



**FOR ENDORSEMENT  
AND FORWARDING TO  
THE GOVERNING  
COUNCIL**

**PUBLIC**

**CLOSED SESSION**

**TO:** Executive Committee

**SPONSOR:** David Naylor, President  
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**PRESENTER:** See sponsor.  
**CONTACT INFO:**

**DATE:** October 16 for October 23, 2013

**AGENDA ITEM:** 3a

**ITEM IDENTIFICATION:**

Report of the University Ombudsperson for the Period 1 July 2012 to 30 June 2013, and Administrative Response.

**JURISDICTIONAL INFORMATION:**

Section 5.1 of the Terms of Reference of the Office of the Ombudsperson state that the Ombudsperson shall make a written annual report to the Governing Council, and through it to the University community, as well as such other special reports as may be required from time to time by the Governing Council.

**GOVERNANCE PATH:**

1. **Executive Committee (October 23, 2013)**
2. Governing Council [For Information] (October 30, 2013)

**PREVIOUS ACTION TAKEN:**

In 1994, the Executive Committee decided that Council should receive the Report and the administration's response simultaneously so that members of the Governing Council could comment on particular issues with full knowledge of both the Ombudsperson's and the administration's response.

The Governing Council received the Report of the University Ombudsperson (1 July 2011 to 30 June 2012), with the Administrative Response, at its meeting of October 30, 2012.

**HIGHLIGHTS:**

The Report and the Administrative Response are enclosed.

**FINANCIAL IMPLICATIONS:**

There are no implications for the University's operating budget.

**RECOMMENDATION:**

Be It Resolved

THAT the Report of the University Ombudsperson for the Period July 1, 2012 to June 30, 2013 and Administrative Response be endorsed and forwarded to the Governing Council for approval.

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**DOCUMENTATION PROVIDED:**

*Report of the University Ombudsperson for the Period 1 July, 2012 to 30 June, 2013*

*Administrative Response to the Report of the University Ombudsperson for the Period 1 July, 2012 to 30 June, 2013*



# REPORT OF THE UNIVERSITY OMBUDSPERSON

**1 July 2012 TO 30 June 2013**

## *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 .....	4
Enrolment of Non-degree Students .....	5
Scheduling Term Tests Outside Regular Class Hours .....	6
Bicycle Safety .....	7
Mental Health and the <i>Code of Student Conduct</i> .....	9
Recommendation 1 .....	11
International Fee Exemption .....	11
Refund of Program Fees .....	11
<i>Code of Behaviour on Academic Matters</i> .....	12
Prohibited Discrimination and Discriminatory Harassment:	
Complaints procedures for Students .....	13
Age Discrimination .....	13
Recommendation 2 .....	14
Graduate Supervision .....	14
Recommendation 3 .....	15
Handling of Requests for Assistance .....	15
Other Activities of the Office .....	17
Appendix 1: Who Approached the Office, and Why	
A. Graduate Students & Postdoctoral Fellows .....	18
B. Undergraduate, Professional & Continuing Education Students .....	19
C. Administrative Staff .....	20
D. Academic Staff .....	20
E. Others .....	21
Appendix 2: How the Office Responded .....	21
Appendix 3: Excerpt from the Report of the Special Committee to Review the <i>Code of Student Conduct, 2002</i> .....	22

## 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 is for the academic year 2012-2013; it 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 2012-2013, the Office handled requests for assistance from 360 individuals. The *Terms of Reference* require that, in responding to these requests, the Ombudsperson act in an impartial fashion, acting neither as an advocate for a complainant nor as a defender of the University, but rather assisting informally in achieving procedural fairness and reasonable outcomes. Matters brought to the Office by individuals are discussed with relevant administrators only if written consent is provided. All decisions remain in the hands of the administration, but the Ombudsperson may make formal recommendations in the context of a written report should she judge it appropriate.

As well as providing information about the handling of complaints, the report includes a discussion of a number of *systemic issues* (i.e., those issues that potentially affect many members of the institution, not only an individual complainant) that have engaged us in the course of the year. Some of the issues discussed are newly arisen; they concern non-degree students, the scheduling of term tests, bicycle safety, mental health as it relates to the *Code of Student Conduct*, and age discrimination. The report also updates the status of a number of issues discussed in earlier reports: the international fee exemption, the *Code of Behaviour on Academic Matters*, complaints procedures for students in connection with prohibited discrimination and discriminatory harassment, and graduate supervision. The report contains three formal recommendations relating to systemic issues. Elsewhere, it reflects actions planned or undertaken by the relevant administrators as an outcome of our discussions.

The Office was reviewed by Governing Council in the course of the year. We appreciate the interest shown by the members of the Review Committee in the work of the Office and, in particular, in the ongoing challenge of informing members of the University community about our services. As an outcome of the Committee's report, Strategic Communications & Marketing will be advising us in the coming months on reviewing and further developing our communication plan.

## **Report of the University Ombudsperson for the Period July 1, 2011 to June 30, 2012**

In 1975, Governing Council established the Office of the University Ombudsperson to support the University's commitment to fairness in dealings with its members. The Office is accountable directly to the Governing Council, hence is independent of the administration. It has unrestricted access to all University authorities. Its services are available to individual staff/students/faculty members on any campus.

A core role of the Office is to identify and address issues that potentially affect many members of the institution, not only an individual complainant (*systemic issues*). The Ombudsperson functions as a catalyst for improvement in the University's policies, processes and procedures, whether through informal discussion or formal recommendations. While not bound by the Ombudsperson's recommendations, the Administration does provide a written response to those that are formally presented.

In considering individual complaints, the Ombudsperson acts in an impartial fashion, acting neither as an advocate for the complainant nor as a defender of the University, but rather as a neutral party assisting in achieving procedural fairness and reasonable outcomes. All matters are held in strict confidence unless the individual involved approves otherwise, in writing. The Ombudsperson does not make decisions for the University; these remain with the responsible administrator.

This report contains three sections:

- 1) *Systemic Issues*. New issues that engaged the Office in the past year and an update on the status of issues discussed in past years.
- 2) *Handling of Requests for Assistance*. Information about the caseload of the Office in 2012-2013.
- 3) *Other Activities of the Office*: Professional and outreach activities.

### **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 with us and who have worked to address them to the benefit of the University community. Without their commitment to the improvement of policies and practices, we could not fulfil the mandate of the Office.

### ***Conditions of Enrolment of Non-degree Students***

On occasion, academic divisions may permit individuals who are not pursuing a degree to enrol in courses that form part of a degree program. The term *non-degree student* refers to an individual studying at the University under this arrangement. Some non-degree students are graduates of the division in which they are taking further courses, but other qualified individuals may also apply for such consideration.

During the year, my Office had occasion to look into the policies and practices that apply to such students and to examine the information provided to them about the conditions of their enrolment.

The Governing Council policy *Association, Admission and Registration*, defines the terms, *Program of Study*, *Academic Division*, *Association with a Program*, *Admission to a Program*, *Active and Inactive Association with a program*, and *Duration of Association with a Program*. It is clear that non-degree students are not admitted to or associated with a program of study.

Many of the rights and responsibilities of students are based on their admission to and association with the University in a program of study leading to a degree. Since non-degree students have no such admission to or association with a program of study, their enrolment as a non-degree student is at the discretion of the head of the academic division, usually the Dean. (For routine cases, this responsibility may be delegated, for example, to the divisional Registrar.)

Information pertaining to non-degree studies can be found in various places on the Enrolment Services web site and on the web sites of the three arts and science divisions. The most informative material is published on the Admissions web site in a document titled *Your Guide to the Non-Degree Application Process*. This document makes clear that admission as a non-degree student is discretionary, that admission does not guarantee placement in a particular course or courses, that during fall/winter registration non-degree students must wait until mid to late August to enrol in courses, and that the student must have the appropriate prerequisites.

Note that the use of the term *admission* in relation to non-degree applications does not carry the same meaning as the term when used in connection with admission to a program of study. This is because the initial approval does not confer ongoing rights to enrol in courses (even if the above conditions are satisfied). Rather, each time a non-degree student requests one or more courses, permission to enrol may be denied, again on a discretionary basis. No reason for denial need be given and no appeal is available against this administrative decision. This is not unlike the situation with respect to applications for admission to degree programs at the University, which are similarly entirely discretionary and are not subject to internal review or appeal.

Non-degree students are obligated to uphold policies such as the *Code of Behaviour on Academic Matters*. They are also covered by the *Code of Student Conduct* while they are

enrolled in a course. They are not covered by the *Code of Student Conduct* when they are not enrolled because they do not have the ongoing relationship of an association with a program of study. While non-degree students are subject to these policies approved by Governing Council, the information made available to them does not spell out the full implications. These policies impose certain responsibilities on students, and also their rights if an allegation of an offence under the policy is pursued against them. However, the procedural protections provided by the Code of Student Conduct obtain in the case of a non-degree student only if the allegations are pursued under the Code which only applies during the period in which they are actually enrolled in a course. The discretionary decision to permit further enrolment could include consideration of conduct that might also have constituted an offence under the *Code of Student Conduct* if it occurred while the student was enrolled in a course.

I see no reason to change the current policies and practices. However, non-degree students should have clear information about their status through material published on University and divisional web sites and through direct communications when requests for enrolment are approved. In particular, it should be clear in all of these communications that requests for enrolment beyond the initial request will likewise be subject to the discretion of the division head, without appeal.

After discussion of these issues, the Office of the Vice-Provost, Students decided to provide further guidance to divisions regarding the exercise of their discretion to allow non-degree students to register, and to ensure that information is available on a consistent basis to all who might seek to take courses as non-degree students. It is hoped that divisions will update and standardize their websites in accordance with the guidance provided by the Office of the Vice-Provost Students and also update their written course acceptance procedures and confirmation for this category of students.

### ***Scheduling Term Tests outside Regular Class Hours***

An undergraduate student complained that each of two terms tests in one of his courses had been scheduled in conflict with the 3-hour weekly lecture period for another course; in both instances his attendance at two weeks' worth of lectures in the second course was effectively precluded. This conflict would not have been apparent when the student made his original course selection, but would have been available when the course outlines were made available at the beginning of the term. At that point, the student still had the choice of dropping one of the courses, but it is often difficult in practice to get into another suitable course at that time. The instructor who had scheduled the tests outside regular class hours was not offering a make-up, but would allow the weight of the test to be transferred to the final exam. If this were to be done for both tests, the weight of the final exam in this 100-level course would become 95%.

There is no University-wide policy governing arrangements for term tests. Among undergraduate programs the local policies of the academic divisions do vary. For example, in one division, no classes are scheduled in specified periods in the timetable and instructors can arrange to have tests scheduled in those periods if it is not practical to



hold them during their own class hours. In another, an instructor has considerable discretion in how to arrange for tests, although the division advises on best practice “where possible.” In the specific case that stimulated my interest in these issues, the arrangements made for the tests were permissible under divisional policy, the only actual requirement being that the arrangements be made known to students at the beginning of the course.

I have no statistical information about the frequency of such practices, but I have reason to believe that in certain departments they are not uncommon. Clearly it is much easier for an instructor to construct only a single version of a test, rather than several versions of comparable difficulty. It may be reasonable in a multi-sectioned course to schedule a common test outside normal class hours, but the academic division should take some responsibility for ensuring that serious conflicts with other courses will not ensue. If that is not possible, a make-up opportunity should be available.

I have discussed in earlier reports (2009-10 and 2010-11) the concerns that arise for students (especially those with certain disabilities) from the practice of increasing the weight of the final exam in lieu of offering a make-up test. This practice sometimes results in an excessive weight being attached to the final exam, and always deprives the student of feedback during the term. Term tests should serve as an instructional tool, not solely a method of determining a grade.

I have discussed the issue with relevant divisional administrators where it seems appropriate, and have made a number of suggestions for improvement in policies. I plan continue these discussions in the course of the coming year.

### ***Bicycle Safety***

A member of the University community came to the Office with concerns about frequent infractions of the bike lane no-parking bylaw on streets like College, St. George, Harbord, Hoskin, and Wellesley. These parking violations put cyclists, many of whom are members of the University, at risk when they have to swerve out into the car lane. The complainant had observed that many of the parking infractions are by commercial vehicles that evidently have some form of business with the University, so she had visited a number of University offices hoping they would be in a position to get the problem addressed (UT Parking Services, Campus Police, Sustainability Office, Environmental Health & Safety, Community Safety Office). Because these are all city streets, these offices were unable to assist. I did some research to identify offices outside the University that might be in a position to see that enforcement efforts are increased and passed this information on to the complainant, along with contact information for the Ombudsman for the City of Toronto.

The complainant had also brought forward some proposals for actions that the University itself might consider taking to reduce the safety hazards involved. I contacted the Director Campus and Facilities Planning, passing these proposals along with information obtained through my research, including the relevant bylaw, relevant external offices and

resources, and information about the planning process at the City, which includes improving the separation of bikes and cars on some of the relevant streets in the longer run. I also noted that the bike lane markings on St. George St. road surface were quite worn and required maintenance.

As well, I drew attention to the fact that cyclists frequently create dangerous situations for themselves and other vehicles, and especially for pedestrians. For example, many cyclists ride around King's College Circle (a University road) in the clockwise direction, disobeying the one-way signs. On St. George St., in just a few minutes of observation, 5 of 5 cyclists (one of whom was proceeding north in the southbound bike lane) failed to obey the stop sign at Sussex Ave., and 6 of 8 failed to stop at the red light at Wilcox St. I recalled that years ago either Toronto or Campus Police conducted an educational blitz on cyclists who failed to stop at the St. George/Sussex intersection—an exercise which quite evidently has not had lasting effects.

The Director Campus and Facilities Planning reviewed all of the material with the Director Project Management, the Director Project Development, and the Assistant Vice President, Facilities and Services. She reported that, while many of the particular proposals from the complainant were judged not feasible or not appropriate, there was particular interest in the idea of raising awareness among the community as whole – motorists, cyclists and pedestrians – of all issues around the sharing of the roads and passageways on and around the campus. This idea will be further considered.

As part of the St. George Campus Master Plan, a comprehensive transportation study was commissioned in 2013. This study evaluated the existing transportation conditions on campus (trip information from the 2006 Transportation Tomorrow Survey, traffic volumes through a cordon count, and vehicular and cyclist parking information) and made recommendations for University needs up to the year 2030. The detailed report is nearing completion and results are expected to be available shortly.

Information regarding where contractors can park is already included in the University *Terms of Conditions*, so adherence to the law and legal parking is a stipulation in these contracts. In future, the restrictions regarding bike lanes will be emphasized at meetings with the contractors. Property Management and Facilities & Services teams are instructed to use designated loading areas for particular buildings. Now that construction of the Rotman Expansion is complete, a reduction of delivery and construction vehicles parking on that stretch of St. George Street might be expected. However, the University is not in a position to monitor parking on bike lanes on city streets in any systematic and ongoing fashion.

I also learned that the Sustainability Advisory Committee is seized of the issue of cycling and pedestrian safety. I met with a staff member of the Office of Campus & Facilities Planning who sits on the Committee and who undertook to raise the issues there and to follow up with City contacts to seek some remedial improvements to the existing bike lane infrastructure on city streets through the campus. He ascertained that the City of Toronto is in the process of planning its Harbord Street and Hoskin Avenue Bike Lane

Upgrades, with the goal of improving safety along this heavily used east-west passage through our campus. He reports that, as a result, we have been consulted as part of the broader stakeholder community and have provided feedback on design proposals to date. Construction of this route (spanning from Queen's Park West to Ossington Street) is planned for Spring/Summer, 2014.

There has also been discussion with the City of Toronto's Manager for Cycling Infrastructure, about how we can address the problem of illegally parked vehicles in bike lanes (particularly in the lanes along St. George Street). As St. George is a city street, it means enforcement must be carried out by City of Toronto. The Manager's recommendation is to alert the Toronto Police Services, Parking Enforcement. Unfortunately, it seems infractions are dealt with on a case-by-case basis, but they will nevertheless be contacted to explore how we can work with them to direct their resources more effectively on campus.

The Office of Campus & Facilities Planning has compiled a detailed list of bicycle locking locations across campus, with source information from Facilities & Services. The hope is to feed this information into the publicly-available Campus Map so that people know where and how many bike parking facilities are available.

Among other activities, the Sustainability Advisory Committee's Transportation Subcommittee is working on a survey that will highlight recommended or safer passages through campus for cyclists. The Subcommittee will be reconvening this fall.

### ***Mental Health and the Code of Student Conduct***

Some cases brought to our Office have involved students who had, or were perceived to have had, a mental health disability and whose concerns raised issues relating to the use of the procedures in the *Code of Student Conduct*. The *Code* provides procedures for addressing allegations of non-academic misconduct on the part of students. These situations fall into two categories: a) where the student who is alleged to have committed an offence has a perceived mental health disability, and so is the respondent to a complaint made against him/her, and b) where a student with a mental health disability is pursuing a complaint about the conduct of another student, and so is the complainant under the *Code*.

#### *a) Student with a Mental Health Disability is the Respondent.*

A *Code of Student Conduct* was first approved in 1992, and was revised as a result of a review conducted by a Special Committee of the University Affairs Board in 2002. Among other things, the Committee's report provided an extended discussion of the way in which the mental health of the respondent should properly be taken into account where that seemed to be at issue, the full text of which is reproduced here as Appendix 3.

Briefly, one view heard by the Special Committee was in favour of the establishment of a separate or parallel set of diversion procedures to deal with disruptive students who appear to have a mental illness, the intent being to avoid subjecting these students to the regular disciplinary process and to give them opportunity to change their behaviour. Other submissions argued for focusing on the behaviour rather than the cause, this in order to avoid inappropriate conjecture about medical or psychiatric conditions on the part of University administrators, and to respect a student's right to privacy and confidentiality.

The Committee was persuaded that the *Code* should maintain a single procedure for all students, and made a formal recommendation to this effect, which was accepted by the University Affairs Board and Governing Council when they approved the Committee's report. In addition to the considerations that were persuasive to the Committee and the governing bodies, I would observe that the procedural protections of the *Code* are important to respondents.

More recently, the Office of the Vice-Provost, Students initiated a series of consultations on the *Code of Student Conduct* during 2009-2010. As subsequently reported to the University Affairs Board, based on the feedback received, it was determined that an update to the *Code* itself was not necessary.

Hence, with respect to the handling of cases where the mental health of the respondent is seen to be an issue, the report of the 2002 Review Committee continues to represent University policy. It is important to note that mental health issues are not to be confused with safety issues. The *Code* describes how safety concerns are to be addressed, and these procedures apply whether or not the mental health of the respondent is in question.

b) *Student with a Mental Health Disability is the Complainant*

Students with complaints about any aspect of their experience at the University sometimes have difficulty understanding how to go about presenting their issue, and this difficulty may be even greater for some students who are dealing with a mental health disability. When a complaint concerns the behaviour of another student, the situation is often emotionally charged; also, a complainant may interpret the subject incident in the context of prior life experiences that included shunning, harassment or even bullying by peers, these being not uncommon experiences for persons with mental health issues.

As explained in the *Student's Companion to the Code of Student Conduct*, in order to proceed with an investigation about an alleged offence, the *Code* requires only that the Head of the respondent's Faculty or College has reason to believe that a non-academic offence *may* have been committed. If a complainant has difficulty formulating the complaint clearly, or attempts to pursue it through the wrong channels, it does not necessarily mean that there are no grounds for the complaint itself. Rather, it may mean that the student needs guidance in assembling the relevant facts for consideration by the appropriate administrator in order that a decision can be made about whether to initiate an investigation. If this guidance is not forthcoming, or if attempts to provide it do not succeed in eliciting the

necessary information, the complaint may not be properly investigated. If this happens, the frustration that ensues may only add to the complainant's sense of grievance, an outcome which can lead directly or indirectly to additional problems for the student.

### ***Recommendation 1***

**That training sessions and guidelines provided to those responsible for the administration of the *Code of Student Conduct* provide guidance on the handling of complaints where either the respondent or the complainant is perceived to have a mental health disability.**

### ***International Fee Exemption***

Last year I reported that a number of international students had not been aware of their eligibility for an exemption from international fees until it was too late to be considered. The Executive Director of Enrolment Services & University Registrar and the Director of the Centre for International Experience (CIE) undertook to improve the communication of the exemption arrangements to international students.

I am pleased to report that a number of measures have been implemented that should be of considerable help:

- Inclusion in the 'important documents' section of the Join U of T Applicant portal
- Addition of information on the CIE web site
- Inclusion in the welcome letter to international students
- Inclusion in CIE's May welcome newsletter
- Improvement in the information on the Student Accounts web site
- Timely email reminders

In addition, Ministry staff attended by invitation a meeting of interdivisional registrars to talk about what qualified for fee exemptions. The Director of CIE will attend a forthcoming meeting of this group to address new Citizenship & Immigration Canada rules about advising international students and to remind them about the relevant web pages.

### ***Refund of Program Fees.***

As reported earlier, manual processes are currently required to address certain problems relating to the administration of the refund schedule for program fees that were introduced in the Faculty of Arts & Science in 2009-10. As a result, 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) and to consider all aspects, including:

- Transparency, simplicity and fairness of the fees assessment and refund policies for students;

- Resource implications—revenues and costs;
- Academic issues—relationship to sessional dates, add/drop dates, etc.;
- Implementation/accommodation within NGSIS.

This activity has now been approved as a NGSIS short-term project, and is scheduled to be addressed in the October 2013 to January 2014 time period. If changes to the Tuition Refund Schedule in accordance with the current *Tuition Refund Policy* result, they will be reported to the Business Board; however, if such changes are significant they will require approval by the Governing Council, as would any changes to the *Policy* itself.

In the meantime, problems arising from the complexity of the refund schedules for the Faculty of Arts and Science continue to come to the attention of my Office. Both the Faculty and the Office of Student Accounts have taken some pains to provide carefully prepared detailed information for students about the assessment of fees and the implications of changing one's course load during the academic session. However, these documents, while containing all of the necessary information, are extremely complex. The Faculty's instructions on Step 6 of the registration process (*Pay Your Fees*) for Fall/Winter 2013-14 occupy nine pages. The fee refund schedules for the Faculty on the Student Accounts web site take three pages, two of them for the three categories of academic fees, each category requiring three or four explanatory notes, some notes having two subsections. It is easy to see why some students misread the documents and so misunderstand the implications of dropping courses at a particular point in the session. The Assistant Dean & Faculty Registrar has been very responsive in dealing with special situations that are brought to his attention. Unfortunately, some students who need similar assistance may not find their way to this Office or to his. I therefore look forward to the outcome of the exercise about to get underway.

### ***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 formally recommended that a review of the *Code of Behaviour on Academic Matters 1995* be undertaken. This recommendation was accepted by the Administration.

No changes to the *Code* itself have resulted, although, as reported earlier, some attention has been directed towards improving the procedures and practices of the academic divisions and of the Tribunal.

Training workshops for new Dean's Designates and for the staff of divisional Integrity Offices have been instituted. The development of an Academic Integrity website as a

resource for students and faculty throughout the University is actively underway. After further consultation and legal review, the launch is expected in late Fall 2013.

New *Provost's Guidelines on Sanctions, Offences and Suggested Penalties for Students* remain under consideration. It is now expected that they will be taken to the Academic Board for information in 2013-2014. At the same time, the Academic Board will receive a report for information from the Vice-Provost Faculty and Academic Life on the administrative review of the *Code* undertaken by her Office.

### ***Prohibited Discrimination and Discriminatory Harassment***

#### ***a) Complaints Procedures for Students***

My Annual Report for 2007-2008 identified the need for a clearly articulated and readily accessible internal process for dealing with complaints of discrimination on prohibited grounds or discriminatory harassment (at that time, such a process was documented only in the case of sexual harassment). As I reported subsequently, the Vice-President HR & Equity responded by developing *Guidelines on Prohibited Discrimination and Discriminatory Harassment* for the guidance of employees, which is published on the HR web site. The Office of the Vice-Provost, Students has since been working on developing guidelines for students to be part of a process document which will clarify how, and to whom, students may bring forward all sorts of complaints; these guidelines are still in preparation. It is now expected that they will be published in the Fall Term 2013.

#### ***b) Age Discrimination***

Concerns about discrimination on the basis of age have arisen in several contexts in the course of this year.

- It was reported that a faculty member had referred to a student's age as a reason that the student should reconsider pursuing a Ph.D.
- An online publication focussing on post-secondary institutions offering a particular professional master's program ran an article in which the journalist stated, apparently incorrectly, that, at the University of Toronto, applicants over the age of 30 were not considered for admission to this program. The publication is widely read in North America and the statement attracted numerous negative comments from readers. However, the division in question did not request a retraction from the publication.
- A concern was brought forward about the wording of the *Policies and Principles for Admission to the University of Toronto (1991)* which document includes in Section 2, the following clause, the wording and placement of which might appear to provide a basis for refusing admission to otherwise highly qualified older applicants, particularly to professional and graduate programs.

c. The University of Toronto admits students to its colleges, faculties, and schools in the expectation that students will be successful in achieving their academic goals or other academic objectives, **and make significant personal and professional contributions to their communities.**[bold face added]

The *Policies and Principles for Admission* embrace the merit principle (2.a) and also specifically include a non-discrimination clause that lists age along with other prohibited grounds (2.d). These clauses would seem to preclude inappropriate discrimination justified by 2.c. However, in that case, it is not immediately apparent what purpose is served by the inclusion of the final phrase in 2.c as a principle for selection of applicants for admission. A review of the wording and/or placement of clause 2.c might be warranted. For example, if it is to be kept in its entirety, it might be moved to the Preamble.

### ***Recommendation 2***

**That the *Policies and Principles for Admission to the University of Toronto* be reviewed with particular reference to the appropriateness of the wording and placement of Clause 2.c, and to whether there is a need for its inclusion as a basis for selection.**

### ***Graduate Supervision***

As is reflected in my earlier reports and those of my predecessors, our Office is frequently consulted by graduate students (and occasionally by faculty members) about difficulties in the supervisory relationship.

While the performance of individual faculty members may sometimes fall well short of best practice, it may also be that individual students may sometimes have unrealistic expectations, or fail to respond appropriately to good advice. Regardless of the underlying reason for the problem, it is always the student who is at greatest risk.

Our Office has maintained a close relationship with the School of Graduate Studies, which is well aware that such problems exist and over the years has taken a number of initiatives aimed at improving the situation.

In March, the Graduate Students' Union offered a Graduate Supervision Workshop to doctoral stream students. At the invitation of GSU, I participated in the Workshop as one of a number of members of a panel. In preparation for the Workshop, GSU conducted a survey of their membership and provided panellists with comments offered by respondents. Subsequently, GSU prepared a report on the findings of the survey, appropriately acknowledging that with an approximately 10% response rate it is difficult to know how representative of the whole student body the respondents were. Regardless, the study makes an important contribution by drawing attention to problems that do occur and by bringing forward some proposals about how the situation might be improved.



Although the majority of comments contributed by respondents to the survey were negative in tone, I noted that there were some bright spots. For example, a couple of dozen respondents reported that they had positive results after using available channels in their departments, or after following advice to talk directly with their supervisors about their problems. In a couple of these cases, the Ombudsperson's Office was spontaneously identified by the respondent as the source of helpful advice.

To my dismay, too many respondents said that they were not aware that anyone might be able to help them. Apparently they were unaware of, or had not read, the *Supervision Guidelines* promulgated by SGS. I believe that Graduate Chairs and Graduate Coordinators could usefully play a much more proactive role in making students aware of their rights and responsibilities in the supervisory relationship and in increasing students' confidence that their offices will be helpful in resolving problems that might arise.

### ***Recommendation 3***

**That the orientation sessions for Chairs and for Graduate Coordinators conducted by the Provost's Office and the School of Graduate Studies stress the need for leadership from these positions to ensure that graduate students feel comfortable bringing forward any concerns that might develop about their experience in the department, particularly as they involve the supervisory relationship in research-based programs.**

### **Handling of Requests for Assistance**

During 2012-2013, the Office dealt with 360 requests for assistance from a total membership of the institution now approaching 100,000. For a more detailed report on who approached the Office, and the issues raised, see Appendix 1.

The Office strives to be accessible and responsive to requests for assistance. Where a meeting is required it is scheduled at the earliest convenience of the complainant. Contact with relevant administrator(s) to discuss the case is undertaken only when consistent with the *Terms of Reference* and with the consent of the complainant, and this year occurred in 22% of the cases. For a more detailed report on the Office's response to requests for assistance, see Appendix 2.

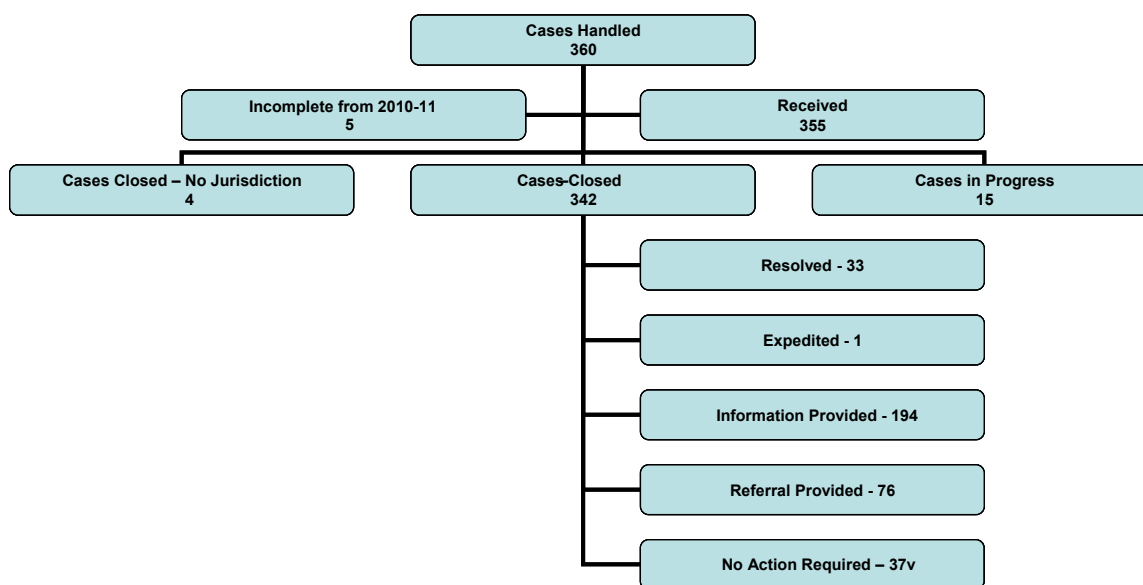
Complainants sometimes withhold consent for us to contact administration about their cases even when such contact would be consistent with the *Terms of Reference*. Some prefer to make further efforts to deal with the matter without further assistance; we rarely learn about the outcome when that is the case. Some decide to drop the matter in light of the information provided. Of more concern, some fear that our intervention may have unwanted repercussions, this despite the protections against reprisals provided in the *Terms of Reference*. In every case, we respect the fact that this decision is the complainant's to make.

While intervention by the Office sometimes results in the outcome sought, that would not necessarily be appropriate. Upon investigation, the original decision may be seen to be fair. A complainant may have inappropriate or unrealistic expectations. In any case, we try to ensure that all who approach the Office for assistance leave with a better understanding of their issues and greater capacity to deal with them. While that seems often to be the case, it must be acknowledged that some remain dissatisfied if we do not deliver the result they have in mind.

I am pleased to say that administrators at all levels in the institution have generally been very open when approached for information and/or discussion about individual cases. When the reason for our intervention is explained, they are usually quite proactive in exploring potential resolutions. Often these discussions can result in improvements in the delivery of services and in the way information is provided to their clientele.

The disposition of cases as of June 30, 2012 is shown below.

#### DISPOSITION OF COMPLAINTS AND ENQUIRIES 2011-12



2

*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**

Garvin De Four, the Assistant Ombudsperson, participated in a joint meeting of the Forum of Canadian Ombudsman and the Association of Canadian College and University Ombudspersons (ACCUO) held in Halifax in May 2013, and I attended a meeting of the Eastern Division of the ACCUO held in Ottawa in February 2013.

In March, I participated in a panel sponsored by the Graduate Student Union dealing with the supervisory relationship.

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.

We again participated in student orientation programs and advertised in various campus publications, both print and electronic. 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 web site and the portal. Our business card holders were distributed to new students through UTSU and SCSU, to attendees at the Grad Room Information Fair, and to residents at Grad House. Information about our services is also provided to counselling offices and to attendees at workshops for new faculty and staff and at the orientation for new academic administrators. As well, we continued our rotating program of dropping bookmarks into the mailboxes of individual faculty, staff and graduate students (over the past five years over 33,000 bookmarks have been distributed).

This year, the operations of the Office were reviewed by a committee appointed by Governing Council. We had a productive discussion with the committee about the challenges associated with communicating the role and function of the Office to the very large University community, especially given the ongoing turnover among employees and particularly among students. As an outcome of this discussion, we have been offered the assistance of Strategic Communications & Marketing in reviewing and improving our communication plan, and we look forward to working with them on this project through the Fall Term of 2013.

I was very pleased to accept the offer of renewal of my appointment for a further two years and I look forward to continuing to work with my colleagues Garvin De Four and Stephanie Ellul, and with the many members of the administration throughout the University whose openness to the work of the Office is essential to our ability to fulfil our mandate.

Respectfully submitted,

Joan Foley  
September, 2013

## Appendix 1

### *Who Approached the Office, and Why*

#### 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 SGS, is shown below by Division. Participation as a percentage of the total student enrolment is shown in parentheses.

Division I	Humanities	5	(0.3%)
Division II	Social Sciences	31	(0.5%)
Division III	Physical Sciences	11	(0.8%)
Division IV	Life Sciences	32	(0.8%)
Unknown		9	
	Toronto School of Theology	4	(1.2%)
Total		95	(0.7%)

The total number is 32% higher than last year, when it was 72. 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 often complex and time-intensive, and frequently concerned academic issues leading to termination/withdrawal or lapsing, problems with supervision, and fees/financial assistance. Some involved allegations of academic misconduct. Some raised concerns about harassment or discrimination.

Typically, students having difficulties in the supervisory relationship sought advice on how to manage the situation themselves. Although some followed advice to seek assistance from academic administrators in their department, and/or from the Vice-Dean Students at SGS, many were reluctant to do so. Rarely did they provide consent for our Office to talk with anyone in the department or at SGS about their situation. Lacking insight into the perspective of the supervisor or the department on the problem, it remains difficult for us to evaluate the situations described, although many of the students were undoubtedly in genuine distress. The nature of the difficulty varied, but some common themes were: inability to find a supervisor for a desired thesis topic; general discomfort with the supervisor based on attitudes to ethnicity or gender, or on perceived psychological instability; cost in time needed to graduate arising from a change of supervision; delay in completion of thesis because of slow return of drafts or lack of oversight on the part of the supervisor, or arising from work required on contracts for the supervisor's company; unanticipated and unwelcome advice to withdraw after a significant time commitment to the program without any earlier indication of deficiencies in the student's progress. Graduate Supervision is also discussed in the section of this report dealing with systemic issues.

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 (SGS) is shown by academic division below. The total number increased by 26% over last year.

First Entry

Arts & Science	75	(0.3%)
UTM	13	(0.1%)
UTSC	12	(0.1%)
Applied Sci. & Eng.	12	(0.2%)
Music	1	
Kinesiology & Phys. Ed.	1	
Trans. Year Program	0	

Professional & Continuing Education

Continuing Studies	2	
Dentistry	1	
Law	3	(0.5%)
Management	0	
Medicine	2	
Medicine Postgraduate	0	
Nursing	1	
OISE/UT	0	
Pharmacy	8	(0.8%)
Pharmacy Residents	0	
Unknown	12	
Total	145	(0.2%)

We were frequently consulted by students in this group about issues arising in the academic context such as the behaviour of an instructor, classroom incidents, and the handling of petitions or appeals, fees/financial aid, and allegations of academic misconduct. Other complaints revolved around campus life issues and a variety of other matters.

Group C: Administrative Staff

There were 15 requests for assistance from staff (0.1%). Almost all issues brought by staff focussed on workplace situations, including the following.

- dissatisfaction with the classification of the position
- underemployment
- being overlooked for a promotional opportunity
- being overlooked for a regular position
- bullying and harassment by a manager or supervisor
- co-worker not pulling weight
- pay schedule not in accordance with terms of appointment
- processing of a cheque
- termination

As in the past, it was unusual for staff to seek any involvement of the Office beyond supplying information about policies/guidelines and advice on the channels to follow.

Once again, some unionized staff members expressed dissatisfaction with the support/assistance received from their union representative. 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 17 requests for assistance from faculty members (0.1%). The following are examples of the very diverse matters on which they sought information and advice.

- Stipend and teaching relief for an academic administrative appointment
- Unauthorized publication of teaching materials by a former colleague
- Conflict with a colleague over administration of a course
- Perceived conflict of interest in hiring in a non-academic unit
- Membership of a search committee
- Managing allocation of time for teaching assistantships
- Issuing of documents relating to tax returns
- Eligibility for promotion
- Bullying by a colleague
- Theft of on-line research materials
- Recommendations arising from a review of academic programs
- Sexual harassment by a graduate student
- Denial of research leave
- Problems with relocation of lab

Group E: Others

The Office was approached by 87 individuals not captured in any of the three categories above. 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 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, unsuccessful applicants for admission to a University program, and other members of the public.

If the Ombudsperson's terms of reference preclude intervention in a case, the Office will, when possible, provide assistance in the form of referrals and/or information in the public domain.

**Appendix 2:**

***How the Office Responded***

Requests for assistance were most often initiated by email or our web-based Request for Assistance form (63%) or telephone (27%). The Office responded to 72% of requests on the same day as the initial contact, to 93% by the following day.

One or more meetings were held with the complainant in 51% of cases; where needed, initial meetings were scheduled as soon as possible after contact was made (59% on the same or following day, 95% within a week). Meetings are usually in person at the complainant's home campus, but may be conducted elsewhere or by telephone if the complainant prefers.

With the written consent of the complainant, the Office contacted one or more administrators in 76 cases (22%). The first step is to gather information and then, where appropriate, to seek a resolution. When the Office did intervene, the matter was resolved or expedited to the satisfaction of the complainant in 43% of cases. Where the outcome was unchanged, it was commonly because additional information obtained through our enquiries showed the original decision to be fair; in that case our discussions with the complainant were aimed at trying to ensure that the reasons for the decision were understood.

Fifty-eight percent of all cases were disposed of within a week, but 30 cases (9%) required attention for more than a month, and some for a much longer time than that.

## Appendix 3

### Excerpt from the Report of the Special Committee to Review the Code of Student Conduct, 2002

#### 3.2 Cases Involving Mental Illness

In its review of cases dealt with under the *Code*, the Committee discussed several cases in which apparent mental illness was associated with the behaviour that was the subject of discipline. The Committee also heard in written and oral submissions about University community concern with the collision of behaviour associated with mental illness and the application of student discipline. The Committee was urged to consider whether there needed to be a unique set of procedures to deal with those cases in which the mental health of the respondent seemed to be an issue.

While the behaviour being sanctioned may clearly constitute an offence, the *Code* seemed to some an insensitive instrument to deal with a student whose behaviour could be the result of a mental health disorder or a psychiatric disability. With the continued de-institutionalization of people with mental health issues and the erosion of support for these individuals in their communities, many University staff expected to continue to see difficult cases in their day-to-day interactions with students.

The Committee was offered many examples of such behaviour, including:

- a student who disrupted classes repeatedly by talking and shouting to no one in particular;
- a student whose apparent delusions led him to believe that he was involved in a relationship with another student, when in fact he was not; and
- a student whose paranoia had convinced her that she was being targeted by the University and who became hostile and aggressive with University staff.

The Committee was urged to consider the establishment of a separate or parallel set of diversion procedures to deal with disruptive students who appear to have a mental illness. A separate procedure could include:

- immediate action to remove the student from the situation;
- a required medical or psychiatric assessment;
- a program of counselling or therapy as a condition of re-enrolment; and
- accommodations as appropriate for the psychiatric disability to facilitate the student's continued study.

The intent of such a procedure would be to avoid subjecting the student to the regular disciplinary process and to give them opportunity to change their behaviour. Other submissions were critical of this approach, however.

Among the flaws identified were the following concerns:

- administrators are not normally qualified to make judgments about mental illness, assessment or therapy;
- administrators often have unrealistic expectations about the efficacy of therapy in changing behaviour;
- requiring therapy is coercive; students may already be in therapy or may have rejected therapy or medication for their own reasons; and
- confidentiality is jeopardized when the University becomes involved in a student's mental assessment and treatment.



Those who were critical of the therapeutic approach or having a separate procedure made a strong argument for focusing on the behaviour rather than the cause. Their argument was that all students--whether they have a disability or not--are expected to meet the same standards of behaviour. In focusing on the behaviour at issue, University staff can avoid inappropriate conjecture about medical or psychiatric conditions, and respect a student's right to privacy and confidentiality.

The Committee also heard from members of the community who felt that it would be appropriate to devise guidelines to assist administrators with responsibility under the code to deal sensitively and fairly with cases that involve mental illness.

The Committee concluded that it is appropriate that the *Code* maintain a single procedure for all students. There is considerable merit in subjecting each allegation of inappropriate, disruptive or dangerous behaviour to the same test in the form of an investigation and hearing. If a student is found to have committed the behaviour alleged, disclosure of a mental health illness can shape the sanction or mediated resolution.

#### Recommendation 3:

The Committee recommends that the *Code* maintain a single procedure for all students. Where it is suspected that a student's alleged behaviour is linked to mental health illness, this should be taken into account in shaping the sanction or the mediated resolution. The Committee further recommends that considerable effort be made for early intervention and community support in cases where student behaviour is difficult, dangerous or disruptive and appears to be linked to mental health concerns.

# **Administrative Response to the *Report of the University Ombudsperson for the Period 1 July, 2012 to 30 June, 2013***

## **October 2013**

### **Overview**

The Terms of Reference for the Office of the University Ombudsperson stipulate that the Ombudsperson shall “make a written annual report to the Governing Council, and through it to the University community”. In addition, the Governing Council requests an administrative response to each annual report.

*The Report of the University Ombudsperson for the Period 1 July, 2012 to 30 June, 2013* is Professor Joan Foley’s sixth annual report as University Ombudsperson. Professor Foley once again demonstrates her deep understanding of the University of Toronto, her concern for fairness, and her sensitivity in handling complex and often difficult situations.

The Administration wishes to congratulate Professor Foley on her recent reappointment as University Ombudsperson and extends its sincere thanks to Professor Foley for her dedication and service to the University of Toronto.

### **Response**

*The Report of the University Ombudsperson for the Period 1 July, 2012 to 30 June, 2013* is carefully considered, objective, and constructive. The report makes three recommendations and details the Office’s other activities, including its communications and outreach efforts.

### **Recommendations**

Each of the Report’s three recommendations is aimed at addressing concerns arising from cases considered by the Ombudsperson over the period 1 July, 2012 to 30 June, 2013. As Professor Foley notes, addressing systemic issues is a critical part of the Ombudsperson’s mandate. The Administration continues to welcome and appreciate this perspective.

#### *Recommendation 1:*

**That training sessions and guidelines provided to those responsible for the administration of the *Code of Student Conduct* provide guidance on the handling of complaints where either the respondent or the complainant is perceived to have a mental health disability.**

The Administration confirms that the training provided to Investigative Officers and Hearing Officers responsible for the administration of the *Code of Student Conduct* includes information on mental health needs and supports available to students while the *Code* process takes place. The Administration remains committed to supporting students with mental health needs throughout their time at the University.

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.

We walk a fine line given strict confidentiality concerns, the continued unfortunate reality that students do not always self-identify given the social stigma they fear may be attached to mental illness, and the importance of understanding mental health issues as part of the context when proceedings are initiated under the *Code of Student Conduct*. We understand the Ombudperson's concern, and will continue to review our training of involved officials regarding mental health issues and proceedings under the *Code*.

*Recommendation 2:*

**That the *Policies and Principles for Admission to the University of Toronto* be reviewed with particular reference to the appropriateness of the wording and placement of Clause 2.c, and to whether there is a need for its inclusion as a basis for selection.**

The Administration accepts this recommendation and has reviewed this clause. As a result of this review, the Administration confirms that the clause continues to represent a relevant, useful, and non-discriminatory admissions criterion.

In her report, the Ombudsperson expresses a concern that the wording of Clause 2.c. "might appear to provide a basis for refusing admission to otherwise highly qualified older applicants, particularly to professional and graduate programs." Clause 2.c. states:

The University of Toronto admits students to its colleges, faculties, and schools in the expectation that students will be successful in achieving their academic goals or other academic objectives, *and make significant personal and professional contributions to their communities.*  
[emphasis added]

Age is among the characteristics specifically prohibited (2.d) as grounds for admission decisions, as indicated in the *Report*. The University strictly adheres to this principle and admissions procedures reflect that. The Administration remains of the view that "personal and professional contribution to communities" carries a very broad meaning and can apply to a student's community while they study or to their engagement in various sorts of communities, at all ages, after their studies.

The expectation that applicants of all ages will make contributions to their personal and professional communities is an important element of many admissions decisions. For example, in many professional programs it is important that students of any age possess such a potential for contribution because of the qualities expected for educational and professional achievement in those fields. Such contributions are also an important differentiating factor in admissions to highly competitive programs. Moreover, personal and professional contributions remain important values of the University, which is committed to lifelong learning, and it is appropriate that these values be reflected in admissions criteria.

Therefore, Clause 2.c. remains an important factor for assessing applications to many academic programs at the University of Toronto. The University is pleased to welcome lifelong learners as students in its many departments, schools, and Faculties. These graduates go on to demonstrate a commitment to community involvement here in the Toronto Region and across the globe.

In short, we appreciate the Ombudsperson's call for review; we are confident that our policy and its application in practice both fall within the applicable codes and charters.

*Recommendation 3:*

**That the orientation sessions for Chairs and for Graduate Coordinators conducted by the Provost's Office and the School of Graduate Studies stress the need for leadership from these positions to ensure that graduate students feel comfortable bringing forward any concerns that might develop about their experience in the department, particularly as they involve the supervisory relationship in research-based programs.**

The Administration accepts this recommendation. As the Ombudsperson has observed, the School of Graduate Studies has taken a number of steps over the years to address difficulties related to the supervisory relationship. Most recently, the School of Graduate Studies launched its redesigned website in September 2013, which allows easy access to documents such as the revised *Graduate Supervision: Guidelines for Students, Faculty and Administrators*, published in June 2012.

As noted in last year's *Report*, orientation sessions for Graduate Coordinators now emphasize the need for them to communicate to students that the Coordinators' role is to help ensure arrangements to support student success in the program; that Coordinators are open to students approaching Chairs and Coordinators to discuss problems that might develop; and that Coordinators are available to provide assistance in resolving such problems. Similar information will be incorporated into Graduate Chair orientation sessions and training materials. SGS also offers orientation sessions for new faculty supervisors and workshops for graduate students to support best practices within the supervisory relationship. This issue will also be addressed at the relevant academic administrator training session presented by the Vice-Provost Faculty and Academic Life.

## **Additional Observations**

The Administration applauds the Office of the Ombudsperson's ongoing outreach initiatives, and the development of a new communications plan for the Office. The Ombudsperson is an important resource in our community, and as such, raising awareness about the Ombudsperson's role and function is a key component of fulfilling the Office's mandate.

In addition, the statistics presented in the *Report* are quite helpful. They show both a consistent (if proportionately small) number of requests for assistance and an efficient and responsive reply from the Office of the Ombudsperson.

The Administration expresses its gratitude to Professor Foley and her team for their hard work on behalf of the University's students, faculty, staff, and community members.