellous, Gérard. 2006. Review of contribution of Association des ombudsmans et médiateurs de la Francophonie (AOMF) to the OIF'S second report on democratic practices, human rights and freedoms in the Francophone space. Study on independence of mediators and ombudspersons. AOMF. http://www.aomf-ombudsmans-francophonie.org/l-aomf/ressources-et-references/travaux-et-etudes_fr_000047.html (accessed August 4, 2016).

⁶ Levine, Gregory J. 2012. Ombudsman Legislation in Canada: An Annotation and Appraisal. Carswell. Toronto. pp. 79-82.

⁷ AOUC. 2012. *Normes d'exercice de la fonction*. http://www.uwo.ca/ombuds/accuo_aoucc/english/SoPJune2012EF.pdf (consulté le 5 août 2016).



The Ombudsperson also drafts reports and recommendation for the University of Ottawa when she identifies a dysfunction or possible improvements. The Ombudsperson's objectives are two-fold: to provide a rapid and effective complaints mechanism to the entire University community and to contribute to good governance at the University, which recognizes and supports these functions:

[Translation]

"Finally, I would like to thank you for giving me the opportunity to respond to your 2014-2015 annual report. In the Destination 2020 strategic plan, the University undertakes to offer an unparalleled university experience and, through outstanding teaching and research, to play a vital role in defining the world of tomorrow. The Office of the Ombudsperson contributes to this vision by encouraging the University to continually do better in key areas, including the student experience, transparency and procedural fairness".

—Michel Laurier, Vice-President Academic and Provost, University of Ottawa, July 14, 2016.

TESTIMONIAL

'Amazing help and
positive outcomes!
Thank you!'

TESTIMONIAL

'Overall, I'm very
thankful to have
the Office of the
Ombudsperson
on campus. The
provided services
are excellent!'



Follow-up on past years' recommendations

1. Universal Transit Pass (U-Pass)

There were two major changes to the U-Pass in 2015-2016: the inclusion of students living in the region served by the Société de transport de l'Outaouais (STO), who had previously been exempted, and the extension of the program to the spring/summer session for full-time students.

Many students contacted us to object to the expansion of the OC Transpo program to include students living in the region served by the STO. We made recommendations on two occasions. In 2010, we recommended that the student associations consult with students residing in the STO territory before expanding the U-Pass to include them, which was not done. We reiterated this recommendation in light of the complaints received in the fall of 2015. Our full report with our recommendations from October 2015 is on our website⁸.

The following extract from the October 2015 report describes the process that led to the adoption of the program. We believe it is worth repeating here because many of the students who came to see us were not aware of it, and none of them had exercised their right to vote in the three referendums held on this program:

"The U-Pass program was adopted as a result of two referendums. The first referendum resulted in the implementation of the program for students residing in the OCTranspo territory only. Negotiations with the STO were not successful and students residing in the province of Québec on the STO territory were exempted from the program. Once the program was in place, a second referendum was conducted and the majority of students who voted decided to continue the program provided annual fee increases do not exceed 2.5%. The program has been running since 2010 with OCTranspo only. At that point in time, the program by all accounts was an OCTranspo program and always excluded students residing in the STO territory.

The Student Associations have contractual obligations to administer the program and the exemptions according to the clauses in the Contract and must be prepared to be audited by OCTranspo. They must have the necessary documentation to support their decisions to exempt some students. GSAED has delegated the responsibility to manage the program to SFUO.

In summer 2015, OCTranspo sought the approval of the Student Associations to pursue negotiations with the STO in order to include students residing in the STO territory. The Student Associations agreed without further communication or consultation with their membership affected by this decision. OCTranspo and STO arrived at an agreement and the program was extended to all students residing in the STO territory as of September 2015. Students are provided with an U-Pass, an OCTranspo bus pass which they can use in the STO territory".

The second extract (below) from our same report serves as a reminder of our conclusions and our recommendations:

⁸ https://www.uottawa.ca/ombudsperson/sites/www.uottawa.ca.ombudsperson/files/u-pass_recommendations_eng.pdf

"Conclusion

The number of complaints that we received on this matter indicates that these issues are important to students. It is worth mentioning that our office has never received this number of complaints on a single issue since we were established in 2010.

The service offered to students in the STO territory through this program is not equivalent to what is offered to students residing in the territory of OCTranspo: there are no STO buses serving the campus, and the fee structure is different. The benefits associated with the U-Pass are different for these students. It is worthwhile pointing out that the agreement negotiated for the UQO is more generous, in part because it is subsidized by the University. The more interesting feature in the fee structure is the voluntary nature of the program for STO residents. The benefits of the U-Pass are significantly different for the STO residents because of the difference in fee structure and the level of service. Approximately 7000 students were impacted by this decision.

By the time the second referendum was conducted, the program was for all intent and purposes, an OCTranspo program. Students residing in the territory of STO had been excluded from the U-Pass program from the outset of the program. They were not adequately informed about this possibility during the time of the second referendum and consequently they did not have a fair opportunity to voice their opinion on the extension of the OCTranspo U-Pass. Applying the result of the second referendum to these students is questionable. In my view, it is unfair to impose the U-Pass without informing the students of the proposal and conducting a referendum.

Recommendations

That the SFUO and GSAED provide their membership residing in the STO territory with complete information on the application of the U-Pass to them and conduct a referendum on the continuation of the program. Without a referendum, the program should be discontinued for those students residing in the STO territory.

That the SFUO, who is mandated to administer the program, correct the shortcomings of the process experienced this year, ensure their Exemption forms and the information on their website correspond to the clauses of exemption contained Contract; apply the residency clause to graduate students as per the clause in the Contract and be more prepared to present requests under the clause for special circumstances to OCTranspo".

The following response from the SFUO was sent to us on July 6, 2016:

"U-Pass Report: Student Federation Response

The STO inclusion into the U-Pass program was a response to student needs that expressed an unfairness in the U-Pass program only catering to a certain demographic of students in the Ottawa area and not recognizing the student membership in Quebec. Students used their platforms to express frustration through the SFUO General Assemblies, Board of Administration meetings, U-Pass distribution and to the Ombudsperson of the University. We then actively engaged with our membership through surveys to see if the inclusion of STO would in fact benefit the students.

Through this consultation the Federation started negotiations with OC Transpo to include the program. We were successful and in fall of 2016, the STO inclusion was implemented. Out of 7,000 students who were now included in the program less than a quarter were unsatisfied.

The exemption forms needed to be updated due to the inclusion of these new students and we have taken this feedback, and the forms are now updated. The exemption criteria's we understand as a student's union are not perfect and we continue to lobby OC Transpo and the University to improve these conditions for students. At the same understanding that we have contractual obligations and every time an exemption has been denied it has not come without much reflection and interpretation into what our agreement allows us to do. We also consult OC Transpo on most of our cases to double check our work and see if we may or may not be able to fulfill students request.



Regarding the recommendation to hold a referendum for students living in the STO transit area only, is not the practice of our Federation. All referendums need to be addressed to all our membership. For example, when we consulted with students for the creation a racialized students centre if we only asked racialized students to vote on the question the referendum might have passed in winter 2015. Because all undergraduate students are members of the Student Federation and their fees would be impacted by this decision, as well as keeping the values of our elections to be democratically sound all students got the chance to vote for this question. Referendums for the SFUO need to be reflective of all the students we represent.

(the following paragraph is an extract from our report which the SFUO included in their response)

"The fee structure is very different at the STO. For example, a bus pass for students at the University du Québec en Outaouais (UQO) is optional and is \$158.00 per semester, \$34.70 less than the U-Pass, however, it should be noted that the UQO provides a subsidy to the STO. Other examples: the U-Pass represents a saving of 1) \$29.30 per semester compared to the pass for Cegep de l'Outaouais students, 2) \$55.30 compared to the pass for STO area students from other institutions between the age of 17-20 and 3) \$83.3 for their peers 21 and over; however, the STO semester passes are all optional. "

The Student Federation would like to specifically note that, the U-Pass is a universal pass which now serves, the O-Train, runs through the summer months, the Ottawa transit and STO routes. This is a universal pass which allows many access points of travel. For example, a student living in the STO area could cross the same bridge with the same pass without paying a different fare and ride around all day back and forth on the same pass on multiple routes. As well as the U-PASS offers students discounts at certain businesses through the ISIC program; we strongly believe the prices are not comparable due to this reason.

We appreciate all the work done by the Ombudsperson of our Institution and although there are some recommendations that we will not be able to implement due to the core principles of our Federation we have taken many into consideration and will bring this with us to future negotiation meetings with OC Transpo and the University around the U-Pass program."

The GSAED's response of June 14, 2016, is as follows:

"We agree that it is important that the SFUO and GSAED provide their membership residing in the STO territory with complete information on the application of the U-Pass.

We do not agree that a second referendum on the program continuation need be conducted.

We agree that the SFUO ensure their Exemption forms and the information on their website correspond to the clauses of exemption contained Contract; apply the residency clause to graduate students per the clause in the Contract.

We offer qualified agreement to the recommendation to present requests under the clause for special circumstances to OC Transpo, in that it is important to respect the terms of the agreement as contracted, but not to go beyond the scope".

Our comments

We acknowledge that the SFUO has made an effort to rectify many of the problems with the website and the exemption process for the pass and that it is continuing to discuss problems and specific cases with OC Transpo; it has rectified many of the errors that had been detected on the pages dedicated to the U-Pass. With regard to the recommendation concerning the need to consult the student population living in the STO's territory, we reiterate that in our opinion the decision making process that led to the decision to approve the expansion did not meet the need for transparency and



equity towards Association members living in the Outaouais. We did not see or review the surveys referred to in the SFUO response and therefore we cannot comment on that aspect of the response.

We are satisfied that the SFUO will take our comments and suggestions into account in future negotiations with OC Transpo.

We drew the GSAED's attention to specific circumstances affecting graduate students. We have noted that the information on the website pages is now clearer for students who expect to receive a full refund of their tuition once they have submitted their thesis before a specific date. They are now aware that they must nevertheless submit an exemption request and hand over their U-Pass card and that failure to do so will mean they will not be reimbursed. We continue to encourage GSAED to become involved and to support their members when they encounter difficulties in obtaining an exemption from the SFUO for specific circumstances. It must be recalled that the contract provides that exemptions can be justified in exceptional circumstances.

2. Procedural fairness: Academic sanctions for non-academic conduct and role of Protection Services

When our fourth report was published in 2013-2014, we drew the University's attention to a number of problems relating to the imposition of academic sanctions, including suspensions for behaviour not related to academics. We noted that there were no guidelines to direct faculties in managing this type of situation and that no remedy was granted to students who had been the subject of sanctions.

The four recommendations we made were as follows

"That the University ensure that proper guidance on procedural fairness is provided to all Faculties in making decisions that affect students, particularly when the decision will significantly impact the student's academic program.

That Protection Services develop a meaningful test to determine when an incident report must be reported to the Dean of the Faculty and make the criterion public knowledge.

That any decisions resulting in removing a student from his program of study and or from campus, be made with proper application of procedural fairness principles and include a right of appeal to the highest level possible.

That the University examine the need to adopt a policy for the temporary leave of absence for students who pose a threat to themselves or to others, which include a right to appeal the decision and safeguards for the rights of the students".



We received the following response from the University on July 22, 2016:

"I wish to note that these are not academic sanctions but rather academic measures taken to protect the individual and/or others.

In your 2014-2015 annual report, you refer to a four-point recommendation that was found in the previous year's report. In response to points 1, 3 and 4 of that recommendation, the University is developing a protocol/guide (preliminary title: Guidelines for supporting at-risk students experiencing health or mental health problems). That document will respond to the recommendation as follows:

- Regarding the first point, that the University ensure that guidelines on procedural fairness are appropriate and are provided to all faculties that make decisions affecting students, the guide, which includes advice on those guidelines, will be available to the public on the University of Ottawa's mental health and wellness website. It will be shared with faculties and will be available to all members of the University community. Each case is unique, but the protocol offers support through the guidelines and through advice and suggestions that employees can adapt to each individual case.
- Regarding the third point of your recommendation, i.e. that any decisions resulting in the removal of a student from his or her program of study be made with proper application of the principles of procedural fairness and include a right of appeal, the guide presents the different steps and considerations to be taken into account before taking a drastic step such as involuntary withdrawal. The guide also includes suggestions for staff members concerning the people to be consulted and the support available for resolving cases. The guide also presents the procedure that students can follow to request a review of a decision arising from all of the options exercised by a faculty.
- Regarding the fourth recommendation, i.e. that the University examine the need to adopt a policy on a temporary leave of absence for students who pose a threat to themselves or to others, including a right of appeal, the University does not have a code of conduct for students. To respond to the recommendations, the decision that was taken was to develop a public protocol/guide (rather than an academic regulation or policy) that presents how and whom students can consult to request a review of a decision. It also references the support that is available, such as the resource entitled "Identifying and Assisting Students in Distress".

Status of protocol under development

- In the summer of 2015, the Senior Mental Health Advisor prepared a protocol of which you were given a draft. An amended version of the draft was then submitted to the Associate Vice-President, Student Services, and to other members of the administration to obtain their feedback.
- The protocol was submitted for consultation purposes to the various services that offer support to students dealing with mental health problems (Protection Services, Legal Services, SASS, etc.). This protocol will be presented to you for feedback (a meeting has been scheduled for July 25, 2015, to discuss the current version of the protocol).
- The protocol will be finalized in November 2016 and will be posted on the new website dedicated to mental health (under development).

The second element contained in the recommendation taken from the 2014-2015 annual report is that Protection Services should develop a meaningful test to determine when an incident needs to be reported to the dean and should make the criteria public. Given that incident reports are analyzed individually by Protection Services and that the measures to be undertaken in that regard are evaluated on a case by case basis, it is difficult to develop specific criteria as you recommend. Protection Services has nonetheless determined that an incident report should be sent to a person in a position of authority (dean, for example) when there is a security issue such as un danger pour une personne (envers elle-même);

1. a danger to an individual (towards the individual him/herself);
2. a danger to an individual in particular;
3. a danger to the University community;
4. legal issues involving health or safety;
5. a violation of University regulations.

Depending on the circumstances, there could be other reasons for sending a report to a person in a position of authority on the campus. Protection Services also undertakes to systematically notify students that the report could be sent to a person in a position of authority on campus (dean, for example) and to address this question in its staff training".



And on August 29th, 2016 the University added the following paragraphs to their original response in order to answer our concerns about the absence of procedure and recourse when the Dean imposes an academic measure, for example a suspension, based on motives unrelated to academic performance or concerns for the student's or others' safety:

"In cases where a student is suspended for behaviours not related to mental health or risking their security or that of someone else, the student may appeal directly to the Vice-President, Academic and Provost, to whom the deans report. The Vice-President, Academic and Provost will proceed with an investigation on the process that led to the dean's decision.

It is always Protection Services' role to determine which person is the appropriate authority to be advised of an incident report. The student will be informed of this and, as academic-related decisions fall under the purview of the dean, it will be up to the dean to render a decision on the file. When the dean renders a decision, he will advise the student that an appeal can be submitted to the Vice-President, Academic and Provost. There is no appeals committee, but the practice will be formalized by the Office of the Vice-President, Academic".

Our comments

The University is in the process of developing a Protocol or guidelines for responding effectively to situations in which a student's conduct presents a danger to the student him/herself or to others. In the draft that was shared with me, the focus should be on the support that could be provided to a student in distress and on the measures that could be taken when it is necessary to remove a student because he or she presents a danger. The protocol includes a level for requesting a review of a decision as well as a protocol for returning to school. Although these situations are fortunately rare, we believe that the dissemination of guidelines will facilitate faculties' efforts and will give students the assurance of being heard and of being able to request a review of a decision at a higher level.

However, situations where academic measures such as suspension are imposed for reasons other than academic performance or perceived threat to the student or others are not covered in the Protocol. In its August 29th response, the University has indicated that the student will be informed that they can address an appeal to the Vice President Academic who will conduct an investigation. It is understood in the response, that depending on the result of the investigation, the decision could be confirmed, modified or rescinded. We continue to encourage the University to make sure that decisions of this nature are made objectively, that students are adequately informed of the allegations against them, and that they are given a real opportunity to be heard.

With regard to the element of the response that deals with instances in which Protection Services will notify a faculty, we believe that it addresses our concerns regarding the need for transparency and the need to properly inform students. The main point to be borne in mind is that incident reports will be sent to Deans or their delegates only when there is reason to believe that a student's conduct poses a danger to the student him/herself or to others.



3. Procedural fairness: examination of formal discrimination complaints made by students

In our fifth report, we wrote that we continued to observe deficiencies in the process followed by some faculties. We noted poor investigation practices, lengthy delays in providing responses, and decisions being made without the reasons being communicated. Because deficiencies and errors in the process continue to exist, unfair treatment and a perception of unfairness persist. In August 2011, we published a report entitled *Issue Paper on Handling Complaints of Discrimination at the University of Ottawa*⁹ :

Our report was intended to encourage the University to improve its practices and processes to ensure a fair process and fair outcome with respect to complaints of discrimination made by students.

The report identified five elements needed to improve the process:

- * 1. The procedure must be accessible and well known
- 2. Conflicts of interest or duties must be eliminated or managed
- 3. The procedure must be fair to all parties involved. the complainant, the respondent [the requirements to be met are set out at page 4 of the Issue Paper]
- 4. The investigation process must be effective
- 5. Every step of the procedure must be documented *

In the fall of 2013, the University opened a Human Rights Office (HRO) to manage discrimination complaints made by students, staff and visitors. The HRO website was launched in 2014 to communicate information about policies and procedures. The HRO is committed to managing a fair and timely process. Procedures are documented. As each file is unique, fairness issues that arise are dealt with on a case-by-case basis with the participation of the parties and their advocates or representatives, if any.

The review of Policy 67a and Procedures 36-1 and 36-2, last revised on February 21, 2012, was started in 2013 with the full participation of student and employee groups. It is now in abeyance pending the finalization of the University's Policy on Sexual Violence.

We received the following response from the University on July 22, 2016:

"2. Procedural fairness: review of formal discrimination complaints made by students

I wish to provide an element of clarification regarding the current context. This year the Government of Ontario adopted a new policy on combatting and preventing sexual violence and charged all colleges and universities in the province with adopting policies on sexual violence. In accordance with that directive, the University of Ottawa has prepared a sexual violence prevention policy, which was approved by the Board of Governors on June 27, 2016.

⁹ http://www.uottawa.ca/ombudsperson/sites/www.uottawa.ca/ombudsperson/files/procedural_fairness_0.pdf



The University will now conduct a comprehensive review of the policy and procedures referred to in your report, namely Policy 67a on the Prevention of Harassment and Discrimination, Procedure 36-1 and Procedure 36-2. This will enable us to harmonize any overlap between the sexual violence policy and the Policy on the Prevention of Harassment and Discrimination.

As part of the review process, we will be seeking the opinions of stakeholders at all levels of the University, including those from student associations and deans. The four concerns raised in your report – the deficiencies with regard to the equity of the process, inadequate investigation practices, overly long response times and the rendering of decisions without the reasons being shared – will also be taken into consideration in the review of Policy 67a and the associated procedures”.

Our comments

We would like to start by applauding the publication of the regulation on the sexual violence prevention policy, and we understand that it took precedence this year. We were pleased to read that the University will conduct a full review of the Policy on the Prevention of Discrimination and the two associated procedures, taking into account the concerns and suggestions that we shared.

4. Delays in the implementation of academic accommodation and accessibility policies

In our second and third reports, we made recommendations to improve the accommodation process. The main recommendations were as follows:

- * 1. The University should adopt a comprehensive policy that defines the procedures regarding accessibility, accommodation and human rights for students with a disability, including those with learning disabilities and mental health issues. The policy should set out roles and responsibilities to ensure respect for human rights and provide for training of all staff.
2. To properly respond to conflicts or problems that may arise, the University should establish a separate, adapted and efficient redress process to resolve accommodation issues. Alternatively, it should require that specialized expertise in this field be provided to existing redress panels when they are dealing with human rights and accommodation issues.
3. The University should update its Accessibility Plan with respect to the needs of students with invisible disabilities, that is, a learning disability or mental health accommodation requirements. The plan should include the need to train staff, in accordance with the requirements of sections 7 and 16 of Ontario Regulation 191/11, mentioned above.
4. The University has not made any significant progress towards increasing the number of staff members who have completed the AODA online awareness training. Encouraging staff does not appear to have been sufficient, and other measures are obviously needed”.

Our fifth report noted a substantial delay in the implementation of the policies governing accommodation and accessibility for persons with a disability. At that time, the University had indicated that the policy would be in place by December 2015.



The University provided us with the following update in this regard on July 22, 2016:

“3. Delays in the implementation of the accommodation and accessibility policies

Your report accurately notes that there has been some delay in the implementation of the academic accommodation and accessibility policies. I am pleased to announce that a draft of these two documents has been prepared for submission to the Administration Committee.

Once they have been approved by the Administration Committee, the documents will need to be approved by the following decision-making bodies:

- Executive Committee of the Senate
- Executive Committee of the Board
- Senate
- Board of Governors”.

Our comments

We note that the deadline of December 2015 was not achieved and that the policy on accessibility and accommodation is still not in place. While drafts of both documents have now been prepared and are a step to move this issue forward, no new target deadline has been set. It is now up to the various University bodies to approve the policy and ensure its implementation. We continue to stress the importance of adopting these regulations without any further delays and we add that the implementation plan should include sensitisation and training initiatives for both administrative personnel and faculty.

5. Procedural fairness: Inconsistent information on the right to appeal

In our fifth report (2015-2016), we expressed the opinion the University had not fully followed up on our recommendation that all students be systematically made aware of their right to appeal decisions against them.

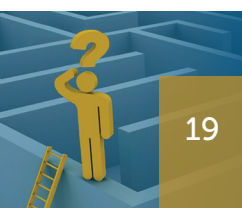
The University responded as follows on July 22, 2016:

“4. Procedural fairness: Inconsistent information on the right to appeal

An analysis of the letters that faculties sent to students showed that a number of them were already including such information (reference to right to appeal, deadline for taking advantage of this right and link to relevant website). Approximately 80% of the cases came from faculties that included this information in their correspondence with students.

To ensure that all faculties include this information, the Senate Appeals Committee added the following recommendation to its annual report:

All letters communicating faculty decisions to students clearly mention the student’s right to appeal to the Senate Appeals Committee and the 10-day deadline for the filing of such an appeal. It would also be helpful to include a link to the website explaining the procedure for filing an appeal with the Committee.



The Senate Appeals Committee's annual report was approved by the Executive Committee of the Senate and by the Senate on June 13, 2016. The Office of the Vice-President, Governance, will be contacting all faculties to inform them of the recommendations included in the report and will stress the importance of this recommendation.

All decisions sent to the Office of the Vice-President, Governance, will henceforth be subject to verification. Decisions that contain no information regarding the right to appeal will be sent back to the faculty for review".

Our comments

The University has followed up on our recommendation and as a result students at all faculties are properly informed of their right of recourse.

TESTIMONIAL

'From a student point of view, the service was more than satisfying.'

TESTIMONIAL

'I received prompt and helpful attention for a simple problem. I am not in a position to offer any suggestions based on this limited contact. All I can say is that keep up the good work.'



Recommendations arising from this year's exercise

1. Adherence to Regulation on Academic Fraud

This year we identified the following problems with the implementation of Regulation 14 on Academic Fraud.¹⁰ They pertain to both undergraduate and graduate studies, thus suggesting that better preparation of persons in charge and a closer monitoring are needed.

a. Sanction imposed without the professor filing an allegation

It seems that the reference to “educational measures” in the Preamble to the Regulation is sometimes interpreted as allowing a professor to give an F for the work or for the course instead of filing an allegation of academic fraud. Students are presented with the grade and are told that unless they accept a grade of F they will be subject to the procedure and, in some cases, to expulsion.

Article 3 clearly states that allegations must be filed in writing with the dean in charge, depending on the level of study:

“3. Allegations of fraud in an undergraduate course must be submitted in writing with supporting documentation, to the dean of the faculty offering the course in question; allegations of fraud in a graduate course are handled by the dean of the Faculty of Graduate and Postdoctoral Studies (FGPS)”.¹¹

b. Contents of course syllabi with regard to the Academic Regulation on Fraud

The information in course syllabi is not always consistent with the Regulation or accurate. For example, one of the syllabi we looked at states that the student will be expelled from the faculty upon a second violation of the Regulation.

The *Academic Integrity* section of the Vice-President Academic and Provost's site contains all of the information needed to understand what constitutes academic fraud and the possible sanctions. It also provides students with tools and refers them to services that can help them. It would be very easy to simply refer all students to this section of the University website, thereby ensuring they receive accurate information and are able to access tools and information intended for students.

¹⁰ Academic Regulation 14 – Academic Fraud, <https://www.uottawa.ca/administration-and-governance/academic-regulation-14-other-important-information>

¹¹ Ibid.

c. Errors in the application of the accelerated process

In more than one case, students felt pressured in the accelerated process, for example, the student was not clearly made aware of the allegations and of the sanction that would be imposed, in violation of article 6 of the Regulation (see below).

Article 6 provides that students must be aware of the sanction and that the purpose of the meeting is to discuss the situation, thus opening the way for dialogue:

"6. A meeting is arranged between the person in charge of handling the accelerated process for academic fraud cases and the student as soon as possible. The purpose of the meeting is to discuss the situation, determine the sanction(s) to be imposed and sign an agreement whereby the student acknowledges having committed a contravention, of the academic regulation and accepts the imposed sanction(s) listed".¹²

Students were given 24 hours to accept, in some cases without having been given the required agreement form. Article 6 of the Regulation states that the time frame is two working days:

"The student has two (2) working days after the meeting to sign and return the agreement to the person responsible for the accelerated process".¹³

It also happened that the inquiry committee was notified that the student had refused the accelerated process, resulting in a breach of confidentiality. Article 11 of the Regulation reads as follows:

"11. If the regular process is subsequently initiated:

- All information disclosed by a student during the accelerated process is considered confidential and is not to be disclosed during the regular process.
- No person (other than the student) involved in the accelerated process can be a member of the inquiry committee established under the regular process, unless the student has agreed".¹⁴

d. Time permitted for re-registering a student

A student was re-registered for a course from which he had withdrawn before an allegation was filed, whereas the Regulations provide for this possibility only when the withdrawal was made after the filing of the allegation, as follows:

"2. Students who commit or attempt to commit academic fraud, or who are a party to academic fraud, are subject to one or more of the sanctions below. All sanctions are effective immediately, notwithstanding an appeal. If a student withdraws from a course following an allegation of fraud filed against the student, the University may re-register the student in the course in question".¹⁵

¹² Ibid.

¹³ Ibid.

¹⁴ Ibid.

¹⁵ Ibid.



e. Breach of confidentiality

Allegations of academic fraud and related communications reveal personal and confidential information about other students and interfere with their privacy rights.

The Preamble to the Regulation is very clear about the University's commitment to protecting confidentiality:

"The University is committed to upholding the integrity of the process for handling academic fraud (PDF). Disclosure of the identity of any student accused of academic fraud or the person(s) alleging academic fraud is limited by the Freedom of Information and Protection of Privacy Act (FIPPA). Only the results of the investigation can be disclosed to the person who submitted an allegation of academic fraud".¹⁶

f. Procedural error: revealing the defense

The student's response to an initial version of the allegation was given to the department, which then submits a second version of the allegation that reflects the student's defence.

g. Examination procedures not followed

Exams were taken away by an invigilator during an examination without valid reason. This contravenes the University procedure, as set out below. The consequences can be very serious. If the allegation were to prove unfounded, providing redress for the harm caused to the student could be difficult.

"In all cases, you should allow the student(s) to finish the examination so that no disruption is caused for the rest of the students".¹⁷

h. Incident report not completed

Allegations were filed without an incident report being completed and without specific information regarding the alleged acts. Without a report on an incident that takes place during an examination, allegations can be inconsistent, incomplete and vague, and the student may be deprived of the information needed to present a defence.

"Document the incident by recording the name of the student(s) involved, what happened, the time of the incident as well as any other pertinent information (see the Incident Report)".¹⁸

¹⁶ Ibid.

¹⁷ Procedures in case of fraud: <https://www.uottawa.ca/vice-president-academic/academic-integrity/resources-professor/procedure>

¹⁸ Ibid.



Recommendation

That the University ensures compliance with the Regulations on Academic Fraud, by considering the need to better train its staff responsible for the application of this regulation and also by putting in place monitoring mechanisms to enable it to identify gaps and intervene more effectively.

Response of the University dated September 9, 2016

"Over the next academic year, the issues you have identified concerning the application of this regulation will be the subject of discussions with the vice-deans, undergraduate studies. As significant modifications were made in 2014 to the regulation on academic fraud, it is important to now assess its application. We will keep you informed of the results of these discussions".

Our comments

Wishing a more positive response to our recommendation, we continued our discussion with the University since receiving its September 9th answer. The University has assured us that this issue will be examined in the autumn 2016 and that our observations and our recommendation will be seriously considered.. We will do the follow-up during the year to determine more precisely the action it will take to correct these deficiencies.

2. "All or nothing" policy – Retroactive withdrawal requests

Following the investigation of a complaint from a student of the Faculty of Arts we found out that it had adopted an "all or nothing" internal policy with regard to requests for retroactive withdrawal for health reasons. The Faculty has since informed us that all other faculties have adopted the same internal policy which consists of requiring in principle that students withdraw from all of their courses for the semester, and systematically denying withdrawal requests for some courses.

Policies and practices of this nature expressed and applied in absolute terms present a risk and can in fact constitute a form of unfair treatment and even discrimination. The staff responsible for making such decisions are not encouraged to assess the specific circumstances of each case, and they base their refusals on the principle of all or nothing. This type of request must be subject to a timely serious and objective review on a case-by-case basis.

In 2015, a working group funded by the Ministry of Advanced Education and Skills Development's Mental Health Innovation Fund produced a report with recommendations regarding academic accommodation for students with mental health problems. The recommendations were supported by the Ontario Human Rights Commissions. The report states as follows regarding this matter (the underlined sentence is ours):



"A second challenge relates the nature of many mental health disorders. These are episodic in nature, and fluctuation in symptoms (and thus in functional impairment) is to be expected. As well, the need for medication changes may negatively affect the student's level of functioning for a period of days or weeks at a time. By contrast, in most other disabilities the degree of functional impairment is relatively static; as a consequence, accommodation plans for non-mental health issues may vary little – if at all – from year to year.

[...]

4. Accommodations Requested After a Test, Deadline or Course Completion

[...]

A range of extenuating circumstances may cause a sudden disruption in any student's functioning and impair their capacity to fulfill their academic responsibilities. These include a death in a student's family, being injured in an accident, an assault or a hospital admission. In the area of mental health, sudden and significant changes in a student's ability to function may occur as the result of the acute emergence of symptoms or because of the side effects of a new medication, or adjustments to the medication regimen. In situations like these, students may not be able to follow the institution's customary protocol for arranging accommodations, such as registering with the Office for Students with Disabilities or informing the professor before an assignment is due that they will not be able to meet a deadline. In some instances, communication with the institution may not be possible (e.g. where a student has been hospitalized).

Responding to Requests for Retroactive Accommodations

Currently, most post-secondary institutions do not grant retroactive accommodations and clearly state this in their literature on accommodating students with disabilities. However, institutions must meaningfully consider all Code-related requests for accommodation as they arise. As stated earlier, organizations are required to accept accommodation requests in good faith, unless there are legitimate reasons for acting otherwise. *Each case should be examined based on the unique circumstances and the student's individual needs.* The time frame for making these types of requests is not limitless, however. Students should contact the institution at their next-best opportunity to explain their failure to meet performance expectations. In these cases, documentation from a health care professional to support the request would be important.

The recommendation is that post-secondary institutions incorporate into their accommodation policies a statement or statements which indicate that all Code-related requests for accommodation will be given meaningful consideration. »¹⁹

Recommendation

That the University abandon its internal practice of "all or nothing" and review all requests for retroactive withdrawal on a case-by-case basis, taking into account the specific circumstances presented by each requester.

¹⁹ Condra, M. & Condra E, M. 2015. Recommendations for Documentation Standards and Guidelines for Academic Accommodations for Post-Secondary Students in Ontario with Mental Health Disabilities. *Queen's University and St. Lawrence College Partnership Project*. Kingston, ON.

Response of the University dated September 9, 2016

"There is currently no official university or faculty policy or regulation regarding the management of requests for retroactive withdrawal from one or several courses. As such, these requests are all examined on a case-by-case basis by the various faculties. Over the past few years, requests for retroactive withdrawal from one or several courses on the basis of a medical certificate have led faculties to identify several challenges in the application of the academic regulation on medical certificates (regulation 9.5 *Justification of absence from an examination or of late submission of assignments*). Discussions on the various challenges related to these requests have been undertaken recently with the vice-deans, undergraduate studies, will continue over the next academic year and will also involve the management of the Student Academic Success Service and the University of Ottawa's Health Services. We will keep you informed of these discussions and of any changes to practices related to the management of requests for retroactive withdrawal, which will be duly documented".

Our comments

Although the University states in its reply that such requests are considered on a case by case, it's not what we saw or what Faculties report. The University is committed to examining this issue in the autumn of 2016 and to consider our recommendation. We will follow up on to find out more specifically how the issue will be addressed.

TESTIMONIAL

'The Ombudsperson did a fantastic job. She investigated further into the issue that was expected and ensured that she called me to explain what had happened to not just myself but to others. A huge success and a great advocate.'

TESTIMONIAL

'Lucie Allaire was especially kind, understanding and efficient. She actually took the time to listen and understand what I was going through. My experience with the Office of the Ombudsperson was excellent. Thank you.'



Observations and suggestions for improving service delivery and the student experience

One of the ways the University has identified to reach its strategic objectives is to improve service delivery in various ways, as indicated by the following extract from *Roadmap@Destination2020*.

"Objective is to improve service delivery, eliminate non-relevant services, reduce the burden of complexity, overcome duplication of services so as to better support University mission, ensure appropriate governance and reduce cost of services".²⁰

In our day-to-day work with the students who consult us, we have observed situations in which there is overlap, broken communication between units and complex processes that interfere with the student experience.

We are not making any recommendations in this regard, as we know that the University has action plans and numerous initiatives in place. We simply wish to ask the University to take our observations into account in their discussions regarding this strategic issue.

We also have observed problems with client services offered by the SFUO. We report these in point 3 below.

1. Dispute resolution in inter-faculty and interdepartmental situations

We observed a fair number of situations in which a student was sent from one faculty to another or one service to another in seeking to resolve a problem. In some instances, the two faculties did not agree on the solution and held firm to their respective positions, to the detriment of the student's experience.

The student experience is severely challenged in such situations. It would be desirable for the University to take a more proactive and simplified approach in order to come up with solutions in more extreme inter-faculty or interdepartmental situations. To properly respond to students' various needs, it is preferable to endeavour to provide a coordinated response among the various services and faculties rather than assign this responsibility to the student.

²⁰ University of Ottawa. *ROADMAP@DESTINATION2020 – Getting There from Here: Reaching Destination 2020 in the Age of Differentiation and Financial Challenge*. 2014. p. 12. <https://www.uottawa.ca/about/sites/www.uottawa.ca/about/files/roadmap-to-destination-2020.pdf>



Examples

- a. A student from a particular faculty was taking a course at another faculty and experienced a serious health problem during the semester. The host faculty had exclusive authority to grant a retroactive withdrawal, while the faculty offering the course had the authority to grant a deferred exam. The student had to make repeated requests to both faculties, and it took over 12 months to resolve the issue.
- b. A student seeking explanations about an invoice was referred to the unit in charge of student cards, which in turn referred him to another unit. While the student accounts unit was trying to resolve a dispute with the student, another unit initiated a collection process without informing the student accounts unit.

2. Response times

Response times affect how the quality of the experience is perceived. We have noted that when matters take longer to be resolved (in many cases for valid reasons) the student is often not kept abreast of the delays, and time frames are exceeded without the student being contacted about the new time frame.

Examples

- a. A student experiencing major difficulties in scheduling an adapted exam was promised that he would receive instructions regarding an adapted exam scheduled for the following Monday by Friday at the latest. However, he did not receive any communication until late Monday morning.
- b. The cancellation of adapted exams because the exam did not reach the Access Service in time can cause great difficulty for students. The procedure provides that students must contact their professor on how to proceed, but in some instances the professor was difficult to reach or was away.
- c. A number of graduate students told us they felt their thesis project was delayed by long delays in obtaining feedback from their thesis director.

3. Client Service is also an issue for SFUO

The SFUO has had a difficult year in terms of its financial capacities and has had to make service cuts and adjustments. Despite the staff's efforts, we noted a significant increase in complaints regarding service quality, with regard to response times in particular (55 complaints during the year in comparison with a total of five for the previous year). A number of the complaints pertained to timelines and the difficulties in obtaining a response or, less frequently, the quality of the response. In many instances our interventions were intended to help the student obtain a response when time frames were unreasonable. Students also told us they had difficulty reaching the various services by telephone and



that phone messages had gone unanswered. As for the quality of responses, the most frequent complaint was an incomplete response that did not adequately address their request.

In addition to the negative perception created by lengthy delays, it is also true that they can sometimes lead to injustice, for example when a student needs help with a matter related to group insurance or requests a transit pass exemption. The services offered by the student associations have a significant impact on students' lives. To avoid problems, and to ensure that response times improve, we believe it would be desirable for them to establish a mechanism for following up on files and requests in order to reduce response times and the number of lost requests.

We are bringing this issue to the attention of the SFUO to encourage it to adopt different measures to improve its delivery of services and the trust of their members.

TESTIMONIAL

'I would maybe change the hours a few days a week because it may be hard to meet with the Ombudsperson during work hours. However they were very flexible with time in any case. I would also better advertise the Ombudsperson's services because most students have never even heard of such a role and thus don't know how they can help.'

TESTIMONIAL

'I just wanted to let you know that your presence and advice in the process was a huge factor in my success, at a critical time when I almost left theprogram'

Data analysis

In this section we offer an overview and an explanation of the attached statistics, which were obtained from our database.

1. Feedback

Feedback provided voluntarily by clients whose files have been closed is used to measure the level of satisfaction with and understanding of our mandate. The results on the whole as shown in Table 1 are positive. As reported by the Protectrice du Citoyen du Québec, client's perception of our impartiality can be influenced by a bias that she considers to be one of the main challenge that an ombudsperson faces.²¹ Clients can in fact develop a bias regarding an ombudsperson's impartiality depending on the outcome of their case. In other words, someone who receives a favourable result will think of the ombudsperson as more impartial than another person who obtained a less favourable result. This highlights the importance of clarifying our mandate and our values with the client in advance and of clarifying them during the mandate if necessary.

2. The number of files and clients is higher than in previous years

The year 2015-2016 was characterized by a significant increase in the number of open files and completed files as compared with previous years. In 2014-2015, the office opened 436 files and completed 449, while for 2015-2016 the number of open and completed files was 554 and 540 respectively (see **Table 3**).

While the number of completed files has been rising slightly but steadily since the creation of the Office of the Ombudsperson in 2010, this sudden increase of 100 more files completed in a year can be accounted for by two factors, as indicated in **Table 12**. First, the Office of the Ombudsperson is receiving an increasing number of admissions-related questions. Potential students, many of them from other countries, consult us to obtain information about the admissions process. In such cases our interventions are limited to referring them to the information, contacts and resources posted on the University of Ottawa site. Second, our office has handled many questions about the inclusion of the STO network under the OC Transpo universal pass and the exemptions from the U-Pass (a service provided by the SFUO and the GSAED). This situation led to the writing of our special report and recommendations in October 2015.

In both cases, the people who contacted the Ombudsperson were not only students but also people outside the University community, such as parents (for the U-Pass) and potential future students. As **Table 5** shows, the number of clients classified as "other" was significantly higher than in the previous year (from 103 to 196).

²¹ Le défi contemporain de l'ombudsman : avoir une valeur ajoutée et la faire valoir, Raymonde Saint-Germain, 2015, http://www.ombudsmanforum.ca/fr/?page_id=2352



3. Official language of use

Table 4 indicates the language in which we offered services. It is worth noting that the respective proportions of Francophone and Anglophone students who came to consult the Office of the Ombudsperson matched the proportion of Francophone and Anglophone students at the University of Ottawa.

4. Type of client

Table 5 shows a slight increase in the number of students who came to consult us as well as a clear increase in the number of clients classified as “other”. The latter were mainly parents who consulted us about the situation of their children attending the University of Ottawa (mainly about the U-Pass), as well as potential students who consulted us about the admissions process. While the Office of the Ombudsperson offers services to the entire University community, the Office rarely agrees to deal with another individual acting on behalf of the person concerned. Accordingly, if a parent calls to complain about the U-Pass on behalf of his or her child, the Office would ask the parent to have the student contact us directly.

A slight decrease in the number of University staff calling on us was noted. It is nonetheless important to remember that the Ombudsperson’s mandate does not permit dealing with situations covered by a collective agreement.

5. Category, level of study, faculty affiliation and nationality of students who consulted us

When students call on us, we may not ask about their full-time status, faculty affiliation, and level of study or nationality if this information is not relevant. We prefer that students not be required to disclose information that is not relevant to their situation, which could make them uncomfortable. **Tables 6, 7, 8 and 9** illustrate this.

6. University staff calling on our office

Given that the Ombudsperson’s mandate does not permit dealing with situations covered by a collective agreement, the number of staff members calling on us is understandably lower. The matters that University staff call on us for are not governed by a collective agreement. For example, we receive requests from professors seeking advice about the behaviour of a colleague or a student.



7. Types of issues

Table 12 presents a list of issues by type of client. The total increase in the number of issues reported rose from 519 in 2014-2015 to 600 in 2015-2016. More specifically, **Table 12** shows a strong increase in the total number of admissions and enrolment issues (from 96 in 2014-2015 to 118 in 2015-2016) and in issues relating to the services of student associations (from 5 in 2014-2015 to 55 in 2015-2016). This increase in the number of issues is tied to the overall increase in the number of files completed in 2015-2016 as well as the increase in student and “other” clients who asked for our services.

Table 13 details the academic issues that students face. The most frequent academic issue relates to evaluation. Students come to see us not only for guidance on the grade review process or about withdrawing from a program. A number of students came to us to verify whether the syllabus instructions had been properly applied to the calculation of their grade or to complain that they had not been able to reach a professor for information and comments regarding their evaluation.

Table 14 details the human rights issues that the Office of the Ombudsperson was contacted about. Most of the situations reported to us involved disability and academic accommodation. For example, in many cases students registered with the Access Service were not able to write their exam following a professor’s oversight. Other examples related to the University’s refusal to offer retroactive accommodation to people with mental health issues.

In the section involving “other” human rights issues, two issues involving language (the language in which a service was received) and one involving students’ right to housing are noted.

8. Services offered by type of client

It can be seen from **Table 15** that the services offered most frequently in 2015-2016 were referral, information and coaching, enabling the people who consulted us to obtain solutions to their problems on their own. The Office of the Ombudsperson also offers problem-solving services, whereby the Office takes a more proactive approach towards helping the parties concerned resolve their problems.



9. Review of formal complaints

In 2015-2016, the Ombudsperson received and dealt with twice as many formal complaints (25 in total; see **Tables 15 and 16**) as in 2014-2015 (13 formal complaints). Of the 25 formal complaints made in 2015-2016, 18 involved the U-Pass. This high number of formal complaints relating to the U-Pass pushed the Office of the Ombudsperson to look at the issue in greater depth and to draft a public report with recommendations in October 2015. Only one formal complaint concerning the U-Pass was not the subject of a recommendation. One other formal complaint concerning the U-Pass was accepted; the 16 formal complaints that were the subject of a recommendation that was not accepted all related to the U-Pass. The SFUO and GSAED submitted responses to the recommendations report, which are reproduced in full in this report.

10. Results obtained for closed files

Table 17 summarizes the results obtained in the files closed in 2015-2016. Files involving complaints that were withdrawn by the client and those on which the Ombudsperson refused to intervene are included in the total number (540) of closed files. In 31 of the withdrawal cases, the individuals concerned did not notify us as to whether or not their issue had been resolved. For the other nine withdrawal cases, the Office of the Ombudsperson was advised that a positive outcome (in whole or in part) had been obtained. In 20 of the cases in which the Office of the Ombudsperson closed the file because it was outside its authority, the Office was not advised of the outcome of the matter. However, for 24 cases deemed to be outside its authority, the Office was informed that a positive outcome (in part) had been obtained. The high number of closed files of which the outcome was unknown (174) is tied to the significant increase in the total number of files dealt with, partly owing to the higher number of inquiries concerning the admissions process from people outside the University community. The number of files for which the outcome is unknown remains consistent with the figures from the previous year (155 closed files for which the outcome was unknown out of a total of 449 closed files in 2014-2015).

Ultimately, 62.2% of the files were resolved in whole or in part, 32.2% had an unknown outcome, and only 5.4% of files were resolved satisfactorily.



Annex

Feedback from our clients

Table 1

Clients' Feedback		
01/06/2015 – 31/05/2016		
Questions asked in Feedback Questionnaire	01/06/2015 to 31/05/2016	
	Yes	No
Was it easy to find the Office of the Ombudsperson?	60	13
Did you receive a quick reply to your email or telephone message?	70	3
Was the role of the Office of the Ombudsperson explained to you clearly?	56	17
If requested, was your concern handled in a confidential manner? *	51	3
Did the Ombudsperson demonstrate impartiality in reviewing your concern?	61	12
Did the Ombudsperson handle your concern fairly?	68	5
Were you treated with respect?	69	4
Would you contact the Office of the Ombudsperson again? **	61	6
Total of considered answers	73	
Office of the Ombudsperson		

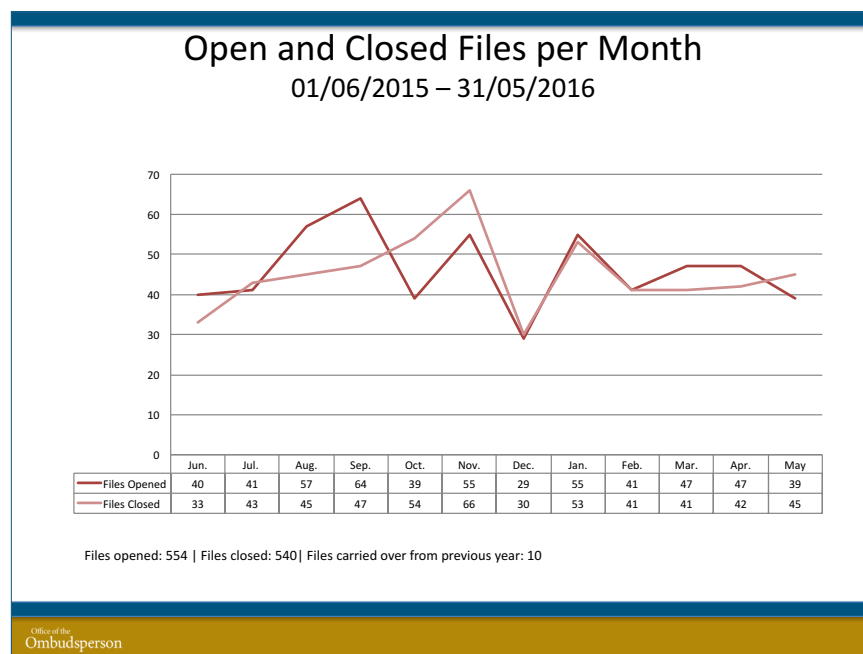
Table 2

Clients' Feedback 01/06/2015 – 31/05/2016	
Why did you contact the Office of the Ombudsperson?	01/06/2015 to 31/05/2016
To get advice	38
To acquire information	34
For the Ombudsperson to intervene/assist with the resolution of the problem	32
To discuss options/alternatives so that I could handle the problem myself	27
To determine if I had been treated fairly	24
To facilitate communication with others	20
Other	7
Office of the Ombudsperson	



Volume of files

Table 3



Profile of our clients

Table 4

Official Language Used
01/06/2015 – 31/05/2016

Official Language Used	French	English
All Clients who consulted us	30,2 %	69,8 %
Students who consulted us	31 %	69 %
Students enrolled in University of Ottawa (Fall 2015)*	30.6 %	69.4 %

* <http://www.uottawa.ca/institutional-research-planning/resources/facts-figures/quick-facts>

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Table 5

Type of Client (total 540) 01/06/2015 – 31/05/2016	
Type of Client	01/06/2015 to 31/05/2016
Students*	316
Personnel	28
Other	196
Total	540

*The larger number of students served is explained largely by the fact that the majority of staff members are represented by unions and all issues related to a collective agreement are excluded from the Ombudsperson's mandate. The larger student population is also a factor.

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Ombudsperson

Students who came to consult us

Table 6

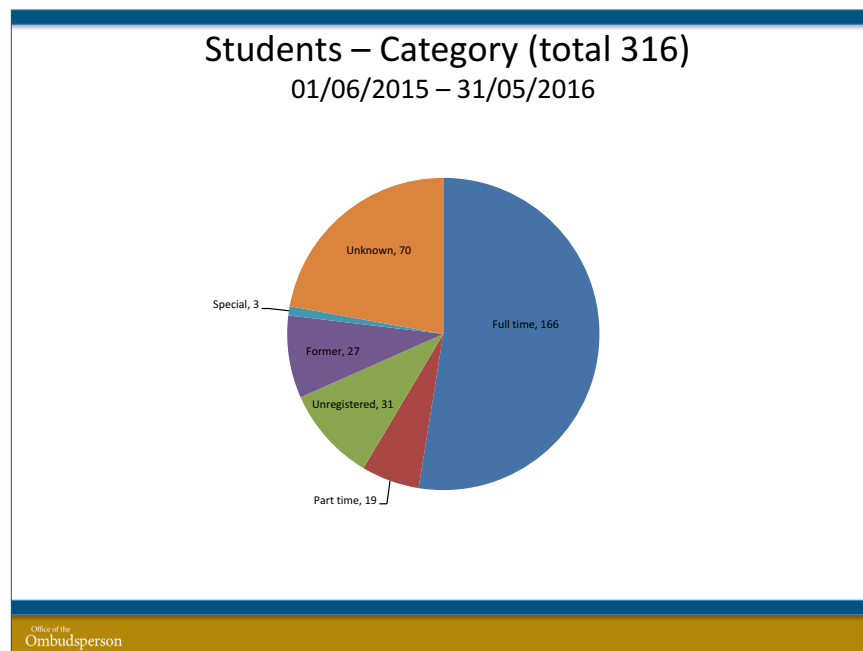


Table 7

Students – Level of Study (total 316) 01/06/2015 – 31/05/2016	
Level of Study	Students who consulted us
Undergraduate	181
Master	47
PhD	25
Unknown	63
Total	316

Office of the Ombudsperson

Table 8

Students – Faculty Distribution (total 316) 01/06/2015 – 31/05/2016		
Faculty	Students who consulted us	Students registered in University of Ottawa (Fall 2015)*
Arts	9,8 %	14,1 %
Common Law	3,2 %	5,2 %
Civil Law	2,5 %	
Telfer School of Management	6,0 %	11,1 %
Education	5,4 %	3,7 %
Graduate and Postdoctoral Studies	1,3 %	0,2 %
Engineering	8,2 %	12,5 %
Medecine	0,3 %	6,1 %
Sciences	7,9 %	11,6 %
Health Sciences	12,3 %	10,8 %
Social Sciences	22,5 %	24,6 %
Unknown	20,6 %	--
Total	100 %	100 %

* <http://www.uottawa.ca/institutional-research-planning/resources/facts-figures/quick-facts>
 ** When a problem falls under the competence of the FGPS, we consider the student register in that faculty. When a problem is within the jurisdiction of the host faculty, we consider the student registered accordingly.

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Table 9

Students – International & Canadian (total 316) 01/06/2015 – 31/05/2016	
Nationality	Students who consulted us
Canadian	168
International	20
Unknown	128
Total	316

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Staff members who came to consult us

Table 10

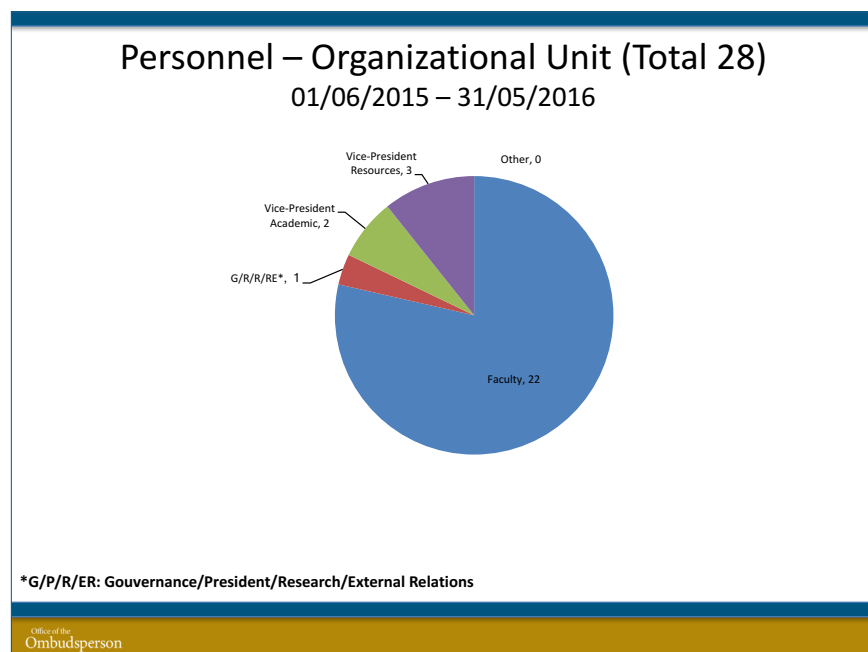
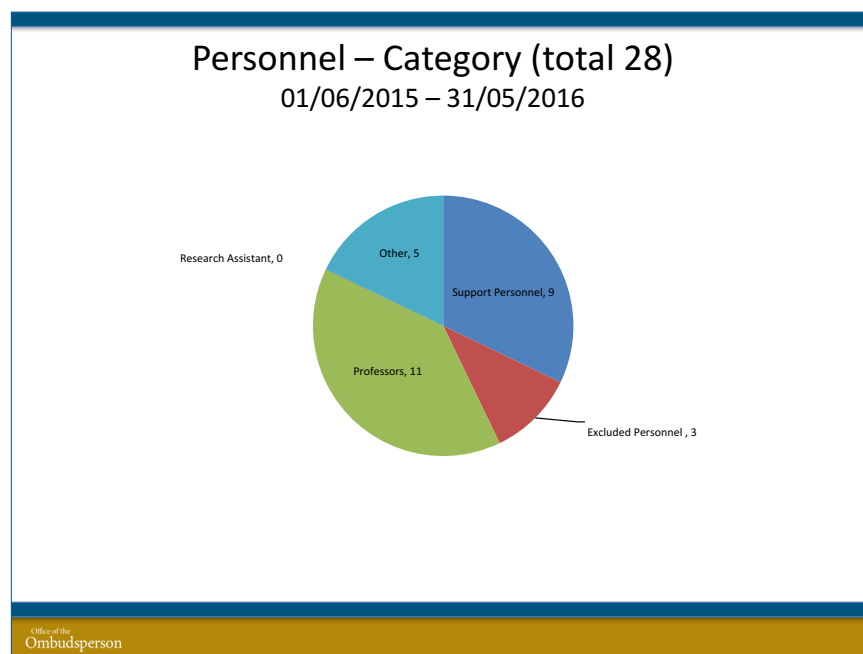


Table 11



Issues

Table 12

Categories of Issues (total 600)
01/06/2015 – 31/05/2016

Type of Problem	Student	Personnel	Other	Total
Academic	104	2	8	114
Admission & Registration	26	1	91	118
Student Association	8	2	1	11
Relational Conflict	0	2	0	2
Human Rights	31	3	4	38
Academic support	25	1	6	32
Finance	61	1	12	74
Harassment	5	2	2	9
Work Relations	0	6	1	7
Residence	8	1	7	16
Security	3	0	0	3
Services by Student Assoc.	22	1	32	55
Supervisor/Student	7	0	3	10
Student Conduct	2	3	6	11
Professor Conduct	20	1	7	28
Other	40	7	25	72
Total by Client Type	362	33	205	600

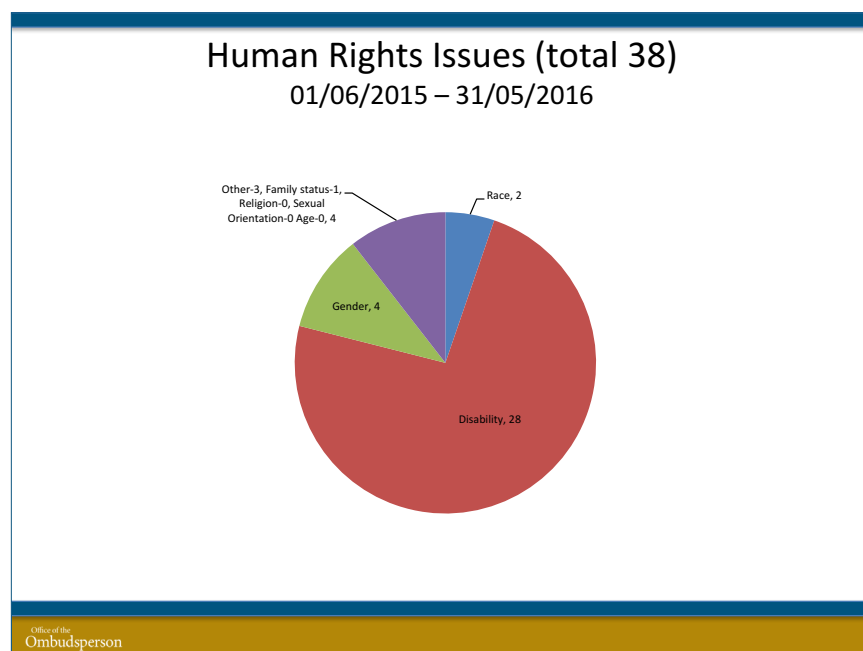
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Table 13

Academic Issues – Students (total 104) 01/06/2015 – 31/05/2016						
	Academic	Academic Fraud	Evaluation	Withdrawal from program	Other	Total
Undergraduate	1	6	44	4	8	63
Graduate Students	0	1	10	3	4	18
Unregistered/Former/Special	0	1	2	7	3	13
Unknown	0	0	8	1	1	10
Total	1	8	64	15	16	104

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Table 14



Services Offered

Table 15

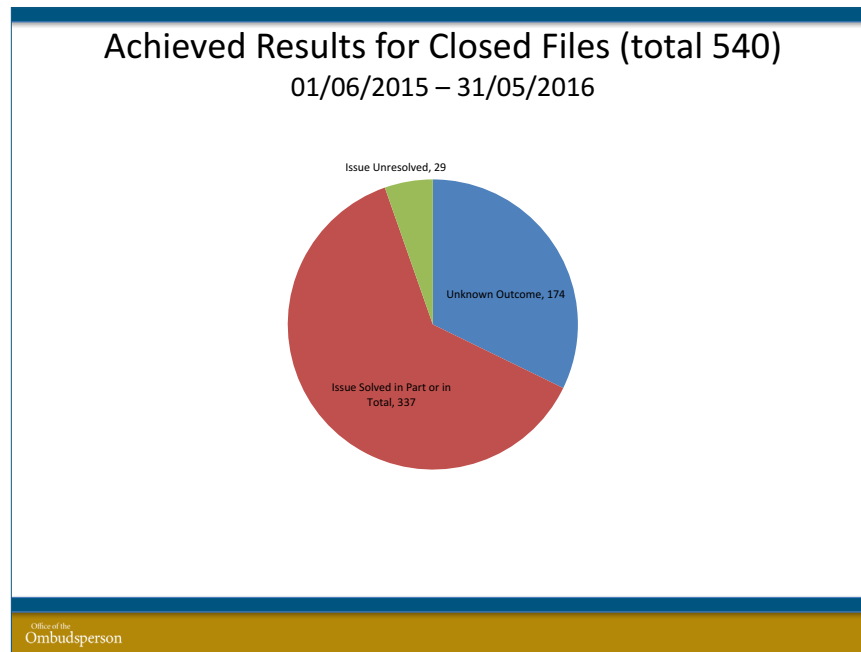
Services Offered by Type of Client (total 694) 01/06/2015 – 31/05/2016							
Service	Student				Personnel	Other	Total
	Undergrad	Master	PhD	Unregistered/Former/ Special/Unknown			
Formal Complaint Examination	6	3	4	8	0	4	25
Information	60	13	10	35	8	75	20
Coaching	47	13	7	20	11	4	102
Referral	70	14	7	54	10	148	303
Facilitation	1	0	0	0	0	1	2
Communication Bridge	3	0	0	2	0	0	5
Problem Resolution	20	8	5	13	1	6	53
Mediation	0	0	0	0	0	0	0
Other	2	0	0	0	1	0	3
Total	209	50	33	132	31	238	694

Table 16

Formal Complaint Examination (total 25) 01/06/2015 – 31/05/2016						
Type of client		Without Recommendations	With Recommendations	Accepted in Total or in Part	Not Accepted	Results Unknown
Students	Undergrad	3	3	1	2	0
	Master	1	2	0	2	0
	PhD	0	4	1	3	0
	Unregistered/ Former/Special	1	1	1	0	0
	Unknown	1	5	0	5	0
Other		0	4	0	4	0
Total		6	19	3	16	0

Results achieved

Table 17



What is fairness?

If achieving fairness were as simple as giving everyone the same thing, Ombudspersons would not exist? What is fairness? When is a decision that affects us or others unfair? We can all remember times when we felt that something was not right or fair. Every day when we read the newspapers, we are confronted with situations in our community and throughout the world that we consider unfair. There is no single and simple answer to the question of what is fairness, the beginning of any answer is probably "it depends".

Below is the model we have adopted in our office to examine complaints. This model presents an overview of fairness from three dimensions: Procedural, Relationship and Substantive. In our opinion it takes into account the whole human experience faced with conflicts, inequities and unfairness.

The Fairness Triangle

