



REPORT OF THE UNIVERSITY OMBUDSPERSON

1 July 2013 TO 30 June 2014

Fairness

The University of Toronto is committed to fairness in its dealings with its individual members and to ensuring that their rights are protected.

In support of this commitment, the Office of the Ombudsperson has been offering confidential advice and assistance to students, faculty and staff on all three campuses since 1975.

CONTENTS

Executive Summary	3
Introduction	4
Systemic Issues	5
Mental Health and the <i>Code of Student Conduct</i>	5
Communicating Decisions to Applicants to Graduate Programs.	11
Recommendation.	12
Refund of Program Fees.	12
<i>Code of Behaviour on Academic Matters</i>	13
Civility Guidelines.	14
Handling of Requests for Assistance	15
Other Activities of the Office	18
Appendix 1: Summary of Systemic Issues and Outcomes 2007-08 through 2012-13.	20
Appendix 2: Who Approached the Office in 2013-14, and Why They Came	
A. Graduate Students & Postdoctoral Fellows	25
B. Undergraduate, Professional & Continuing Education Students	26
C. Administrative Staff	27
D. Academic Staff	27
E. Others	28

Executive Summary

The University Ombudsperson is appointed by Governing Council under Terms of Reference established by that body, and reports annually to Council and the University community. This report describes the way in which the Office has discharged its dual roles of a) responding to requests for assistance from individual members of the University community, and of b) bringing to the attention of the relevant administrators those issues of broader significance that it believes merit review. In this latter role, the Ombudsperson functions as a catalyst for improvements in University and divisional policies, processes, and procedures.

In the course of 2013-2014, the Office handled 434 requests for assistance from individuals. Individual cases are discussed with relevant administrators as judged appropriate, but only if written consent is provided by the complainant. The approved *Terms of Reference* require that, in responding to these requests, the Ombudsperson act in an impartial fashion, neither as an advocate for a complainant nor as a defender of the University. The role is, rather, to assist informally in achieving procedural fairness and reasonable outcomes. All decisions remain in the hands of the administration, but the Ombudsperson may make formal recommendations in the context of a written report.

The Annual Report includes a discussion of *systemic issues* (i.e., those issues that potentially affect many members of the institution, not only an individual complainant) that have engaged the Office in the past year. There is one new recommendation, which is in connection with the way in which admissions decisions are communicated to applicants to graduate programs.

In anticipation of a review of the Office by Governing Council during 2014-2015, a brief historical review of systemic issues that have arisen over the past seven years of my tenure is also provided in the form of an appendix.

Consistent with past practice, I also report on outreach activities and other initiatives of the Office.

Report of the University Ombudsperson for the Period July 1, 2013 to June 30, 2014

The Office of the University Ombudsperson was established in 1975 to support the University's commitment to fairness in dealings with its members. Being accountable directly to Governing Council, the Office is independent of the administration. Our services are available to individual staff/students/faculty members on all three campuses. The Ombudsperson acts as a neutral party, rather than as advocate for the complainant or as defender of the University: We aim to assist all parties in achieving procedural fairness and reasonable outcomes. All matters brought to us by individuals are held in strict confidence unless we have written consent to do otherwise. The Ombudsperson does not make decisions for the University; these remain with the responsible administrator.

A core role of the Ombudsperson is to identify and address issues that potentially affect many members of the institution, not only an individual complainant (*systemic issues*). In this way, the Office assists the institution and its members by helping to effect improvement in the University's policies, processes and procedures, whether through informal discussion or formal recommendations. The administration is not bound by the Ombudsperson's recommendations, but does provide a written response to those that are formally presented.

This report contains three sections:

- 1) *Systemic Issues*. A discussion of issues that engaged the Office in 2013-14;
- 2) *Handling of Requests for Assistance*. The caseload of the Office in 2013-14 in an historical perspective.
- 3) *Other Activities of the Office*: Professional and outreach activities.

In addition to discussing the activities of this past year, I have provided in Appendix 1 an overview of the Office's work on systemic issues over the preceding six years. I hope this information will be of some assistance to the committee that Governing Council will appoint to review the Office and to recommend my successor. Potential candidates for the position may also find it helpful in understanding the range and complexity of this important part of the Ombudsperson's responsibilities.

Systemic Issues

Systemic issues are those that potentially affect many members of the institution, not only an individual complainant. In this section, I discuss the main issues that engaged us in the course of the past year. I would like to acknowledge the assistance of the many administrators who have been generous with their time to discuss systemic issues and whose efforts to address them have benefitted the University community. Their willingness to listen to the experience of our students and employees is essential to the welfare of the institution.

Mental Health and the Code of Student Conduct

The *Code of Student Conduct, 2002* sets out the University's policy and procedures for addressing behaviour by students:

That jeopardizes the good order and proper functioning of the academic and non-academic programs and activities of the University or its divisions, that endangers the health, safety, rights or property of its members or visitors, or that adversely affects the property of the University or bodies related to it, where such conduct is not, for the University's defined purposes, adequately regulated by civil and criminal law. (p. 2)

Notable features of the *Code* in relation to the following discussion are,

- The principal, dean or director of each faculty, college or school is responsible for the administration of the *Code* (with recognition of the need for coordination where more than one division is involved).
- Whenever possible and appropriate, the division head is responsible to ensure that informal resolution and/or mediation are used to resolve issues of individual behaviour before resort is made to formal disciplinary procedures.
- The Vice-President and Provost may suspend a student temporarily if there is reasonable apprehension that the safety of others is endangered, damage to University property is likely, or the legitimate operation of the University would be disrupted. If such a suspension is continued beyond three days, the student(s) may appeal to the Senior Chair (or delegate) of the University Tribunal.
- If the case comes before a Hearing Officer, the student may be assisted and represented by another person, who may be legal counsel.
- The onus of proof is on the division head to show on clear and convincing evidence that the accused has committed the offence alleged.
- If the Hearing Officer rules that the offence has been committed, he/she can impose sanctions, which may include restrictions on the student's activities in the University.
- The student may appeal against the decision of the Hearing Officer to the Discipline Appeals Board of the Governing Council.
- The Vice-President & Provost is required to report statistical information annually to the University Affairs Board.

As discussed in my Report for 2012-13, the *Code* contains no provision for a separate or parallel set of diversion procedures to deal with disruptive students who appear to have a mental illness. Having carefully weighed the arguments both for and against such an approach, the Special Committee of the University Affairs Board that reviewed the *Code* in 2002 recommended that a single procedure should continue for all students, and its recommendation was accepted by UAB and the Governing Council. **This did *not* mean that mental health illness should not be taken into account. On the contrary, as the Special Committee made clear in its report, a mental health issue would appropriately be considered in shaping an informal resolution early in the process, in attempting mediation, and/or in the shaping of a sanction by a Hearing Officer.**

The potential for informal resolution depends upon the willing participation of both parties in such an exercise. Agreement may not be available for any of a number of reasons, not necessarily associated with a mental health condition. Indeed, students with a mental health disability who have achieved some insight into their needs may well, and presumably often do, willingly engage in such processes and accept supports offered by the University, such as through counsellors in Student Academic Progress and the Accessibility Service on their campus. They may also agree to other arrangements designed to help them with whatever health challenge they are facing and to function well in the University environment.

Sometimes a student may not cooperate in the process of finding an informal resolution both prior to and following a formal investigation. According to the way in which the *Code* is currently written, regardless of whether a mental health issue is a factor, the division head then must decide whether or not to proceed to a hearing. Absent the scheduling of a hearing conducted in accordance with the procedures laid out in the *Code*, and without the agreement of the student, no further action is available.

The sanctions available to a Hearing Officer include, in the case of a serious offence, the possibility of restricting the student's activities, even to the point of affecting his/her registration in a program. Suspension from registration is limited to one year. Expulsion from the University may be recommended and may be imposed by Governing Council on the recommendation of the President. However, in shaping the sanction, the Hearing Officer may consider representations by either the student or the division head relating to the student's mental health challenges, whether disclosed by the student, or, if not, as they are perceived by the division head.

As indicated above, the student may appeal decisions of the Hearing Officer to the Discipline Appeals Board of Governing Council.

It is therefore evident that the procedures of the present *Code* process are well designed to ensure that the needs of a student with mental health challenges whose behaviour falls within its scope can be addressed appropriately, and in accordance with the requirements to accommodate spelled out in the *Ontario Human Rights Code*.

In recent years, additional resources have been made available to division heads in managing cases that fall under the *Code*, including those cases that raise concerns about personal safety and those that are complex for any reason. Among other things, the Office of the Director, High Risk & AODA has been established. The *HR & Equity Report 2013* includes the following summary of the centralized handling of high risk and critical incidents.

It has been two years since the University created a comprehensive case management approach to high risk and critical incidents. Situated in the portfolios of the Vice-Provost Students & First Entry Divisions and the Vice-President, Human Resources & Equity, this office assists with cases and incidents where institutional oversight is required and where the matter involves such complexity that a senior team with various areas of specialization are required. Over the past few years, many university and college campuses are seeing an increase in crisis cases, often related to mental health needs. **The significant increase in the acute nature of the mental health disorders and the complexities of critical incidents, more frequently requires us to manage extreme and distressing behaviours in an urgent manner and with ongoing case management** [emphasis added]. Cases involving staff and faculty require an attention to institutional impact and the context of the employment environment. With an undergraduate student population of over 66,000 and 15,000 graduate students and close to 18,000 employees, there are inevitably a number of students or employees at any given time who fall into the category of what we would define as “high risk.” This year, the number of case matters has increased as have our commitments to ensuring that faculty and staff are aware of the supports available for students, staff and faculty. Information sessions for Chairs and faculty regarding the institutional process to comprehensive case management were held starting in late 2013 and will continue into 2014.

The Director, High Risk and AODA may refer cases to the High Risk Committee. This senior administrative group plays a significant role in the University’s Workplace Violence Program, which relates to physical violence to self or others (or the threat of same). However, the Committee is not limited to such cases, but also deals with other situations judged to constitute a high risk to members of the community such as behaviour that may violate the human rights of others in the community or may interfere substantially with their well-being. In the case of students where these criteria are met, there is clearly considerable overlap between the work of the High Risk Committee and the purposes of the *Code of Student Conduct*.

In response to my Report for 2012-13, the Administration spoke of how cases are handled when disruptive behaviour on the part of a student is believed to be linked to mental health needs that are not acknowledged by the student.

It is sometimes the case that students with disabilities, specifically students with mental health disabilities, find themselves in the position of complainant or respondent to a *Code of Student Conduct* matter. If the mental health need is known or identified and acknowledged by the student, support from tri-campus student services such as Student Academic Progress and Accessibility Services, is often provided.

It is frequently the case, however, that students dealing with mental health needs do not self-identify as having mental health needs. If a student's behaviour is believed to have a relationship to his or her mental health needs, a group consisting of experts and specialists from a variety of disciplines is typically convened. Such a group would be convened on a case-by-case basis to engage in a confidential analysis and to make recommendations. **These recommendations may include alternatives to *Code of Student Conduct* proceedings and the deployment of individually tailored supports to assist the student, and ensure that the University's behavioural expectations (which exist for the benefit of all students) are met** [emphasis added].

With a view to clarifying how the centralized handling of cases involving non-academic misconduct relates to the University's approved policy, particularly when the student's behaviour is believed to have a relationship to his or her mental health needs, I have initiated discussions with the Office of the Vice-Provost, Students & First Entry Programs, and these discussions will continue during 2014-15.

In addition to briefing me on the work of the High Risk Committee, the Vice-Provost has undertaken to keep me apprised of the work of the Provostial Advisory Committee on Student Mental Health, which she chairs, and which is expected to deliver a report to the Provost in October 2014. The Advisory Committee is charged with developing a Student Mental Health framework and Strategy for the University. One of the five working groups established by the Provostial Advisory Committee is focussed on Policies & Procedures, and their recommendations will be of particular interest in the context of the present discussion.

The University's handling of matters where mental health needs appear to be involved is, of course, subject to the *Ontario Human Rights Code*. In June 2014, the Human Rights Commission issued a document which is helpful in understanding the accommodation process, namely the *Policy on preventing discrimination based on mental health disabilities and addictions*. As well as explaining the duty to accommodate on the part of a service provider, the *HRC Policy* discusses the rights and responsibilities of the person with a disability. For example, the provider must attempt to help a person who is clearly unwell or perceived to have a mental health disability, but the process should be a non-coercive, co-operative one that both parties take part in, and accommodations may not be imposed.

Before sanctioning a person for misconduct or "unacceptable behaviour," an organization must first consider whether the actions of the person are caused by a

disability, especially where the organization is aware or perceives that the person has a disability. [213] The person's disability must be a factor that is considered in determining what, if any, sanctions are appropriate, unless this causes undue hardship.

Accommodation providers should always inform employees, service users and tenants that a disability-related assessment (such as a medical assessment) or accommodation can be provided **as an option** to address job performance issues or issues relating to fulfilling one's duties as a tenant or a service user [emphasis added]. (p. 60)

And elsewhere,

Example: Where mental disability-related behaviours are perceived to be interfering with a student's ability to take part in education, part of the school's duty to accommodate could be **to seek consent** to arrange for counselling through an available service, such as a school social worker, or make a referral to an outside agency [emphasis added]. (p. 68)

And,

The power to make decisions about matters that affect one's own life and to have them respected by law is a fundamental part of realizing one's rights as an autonomous adult, and indeed, is fundamental to personhood itself. . . The Ontario Court of Appeal has recognized that the right to personal autonomy, self-determination and dignity is "no less significant" for people with mental health disabilities, and "is entitled to no less protection, than that of competent persons suffering from physical ailments." (p. 86)

There are, however, limits on the duty to accommodate. For example, "High probability of substantial harm to anyone will constitute an undue hardship. In some cases, it may be undue hardship to attempt to mitigate risk, such as where the risk is imminent and severe." (p. 80)

The *HRC Policy* further acknowledges that an organization may have fulfilled its procedural and substantive duty to accommodate, because the person has not cooperated in the process.

It may be challenging for organizations when they perceive that a person has a mental health issue or addiction and needs an accommodation, but the person denies that he or she has a disability. In these cases, organizations should still attempt to start the accommodation process, and continue to offer accommodation, as appropriate. However, there will be a limit to the extent that an organization can accommodate someone's disability in the absence of the person's participation.

Example: In one case, a student at a college showed behaviour at school such as “abusive outbursts,” incidents of unexplained crying, incoherent speech, and strange accusations directed towards classmates. Students and teachers became concerned about her well-being. The administration believed that she might have an undisclosed mental disability that required accommodation, and approached her to talk about her behaviour. The student did not consider her behaviour to be inappropriate and did not seek any accommodation. The HRTO [Human Rights Tribunal of Ontario] ruled that “when an organization perceives a person to have a disability but the person denies it, it is unclear whether the duty to accommodate arises and precisely what form any such duty would take.” It was the claimant’s obligation to take part in efforts to accommodate her, and because she did not take part, the HRTO found she could not claim she experienced discrimination based on a disability. (p. 83)

I introduce this discussion of provincial legislation, not to suggest that the Administration is in need of instruction in these matters, but to emphasize the nuanced nature of the accommodation process. It is quite clear that the Administration is committed to ensuring that the University is in compliance. Indeed, the need to ensure that the necessary expertise is brought to bear may be a factor in the tendency towards centralization of the management of student misconduct cases where mental health appears to be involved. The process also has the merits of providing for a quick and flexible response, and has, apparently, resulted in many students receiving assistance.

However, this centralized process seems to be operating outside the provisions of existing University policy, and this is the focus of my interest and concern. In particular, I am interested in what steps are taken when students exercise their option of rejecting the proposed course of action and where there is also a reasonable concern that their continued unfettered participation in University activities would have serious negative implications for other members of the community. I am not aware of any extant policy that empowers an administrator to restrict a student’s activities because of non-academic misconduct beyond the interim measures provided under the *Code of Student Conduct*, to which I have referred above. This would imply that in such cases, having exhausted the attempts to provide accommodations, the allegations of misconduct should revert to the formal processes of investigation and hearing, processes that provide procedural protections to the student and arguably to the University, including the right of appeal. If that approach is not thought to be desirable, there may be a need for amendment to the *Code of Student Conduct*, or for Governing Council to approve new policy that will recognize, and provide oversight to, the current practice.

I welcome the willingness of the Administration to provide further information and to continue our discussion of this issue. I also look forward to the report of the Provostial Committee on Student Mental Health that will be coming forward in the fall and which is expected to include recommendations that address policy formation in this area.

Communicating Decisions to Applicants to Graduate Programs

Our Office was contacted by an unsuccessful applicant to a graduate program whose issue was not the negative decision itself so much as the way in which the decision was communicated. Admissions *decisions* are not within the jurisdiction of the Ombudsperson. However, when *process* issues are raised, we do sometimes follow up with a view to providing feedback to the academic unit and in the interests of the University's public relations.

The School of graduate studies has an online system for the submission of applications, but admissions decisions are communicated to applicants by regular mail. In most cases, the decision letter bears the signature of the Director of Student Services at SGS, but it is in any case generated and mailed by the graduate department.

In the particular case, the department had a record of when the decision letter was generated and informed us that it would have been mailed within two weeks of that date. However, this letter was never received by the applicant. After a long wait, the applicant had phoned the department to enquire about the status of the application. Unfortunately, the person who took the call handled it badly, so compounding the problem. Subsequently, the head of the unit did not reply to a letter from the family of the applicant complaining about how communications in response to the application had been handled. Even following our enquiries, no further letter was ever sent to the applicant by the department. We apologized to the complainant on behalf of the department, and undertook to look into the possibility of improving on the present process.

Discussions with SGS focussed on whether it would be possible to provide decision information to applicants using an electronic application system, including generating decision letters to be sent by email. Currently, applicants can track the status of their application on the online system to the point of ensuring that their information is complete, including individual documents that may need to be sent directly to the department. We learned that a project to replace the current SGS application system is under discussion and that a new system would be able to provide on-line decision notification. Undertaking such a project will entail costs, and undoubtedly there are other priorities also deserving of attention. However, among the benefits would be

- the elimination of delivery delays and losses through the mails
- more rapid communication of decisions
- elimination of departmental costs for printing letters, stuffing envelopes, and postage
- improved services to applicants
- possibly improved acceptance rates from highly desirable applicants who receive early offers from other institutions
- improved public relations

***Recommendation:* That the project to extend the capabilities of the electronic application system for graduate programs to include the status of the admission decision and its communication to applicants be undertaken at the earliest possible date.**

Refund of Program Fees

In 2009-2010, the Faculty of Arts & Science introduced program fees for full-time students in regulated programs. Program fees as such were not new, having applied in the past to professional and graduate programs and also from Year 2 onward in deregulated programs in all three arts and science divisions. However, problems with the administration of the tuition refund schedule for this new and very large population of students came to the attention of our Office.

As I reported in 2010-2011, the system was unable to deal equitably with students who withdrew during a certain period part way through the academic year whose original course selections contained a mix of Y and F courses. As an interim solution, the Faculty responded with measures to ameliorate the impact of these and other problems. Some were addressed by reprogramming, but others required manual processes.

Also, the information provided to students by the Faculty and by Student Accounts was of necessity complex and challenging for students to understand, particularly for those in Year 1.

In the course of reviewing refund schedules across the University, we also noted inconsistencies among the critical dates for full or partial refunds of program fees.

In 2012, the Vice-President University Operations and the Vice-Provost Students decided, with the support of the Office of Student Accounts, to establish a working group to look at the broader issue of tuition fee assessment and tuition refund policies and practices, to operate under the umbrella of the New Generation Student Information System (NGSIS). The team made a number of recommendations to improve the transparency, simplicity and fairness of the fees assessment processes and refund policies associated with the Faculty of Arts & Science program fee, as well as suggestions for short term system fixes to address these issues.

The automation of the refunding process for students who withdrew and/or whose fees were adjusted from program to per course fees or vice versa, during a certain period part way through the academic year, was approved as a NGSIS short-term project, and was originally scheduled to be addressed in the October 2013 to January 2014 time period. However, the short-term project anticipated was overtaken by the announcement of the new provincial tuition fee framework, requiring a move to higher program fee thresholds of 3.5 FCE in 2015-2016 and 4.0 FCE in 2016-2017, and changes to tuition billing dates. These changes require assigning a higher priority for projects that will facilitate their implementation. At the same time, the changes are expected to result in a decrease in the

number of program fee refunds. Nevertheless they will not reduce the complexity of the process for students eligible for refunds and the NGSIS team remains committed to implementing a streamlined solution.

The NGSIS project team, the Student Accounts Manager, and representatives from the Faculty of Arts & Science Registrar's Office plan to hold discussions in the Fall 2014 to more thoroughly review the manual enrolment and registration related refund and fee adjustment processes, and to explore the potential for any short-term system fixes that could assist the Faculty in better managing refunds and fee adjustments. These include further revisions of published information to make it easier for students to understand the implications of their choices, and the implementation of process changes that will allow students to elect part-time billing, reducing the need for visits to a College Registrar's Office.

Code of Behaviour on Academic Matters

Like my predecessors, I have discussed problems relating to the *Code of Behaviour on Academic Matters* in earlier annual reports. This *Code*, which was approved in its present form in 1995, sets out the University's expectations with respect to the integrity of the teaching and learning relationship, describes what may be considered to be an academic offence, and prescribes detailed procedures to be followed when an offence is suspected or alleged. It also has an appendix containing *Provost's Guidelines on Sanctions, Offences and Suggested Penalties for Students*. In my Annual Report for 2007-2008, I discussed problems that needed to be addressed and formally recommended that a review of the *Code of Behaviour on Academic Matters 1995* be undertaken. This recommendation was accepted by the Administration.

Rather than undertaking a full review of the policy, the Administration opted to conduct a more limited review of its administration. Although no changes to the *Code* itself have resulted from my recommendation, as reported earlier, some attention has been directed towards improving the procedures and practices of the academic divisions and of the Tribunal. For example, training workshops for new Dean's Designates and for the staff of divisional Integrity Offices have been instituted. The Tribunal prepared *The University Tribunal Rules of Practice and Procedure, Effective April 19, 2012*, which is published on the Governing Council website together with extensive information about the whole academic discipline process. Also, the development of an Academic Integrity website as a resource for both students and faculty throughout the University began in 2011-12 and the site was eventually launched before the start of the 2014-15 session.

In 2011-12, work also began on revising *Provost's Guidelines on Sanctions, Offences and Suggested Penalties for Students*, which forms an appendix to the *Code*. After a number of delays, it is now expected that the new document will be taken to the Academic Board for information in the fall of 2014. At the same time, the Academic Board will receive a report for information on the administrative review of the *Code*.

In my Report for 2007-08, I also expressed concern about the length of time it was taking to dispose of allegations of academic offences. In response to a recommendation I made at that time, the annual statistical reports to the Academic Board have, since 2011-12, included the percentage of cases resolved at the divisional and at the Tribunal levels within a specified time period. However, in neither case do these reports reflect the full length of time elapsed since the offence was committed. Rather, in the first case, they reflect only the time from the when the allegation was brought to the attention of the Dean's Office to the time of disposition at that level, which is the case when a student has admitted the offence, or the Dean or designate has concluded that no offence was committed. In the second case, the statistical reports reflect only the time from the laying of a charge by the Provost to the issuing of orders by the Hearing Division of the Tribunal.

In order to evaluate how the present situation compares with the problems about timeliness that I identified in 2007-08, I have reviewed reports of 44 cases published on the website of the Office of Appeals, Discipline & Faculty Grievances for the last three years to ascertain the time elapsed between the commission of the offence and the date of the Tribunal hearing. The comparison does show considerable improvement in the timeliness with which allegations of offences are being addressed—at least for those cases that do go to Tribunal. Over several years preceding 2007-08, the time taken was less than a year in only 4 of 30 cases (13%), and exceeded 2 years in 8 cases (27%). For the most recent 3 years, the time was less than a year in 23 of 44 cases (52%) and exceeded 2 years in only one case (2%). In fact, 88% of cases took less than 18 months, which was the *average* for the earlier period even when disregarding 2 outliers that took more than 4 years.

Despite this clear evidence of improvement, situations of concern do continue to come to the attention of my Office. Departments in multi-departmental divisions dispose of many allegations of offences on term assignments worth 10% or less of the final grade. In one case, a student complained that, despite his efforts to get an appointment with the responsible departmental officer, 11 months elapsed from his meeting with the instructor to the department's disposition of his case, significantly delaying the award of a final grade in the course. This department apparently has to deal with a very large volume of alleged offences on small assignments. While it is important that the cases be disposed of in a responsible fashion, such long delays are clearly unacceptable. I propose to take a further interest in the experience at the departmental level in the course of the coming year, as no information on the administration of the *Code* at this level is currently reported.

Civility Guidelines

Since *HR Guidelines on Civil Conduct* were promulgated in 2009-2010, my Office has made considerable use of the document when assisting employees whose concerns include the conduct of their managers or colleagues and to students with concerns about the conduct of faculty or staff with whom they have interacted.

This year, we requested, and received, a briefing on the extent to which complaints under the *Guidelines* came to the attention of Human Resources and Equity, how these complaints are being handled, and the outcomes. The Director, CAHRS & Workplace Investigations, in close consultation with the Executive Director, Integrated HR Service Delivery and Legal Counsel, Labour & Employment, is responsible for case management and, where appropriate and with the agreement of the complainant, appoints an investigator from a different area of the University chosen from a pool of trained investigators. When a complaint is upheld by the investigator's report, the response is appropriate, including, in some cases, disciplinary action proportionate to the seriousness of the behaviour.

We are pleased to know that the *Guidelines* have proved useful to persons with these kinds of concerns and that they have led to appropriate resolution in a variety of situations.

Handling of Requests for Assistance

In 2007-2008, my first year in office, the number of requests for assistance was 221. In 2013-2014, it was 434, an increase of 96% over the period. An increase was experienced in all four categories of University members: students in first-entry undergraduate, professional, and continuing studies programs, students in graduate programs, administrative/unionized staff, and academic staff. During the seven-year period, the Office has responded to 2138 requests for assistance in all. Throughout, the largest numbers of requests for assistance came from undergraduate students, but the heaviest users in relation to their overall numbers continue to be graduate students.

The increase in cases is partly accounted for by growth of the University population over that period. According to statistics found in *Facts & Figures*, the total active membership of the University (students and employees) increased by approximately 16% during the period. Although considerable, this increase in membership is much less than the increase in the number of contacts with the Office. We believe that this is an indication that awareness of the Office has increased as a result of our outreach activities (see Section 3 of this Report, below).

As in past years, requests for assistance were most often initiated by email or our web-based Request for Assistance form (70%), or by telephone (24%). The Office responded to 72% of contacts on the same day and to 95% by the following day.

One or more meetings with the complainant were held in 41% of cases. If a meeting is required, it is scheduled at the earliest convenience of the complainant; 64% occurred on the same or following day, 90% within a week. Meetings are held at the campus requested by the complainant, or may be conducted by telephone if the complainant prefers. Some elect to conduct all their communications with us by email.

Meetings with complainants are often lengthy, and more than one may be needed. Because complainants are sometimes very upset and/or poorly prepared to present their story in a complete and coherent fashion, obtaining all the relevant details and any available documentation of any prior communications with University officials can take a considerable amount of time. Explaining the relevant policies and procedures can also be a lengthy process, after which remains identifying, explaining and discussing the pros and cons of the options available to the complainant. These options may or may not include intervention on our part.

With the consent of the complainant, we contacted relevant administrators in 16% of the cases. Our initial contact is always to obtain further information about the matter from the point of view of the administrator concerned, following which we may move to a discussion of the issues and the potential for a better resolution. Administrators at all levels in the institution are generally very responsive to our enquiries, and constructive in exploring potential resolutions. When the Office did intervene, the matter was resolved or expedited in 31% of cases. Where the outcome was unchanged, it was commonly because additional information obtained through our enquiries showed the original decision to be fair.

Fifty-two percent of all cases were disposed of within a week, but 20% of cases engaged our attention for more than a month, some for much longer.

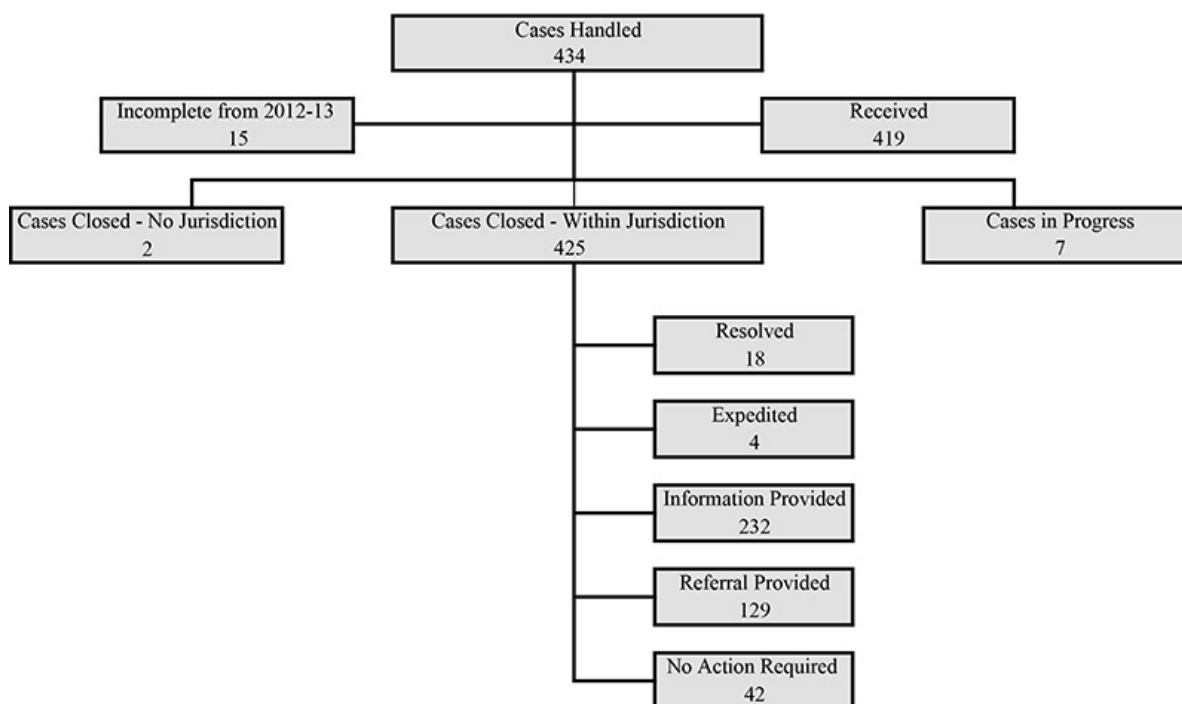
For a variety of reasons, complainants may withhold consent for us to contact administration about their concerns even when we would be willing to do so. With the benefit of information we provide and discussion of their issues, some elect to pursue the matter themselves, and some decide to take it no further. Unfortunately, despite the protection against reprisals provided by the *Terms of Reference*, some express a fear of repercussions if we were to intervene. Perhaps some complainants do not want us to talk to administrators in case information they would sooner withhold should come to light. In every case, we respect the complainant's decision.

We find that complainants sometimes have inappropriate or unrealistic expectations of what might be achieved through coming to this Office. Although many gain insight into the issues and understand and accept the outcome and the reasons for it, a relatively small number remain dissatisfied, or even angry, when the results they have in mind are not delivered.

For a more detailed report on who approached the Office in 2013-2014, and the types of issues raised, see Appendix 2.

The disposition of complaints and other requests for assistance is summarized in the diagram below.

Disposition of Complaints and Enquiries 2013-14



Resolved: Intervention by the Office results in an outcome acceptable to the parties, although it may not be what the complainant originally sought.

Expedited: Intervention by the Office results in rapid response to an emergency situation, or unblocks a delay in the process.

Information Provided: Office provides and explains policies and procedures relevant to the concern and explains available courses of action and appropriate channels. Referral may be included.

Referral: Office provides a referral and contact information only.

No Action Required: Includes complaint withdrawn (sometimes resolved elsewhere), failure on the part of the complainant to provide needed information, failure of the complainant to show for appointment.

Other Activities of the Office

We received help from Strategic Communications & Marketing in implementing the communications plan developed with their assistance, arising out of the review of the Office in 2012-13. Among other things, we undertook an extensive update and upgrade of our website and benefitted from their comments and suggestions, many of which were implemented. Also, Communications assigned a staff member to write articles about both the Office and the Ombudsperson for publication in *University News* and the *Bulletin*. The original intention was to publish in early November 2013 immediately following Governing Council's receipt of the Annual Report for 2012-2013. However, in the event, publication did not occur until March 2014, apparently due to misunderstandings among various administrative offices.

We again advertised in various campus publications, both print (*The Medium*, *The Mike*, *The Underground*, *The Varsity*) and electronic (Arts & Science, Grad News, Applied Science & Engineering, UTM, The Bulletin). We purchase ads in the UTSU student handbook, the Clubs Directory and on the UTSU dry erase calendar. We also maintain our presence on the portal.

Approximately 10,000 business card holders bearing our contact information were distributed, mainly to new students through UTSU and SCSU orientation kits, to new undergraduate students in the Faculty of Law, to attendees at Grad Info Fair, and to residents of International Grad House.

Approximately 3,600 bookmarks with information about the Office were distributed (UTM student orientation, UTM faculty, staff, and graduate students, Campus Services Expo kits, faculty, staff, and graduate students in the Faculty of Law and in the Faculty of Nursing, through Rotman Commerce, Test and Exam Services, Grad Info Fair, International Grad House, and to attendees at orientation sessions for new faculty and staff).

Materials about the Office are also provided at the orientation for new academic administrators, and the Ombudsperson has been invited to attend a social event where she can meet participants informally.

For the first time, we manned a booth at Campus Services Expo in May 2014. The event drew an attendance of approximately 500, the majority being University staff. Many attendees took an interest in our display and engaged in conversation about the work of the Office. A post-event survey conducted by the organizer revealed that only 31% of over 200 survey respondents had previously been aware of our services. This event appears to be an excellent vehicle for reaching staff, and we plan to continue to participate in future years.

The Office once again assisted the University of Toronto Student Union by providing neutral and secure storage space for ballot boxes during their annual election.

In anticipation of the forthcoming review, I will prepare a short ancillary report for the use of the review committee with my reflections on the Office's operations, structure, and future needs based on my experience over the past seven years.

As I begin the final year of my contract, I look forward to continuing to work with my colleagues Garvin De Four and Stephanie Ellul, and with administrators throughout the University who, despite the many other demands on their time and attention, remain open to interacting with the Office to resolve disputes and to improve the conditions under which students, faculty and staff do their work.

Respectfully submitted,

Joan Foley
September, 2014

Appendix 1

Summary of Systemic Issues and Outcomes 2007-2008 through 2012-2013

Accommodations for Students with Disabilities

Issue 1: Special challenges in designing accommodations relating to research activities undertaken in research-based masters and doctoral programs (2007-2008).

Outcomes: Partnership formed between School of Graduate Studies and Accessibility Services. SGS designated a staff member as liaison with AS. A broadly-based strategy to communicate with and advise students, supervisors and Graduate Coordinators was developed and an earlier proposal for a disability bursary was implemented.

Issue 2: Trainees in post-graduate professional programs uncertain about how to have accommodation needs/problems addressed (2009-2010).

Outcome: New entry in information booklet for trainees.

Issue 3: Lack of clear process to obtain accommodations as a member of, or candidate for, Governing Council (2009-2010).

Outcome: *Procedures* document developed and published on Governing Council website.

Freedom of Information and Protection of Privacy Act

Issue: Breaches of privacy, mainly affecting students (2007-2009).

Outcomes: More frequent reminders to faculty and staff of their responsibilities and of the seriousness of breaches, and involvement of FIPP Director in orientation programs.

Off-Campus Activities: Policy Development

Issue: Need for a Safety Abroad Policy (identified by predecessor as an outstanding issue as of 2004-2005, followed up 2007-2010).

Outcomes: Intention to introduce a Safety Abroad Policy reconsidered in favour of a more general policy for off-campus activities, both domestic and international.

Framework on Off-Campus Activities developed together with sets of guidelines on each of safety in field research, safety abroad, travel, sponsorship of off-campus activities of campus organization, experiential learning and community service.

Issuing Diplomas

Issue: Diplomas issued only in March, June and November (first raised by Interim Ombudsperson in 2006-2007, followed up in 2007-2009).

Outcomes: A student who expects to graduate at the next Convocation may request a letter from their registrar confirming that the requirements to graduate have been met.

Fees

Issue 1: Eligible students were too often unaware of the international fee exemption (2007-2013).

Outcomes: Correction of information in admissions packages for convention refugees. Information published by Student Accounts improved. Communications from Director of Enrolment Services and Director of Centre for International Students through *Join U of T* portal, CIE website, and direct email. Divisional and college registrars encouraged to refer their international students to the CIE website.

Issue 2: Assessment and refund of incidental fees problematic for students who switch between part-time and full-time during academic year (first raised by Interim Ombudsperson 2006-2007, followed up 2008-2011).

Outcomes: Lock-in date moved to later in the session leading to imposing full-time fees on fewer part-time students.

Issue 3: Expiry of 5% percent limit on tuition fee increases after four years is onerous for students in co-op programs (2007-2008).

Outcome: Normal length of time under the fee commitment policy for the completion of co-op programs was redefined as five academic years.

Issue 4: Rules regarding tuition fees in deregulated programs in arts and science programs not well understood by students on some campuses (2008-2009).

Outcome: Improved information published and disseminated, especially with regards to the back-fee for late joiners.

Issue 5: Students have problems in programs with non-standard start dates.

Outcomes: Attention to systems problems and communications. An academic division offering a post-graduate professional program withdraws from an agreement with other universities in the province in order to administer the fee in a way that is neutral with respect to the start date.

Issue 6: Cost recovery fees being charged to students without necessary approvals.

Outcome: Reminder to divisions of *Policy on Ancillary Fees*.

Building Accessibility

Issue: Need to retrofit existing buildings, including cases where budget for renovations is not sufficient to provide for access to upper floors (2008-2010).

Outcomes: Recognition that prioritization of deficiencies is an important strategic planning tool, nevertheless flexibility in the implementation of a plan is necessary to capitalize on funding opportunities as they arise. Division of University Advancement will pursue projects and initiatives approved by the Provost, but reports that the philanthropic community has limited interest. There are many competing needs for deferred maintenance funding from government. Nevertheless, slow but steady progress is being made and other forms of accommodation are being used to the extent possible.

Prohibited Discrimination and Discriminatory Harassment

Issue 1: Need for a clear and accessible internal process for dealing with complaints of discrimination or discriminatory harassment beyond those where the existing *Sexual Harassment Policy* applies (2008-2013).

Outcome: Vice-President HR & Equity developed *Guidelines on Prohibited Discrimination and Discriminatory Harassment* for the guidance of employees (2009-2010). Office of the Vice-Provost, Students produced a guide for students, *Prohibited Discrimination Complaints Process: Step-by-Step* (2012-2013).

Issue 2: Various concerns raised with Office about possible discrimination based on age in connection with admission to programs.

Outcomes: *Policies and Principles for Admission to the University of Toronto* reviewed by Provost's Office but no changes felt to be needed. Information published on-line by a journalist about practices in a specific program found to be in error, but no request for retraction made by the division.

Graduate Supervision

Issue: Difficulties in the supervisory relationship brought forward by graduate students, and occasionally by faculty members (2008-2013).

Outcomes: Close relationship between Office and School of Graduate Studies. SGS initiated workshops for students, orientations for new faculty and for graduate coordinators, and published revised *Guidelines for Supervision of Graduate Students*. Constructive relationship developed between Office and Graduate Students' Union and participation by the Ombudsperson as a panel member in a workshop for students sponsored by GSU.

Grading Practices Policy

Issue: Differences in interpretation of applicability to graduate courses of certain requirements for evaluation and the return of graded work arising from the wording of *University Grading Practices Policy* and *Graduate Grading and Evaluation Practices Policy*. A review by the Ombudsperson of the history of the development of the policies and their passage through governance fails to resolve the issue. Further confusion arises from changes in the views of the Provost and the Dean of SGS with changes in incumbents (2009-2010).

Outcome: Development and approval of three new policies, *University Assessment and Grading Practices Policy*, *University of Toronto Transcript Policy*, and *University of Toronto Policy on Academic Continuity*, which replace the two former policies.

Term Tests in Undergraduate Courses

Issue 1: The practice of increasing the weight of the final exam in lieu of offering a make-up term test can result in as much as 100% of the grade being determined by the

final. The practice is identified in the *AODA Accessibility Standards for Customer Service* as presenting a systemic barrier to accessibility (2009-2011).

Outcome: A large division revises advice on best practice given in the Academic Handbook for instructors. Provost's Office undertakes to include a text in material distributed annually to PDAD&C and posted for students on the Vice-Provost, Students' website.

Issue 2: Scheduling term tests outside the normal class meeting times may be unavoidable in multi-sectioned courses, but can create conflicts with other courses, sometimes resulting in loss of a full week of instruction, which may be a major concern for students with a disability, or where travel time between campuses is also involved (2012-2013).

Outcome: Partly because of physical constraints, practices designed to minimize conflicts differ on the three campuses. All campuses agree that the University has a responsibility to create an accommodation in the case of such conflicts. When these are not resolved by instructors, the relevant administrators will be available to facilitate a solution.

Student Health Plans

Issue: There are different health plans for three groups of undergraduate students: UTSU (for full-time students at St. George and UTM), SCSU (for full-time students at UTSC), and APUS (for part-time students on all campuses). Students with a disability whose course load is reduced as an accommodation may desire a plan with benefits (and contributions) commensurate with those for full-time students. Students who move between full-time and part-time status in the course of the academic year are confused about their health plan fees and entitlements (2010-2012).

Outcome: Improved cooperation among student governments in facilitating arrangements for students with a disability. An administrative solution in the context of the development of NGSIS may resolve some of the confusion with changes in FT/PT status and also help those students with disabilities who attempt a FT load in order to qualify for a FT plan, but subsequently find the load to be academically unsustainable.

Conflict of Interest Awareness

Issue: Instances of failure of academic administrators to conduct themselves in a manner consistent with University policies re conflict of interest (2010-2011).

Outcome: Continued attention to this at orientations for new academic administrators; addition of the issue to SGS orientations for new Graduate Coordinators; annual reminders to academic administrators from the Provost re the responsibility to communicate to academic staff annually about conflict of interest policies.

Diversity in University Residences

Issue: Difficult challenges for new students in adapting to religious and cultural differences when room-mates.

Outcome: New material in training for dons with involvement of Multi-Faith Centre.

Conditions of Enrolment of Non-degree Students

Issue: Non-degree students must observe University policies respecting academic and non-academic behaviour while enrolled in courses, but do not enjoy the same rights as degree students to continue with further enrolment. Information provided to these students about their status is uneven and inadequate. (2012-13)

Outcome: Vice-Provost, Students to provide further guidance to divisions re the exercise of their discretion to enrol non-degree students, and to ensure that information is available on a consistent basis on websites and in communications at acceptance and confirmation of enrolment.

Bicycle Safety

Issue: Danger to cyclists on city streets in the vicinity of the St. George Campus arising from parking infractions by service vehicles on bike lanes. Also, many cyclists disobey traffic rules on these roads and on those that are University-owned, creating danger for pedestrians, other vehicles, and themselves. (2012-13)

Outcome: Comprehensive transportation study is already under way. Contact with City by a staff member on the Sustainability Advisory Committee results in the University being consulted on bike lane upgrades on subject streets (work on Wellesley-Hoskin-Harbord has now begun). Contracts with suppliers require adherence to parking bylaws. Advice received from City's Manager for Cycling Infrastructure on dealing with parking infractions.

Appendix 2

Who Approached the Office in 2013-14, and Why They Came

Group A: Graduate Students and Postdoctoral Fellows

The caseload for graduate students in research-stream and professional masters/doctoral programs, and postdoctoral fellows under the auspices of the School of Graduate Studies, is shown below by Division. Participation as a percentage of the total student enrolment is shown in parentheses.

Division I	Humanities	7	(0.4%)
Division II	Social Sciences	28	(0.4%)
Division III	Physical Sciences	16	(0.5%)
Division IV	Life Sciences	32	(0.8%)
	Unknown	18	
	Toronto School of Theology	1	
Total		102	(0.65%)

The total number of 102 is an increase over 95 last year, and 72 in 2007-08. As a proportion of their total number, graduate students continue to be the biggest users of the Office.

The matters brought to the Office by graduate students were similar to past years, and most frequently concerned academic issues leading to termination/withdrawal, problems with supervision, and fees/financial assistance. The next most frequently raised issues were academic integrity, harassment and discrimination, and employment-related matters.

Group B: Undergraduate, Professional, and Continuing Education Students

The caseload for all students in programs *not* under the auspices of the School of Graduate Studies is shown below, broken down by academic division.

First Entry

Arts & Science	58	(0.2%)
UTM	25	(0.2%)
UTSC	17	(0.15%)
Applied Sci. & Eng.	18	(0.3%)
Arch. Land. & Design	1	
Music	0	
Kinesiology & Phys. Ed.	2	
Trans. Year Program	0	

Professional & Continuing Education

Continuing Studies	5	
Dentistry	3	
Law	2	
Management	0	
Medicine	0	
Medicine Postgraduate	0	
Nursing	1	
OISE/UT	2	
Pharmacy	2	
Pharmacy Residents	0	
Unknown	19	
Total	155	(0.2%)

The total number of 155 is an increase over 145 last year, and 97 in 2007-08.

As in the past, we were frequently consulted by students in this group about issues arising in the academic context such as the behaviour of an instructor, test and examination arrangements, petitions or appeals, fees/financial aid, and allegations of academic misconduct. Campus life issues and non-academic misconduct came up more frequently than in the past.

Group C: Administrative Staff

There were 23 requests for assistance from staff (0.2%), compared to 15 last year and 15 in 2007-08. They originated from staff employed in a variety of capacities from both academic and administrative units in different parts of the institution.

Almost all issues brought by staff focussed on workplace situations. In such matters, most staff did not seek any involvement of the Office beyond discussion of the concern, receiving information about policies/guidelines, identification of options available, and advice on the channels to follow.

Among the matters raised were

- being overlooked for a promotional and career development opportunities
- being overlooked for call-ins to work
- alleged bullying and harassment by a manager or supervisor
- alleged bullying and harassment by fellow workers
- change of supervisor leading to deterioration in working relationship
- elimination of position
- vacation entitlement and other conditions of appointment
- alleged unprofessional behaviour by supervisor
- teaching opportunities being discontinued
- conflict between research group and senior administration of division
- arbitration process following termination
- how to report perceived conflict of interest relating to use of funds in a research grant
- how to deal with a request from a student relating to information that is normally made publicly available
- how to deal with concerns about unprofessional behaviour by an instructor

In the case of unionized staff, the Office is careful to respect the role of the unions in matters subject to the terms of a labour agreement, but we do advise unionized staff about how they can properly raise their concerns and have them addressed.

Group D: Academic Staff

The Office dealt with 28 requests for assistance from faculty members (0.2%), compared to 17 in 2012-13 and 7 in 2007-08. The type of appointment varied, and they came from departments in many different parts of the University.

As in the past, the matters raised were very diverse in nature. In virtually every case, our role was limited to analyzing the issue, providing information about policy and procedures, explaining the channels available, and exploring the pros and cons of alternative courses of action.

- unauthorized publication of teaching materials by a former colleague
- perceived conflict of interest in hiring in a non-academic unit

- concerns about the membership of a search committee
- alleged bullying by a senior colleague
- concern about the title of a departmental talk to be given by a colleague
- dissatisfaction with experience in two different departments
- uncivil behaviour by a colleague in another university
- poisoned work environment
- work undermined by a senior colleague
- benefits issues
- how to address perceived breach of research ethics by leader of a research group
- concerns about the research ethics of collaborator
- concerns about process for renewal of contract
- evaluation of teaching
- how to handle a student's request for a change of grade
- how to deal with conflict between a student and an inexperienced instructor
- concerns about changes to teaching duties
- concern about possible discrimination on prohibited grounds in a decision by the department chair
- handling of request for professor emeritus status

Group E: Others

The Office was approached by 126 individuals not captured in any of the four categories above, compared to 87 in 2013-14 and 29 in 2007-08. This heterogeneous group includes:

- post-doctoral fellows supervised by a University appointee but whose own fellowships are administered by another organization, such as a hospital or research institute,
- employees of separately incorporated organizations operating within the orbit of the University (e.g., a student union, an affiliated or federated institution),
- students from another university taking courses here on a letter of permission,
- persons receiving services from a unit operated by an academic division as a training venue for students,
- former members of the University with concerns that did *not* arise out of their period of active participation as a member, and
- parents of students, applicants for admission, and other members of the public.

Even though the Ombudsperson's *Terms of Reference* may preclude intervention in some of these cases, the Office often provides assistance in the form of referrals and/or information in the public domain.

People who are parents, spouses, or friends of members of the University and who contact us on behalf of a member are encouraged to ask the student or employee to contact us directly. In a few instances, we have accepted authorization from the member him/herself to discuss the matter with a designated representative.