

**Report of the Committee on
the Office of the University Ombudsperson
2009-10**

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Summary of Recommendations

1. (a) THAT the Ombudsperson's Office continue its efforts to make members of the University aware of its services;

(b) that it investigate the possibility of inclusion, from time, to time of appropriate notices about the availability of its services on the student portal and in electronic newsletters including the *eBulletin* and newsletters distributed to students; and

(c) that the University and each of its academic divisions continue to cooperate in making information about the Ombudsperson's services prominently available to students by means of electronic communications as well as in academic Calendars and in paper handbooks and other appropriate communications.
2. THAT the Terms of Reference of the Ombudsperson's Office be revised to add the following section:

3.7. Complainants not to be penalized for making complaint. Persons who, acting in good faith, have filed a complaint or sought the assistance of the Office of the Ombudsperson or participated in an investigation/inquiry or made an effort to resolve a problem should be able to do so without fear of reprisal.

Accordingly, no supervisor or other person acting on behalf of the University shall:

- (a) dismiss or threaten to dismiss an employee;
 - (b) discipline or suspend, or threaten to discipline or suspend a student or an employee;
 - (c) impose any penalty upon a student or employee; and/or
 - (d) intimidate or coerce a student or employee
- because that person, acting *bona fide*, has filed a complaint with, or participated in an investigation or inquiry by, the Office of the University Ombudsperson.

3. THAT the Terms of Reference of the Ombudsperson's Office be revised to add the following paragraph to section 3.3:

Complainants who have provided written consent to an investigation or inquiry are reminded of the importance of confidentiality and encouraged to respect it in the interest of fostering an effective process.

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Part I. Background and Context

The Office of the University Ombudsperson was established in 1975 as an important part of the University's commitment to ensure that the rights of its individual members would be protected – a special challenge in so large and complex a University.¹

Section 7.2 of the Terms of Reference of the Office of the Ombudsperson state that the Office “shall be reviewed on a regular basis. At least eight months before the end of the term of the Ombudsperson, the Executive Committee of the Governing Council will commission a review, state its terms of reference and appoint its membership. The report of the review will be presented to the Governing Council through the Executive Committee, and the recommendations will be considered for approval by the Governing Council, upon their endorsement by the Executive Committee.”

At its meeting of October 7, 2009, the Executive Committee of the Governing Council, resolved:

- (1) THAT a Committee be established to review the Office of the University Ombudsperson, to submit its report to the January 11, 2010 meeting of the Executive Committee and, subject to the endorsement of the Executive Committee, to the January 21, 2010 meeting of the Governing Council;
- (2) THAT the Committee to Review the Office of the University Ombudsperson be charged:
 - (a) to review the status and progress of the Office of the Ombudsperson in the light of the recommendations of the Report of the Committee to Review the Office of the University Ombudsperson, 2006, approved by the Governing Council on December 14, 2006, in particular: re-structuring of responsibilities to enable the Ombudsperson to focus on complex cases and systemic matters, complemented by the case officer's focus on more general matters; the awareness of the Office by members of the University

¹ Other actions to achieve the University's commitment to ensuring the protection of the rights of its members include the establishment of various offices dealing partly or wholly with equity issues. That group of offices currently includes: the AccessAbility Resource Centre at the University of Toronto at Mississauga (UTM), AccessAbility Services at the University of Toronto at Scarborough (UTSC), Accessibility Services on the St. George Campus, the Anti-Racism and Cultural Diversity Office, the Community Safety Co-ordinator, the Employment Equity Officer, the Ontarians with Disabilities Act Officer, the Special Advisor to the Principal on Equity Issues at UTSC, the Director of Faculty Renewal in the Provost's Office, the Family Care Office, the Health and Well-Being Programs and Services Office, the Quality of Work Life Advisor, the Office of Lesbian, Gay, Bisexual, Transgender, Queer Resources and Programs, the Status of Women Office, and the Sexual Harassment Education, Counselling and Complaint Office. While not an equity office, First Nations House provides programs and support for members of the Aboriginal Community. Similarly, the scope and professionalism of student-service and human-resources operations in the academic divisions has grown steadily over the years.

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Part I. Background and Context (Cont'd)

community across the three campuses; and access to and utilization of information by members of the University on how to pursue remedies to concerns before involvement of the Office;

- (b) to review the effectiveness of the operations of the Office of the University Ombudsperson from July 1, 2007; and
 - (c) to make recommendations concerning the appointment of an Ombudsperson.
- (3) THAT the membership of the Committee to review the Office of the University Ombudsman be:²

Dr. Alice Dong (Lieutenant-Governor-in-Council appointee, Chair)
Professor William Gough (Teaching staff governor)
Mr. P.C. Choo (Administrative staff governor)
Mr. Olivier Sorin (Student governor)
Ms Elizabeth Vosburgh (Alumni governor)
Professor Angela Hildyard (Administrative Advisor)
Mr. Neil Dobbs (Secretary)

The Committee invited submissions from: members of the Governing Council and its Boards; the Alumni Council of Presidents; the Alumni College of Electors; the President and Vice-Presidents; Principals, Deans, Academic Directors and Chairs; professional, managerial and confidential administrative staff; the Faculty Association; employee unions; the representative student governments; and the Alumni Association. The Committee also invited submissions generally from all members of the University by means of notices in the University's *eBulletin*, a posting on the student portal, and communications to the divisional student societies on the three campuses. The Committee met twice, including a meeting with the Ombudsperson, Professor Emeritus Joan E. Foley.

Part II. Implementation of the Recommendations of the 2006 Review

The first part of the Committee's mandate was to review the progress of the Office of the Ombudsperson in implementing certain recommendations approved by the Governing Council on the recommendation of the 2006 review committee.

² Executive Committee members, Dr. Dong and Ms Vosburgh, absented themselves during the discussion of and vote on part (3) of the motion to establish the membership of the Committee. Mr. Choo was not present at this meeting.

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Part II. Implementation of the Recommendations of the 2006 Review (Cont'd)

(1) Restructuring of the Office

The Committee was charged to review the “re-structuring of responsibilities to enable the Ombudsperson to focus on complex cases and systemic matters, complemented by the case officer’s focus on more general matters.” It was anticipated that the restructuring would enable the Ombudsperson to look beyond individual cases and detailed matters and pay closer attention to a view of the University’s processes, systems and barriers. The Committee was fully satisfied that Professor Foley has done a very good job in that respect.

The Ombudsperson’s Office had in 2006 consisted of a full-time Ombudsperson and a part-time Assistant, who provided secretarial and administrative support services for the office and who was often the first point of contact for individuals seeking assistance. The Office has been re-structured as envisioned by the 2006 review. To operate within the limited budget of the Office, Professor Foley was appointed on a part-time basis, and the part-time Assistant, Ms Linda Collins, remained with the Office (where she continues to provide very valuable service). The Office then engaged a full time Case Officer: Mr. Garvin Du Four, a University of Toronto alumnus who brought with him an exceptional history of service with Ombudsperson Ontario and with the Ontario Human Rights Commission. Mr. Du Four’s outstanding experience outside of the University, combined with Professor Foley’s extensive and deep knowledge of it, have proven to be an excellent combination. Professor Foley concluded that as time went by, especially after the first year, her need to be involved in the case work of the office was tapering off and she was able to provide more time to systemic issues. In addition, in practical terms, the arrangement was proving to be a very good one; with the three people, including the full-time case Officer, the Office was able to provide improved day-to-day coverage.

Professor Foley has stressed in her two annual reports to the Governing Council that she had been able to function as a “catalyst for improvements in processes and procedures through informal discussion, without need of formal investigation and recommendations.”³ She stated that when she had initiated discussions of problems, administrators had usually responded by “improving the way things are done, and /or by improving how they communicate with their clientele.”⁴ Her two annual reports to the Governing Council contain information about the systemic issues she has worked on:

- improved accommodation for graduate students with disabilities (whose focus on research rather than course work creates special needs);

³ Annual Report, 2007-08, p. 3.

⁴ Ibid., p. 3.

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Part II. Implementation of the Recommendations of the 2006 Review (Cont'd)

(1) Restructuring of the Office (Cont'd)

- the need for an updated survey of the accessibility of St. George campus buildings, and the designation of accessibility needs as a fundraising priority;
- encouragement of appropriate measures for the protection of student privacy;
- matters of fee administration. The Ombudsperson has encouraged improvements in several areas, including the following:
 - steps to make “exempt” international students aware of their exemption from higher fees;
 - for students in co-op programs, adjustments to the period of protection from annual fee increases greater than 5% (as established by University policy) to the appropriate number of terms required for completion of those programs;
 - improved information and regulations concerning fees charged to students who enter certain programs at atypical times;
- encouragement of the development of an improved policy for safety in study abroad and other off-campus activities;
- encouragement of measures to improve the timely administration of the Code of Behaviour on Academic Matters;
- encouragement of the development of a process for complaints of discrimination or harassment other than sexual harassment (for which a complaint process is clear);
- encouragement of improvements concerning graduate-student supervision.

The Ombudsperson is not, of course, empowered to make changes; she is able only to draw attention to problems and needs and to propose a course of action or options for action. It is, however, clear that the restructuring of the Office has enabled the Ombudsperson to make highly effective interventions. Professor Foley told the Committee that she had the time available to undertake research, for example to obtain information from other institutions about their procedures, and to work out rationales for recommended changes or for various options. Because the Office has thought through a matter clearly, very often a simple discussion with the appropriate University officer would bring about action without the need for a formal recommendation. That success has, of course, been a function not only of the restructuring of the Office but also of the Ombudsperson's extensive knowledge and experience and of her manner of approaching University officers as a neutral party drawing problems to their attention and offering potential solutions to deal with those problems.

Report of the Committee on the Office of the University Ombudsperson, 2009-10**Part II. Implementation of the Recommendations of the 2006 Review (Cont'd)****(2) Awareness of the Office by Members of the University**

The 2006 Review Committee and the Ombudsperson both stressed that it should not be an objective of the Office to increase its case-load – to “drum up business.” It is, however, essential to ensure that all members of the University are aware of the availability of the services of the Office. Committee members agreed that this remained a challenge. The availability of the Office is very likely not known to many members of the University. A brief from the Students’ Administrative Council (the University of Toronto Students’ Union) states that “while there appear to be more students who are aware of the Office and its work than in the past, this number is quite small and it would be safe to say that the vast majority of students are unaware of the Office.” Information is provided by various means, including sections in the academic divisions’ official Calendars, and informal efforts to provide the information have been numerous. However, when information about the Ombudsperson’s Office is provided, for example at orientations, it is often not retained because the individuals do not then foresee that there might be a need for them to use the service. The issue is how to make the knowledge clearly available to people when they need it.

The caseload of the Office has increased, but the growth has only mirrored the growth in the University’s population. Professor Foley reports that the proportion of the University’s population using the services of the Ombudsperson is less than that at other universities. That could, however, be a reflection of the very positive fact that assistance is readily available in the University from other sources including the numerous equity offices, strong student services and human resources operations, the Faculty Association and the employee and student unions. Professor Foley has added to the Ombudsperson’s annual report a breakdown of complaints by division. In some small divisions, there have been no cases at all. Given the small numbers, that could represent an outcome of no statistical significance. It could also be a function of the fact that it might well be easier to deal with problems in smaller units. In other divisions, the caseload often varied dramatically from year to year. Professor Foley anticipated that it would be easier to discern any significant trends after a longer period of tracking the number of complaints by division. The data in her report after three years might well lead to some conclusions.

What is clear, however, is that the Ombudsperson’s Office has made real efforts to make members of the University aware of the availability of its services. The availability of the Ombudsperson has for many years been made known through the divisions’ Calendars, many student handbooks, and the Ombudsperson’s website. Professor Foley has, however, taken important further steps.

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Part II. Implementation of the Recommendations of the 2006 Review (Cont'd)

(2) Awareness of the Office by Members of the University (Cont'd)

- **Location.** The Office has moved from a somewhat remote site on the southwest corner of the campus in the Fields Institute to a more central site in the McMurrich Building.
- **Outreach.** The Ombudsperson has undertaken an initiative to speak to staff in Registrar's Offices and to other key personnel. The Office has established booths at orientation. It has spoken to student unions, in some cases gaining direct links to the Ombudsperson's web site from student union web sites. It has gained a link to a new web page on fairness for faculty, accessible from the web page for faculty linked to the University's main-page. There is now also a link to a web page on fairness for staff from the "work/life support" page, accessible from the "information for staff" page, which is in turn linked to the University's main-page.
- **Handouts.** For the current year, the Office gave out plastic holders for T-Cards, etc., which were included in orientation kits. The Office had in previous years used bookmarks, but the new holders are likely to be much longer lasting.
- **Website.** The Office has made considerable improvements to its website: both its design and its content, adding areas to outline the normal-channel procedures members of the University could follow.
- **Advertisements.** The Office plans to place advertisements in the student newspapers in January to remind students of the availability of its service.

The new and more central location of the Office has been of help. The Committee noted that the location, in a building near the St. George Front Campus, is more central, but it is not particularly well travelled. That fact is, however, both a disadvantage and an advantage. Members of the University who might be reluctant to raise issues would no doubt feel more secure in doing so in a location that is not well travelled.

The 2006 Committee was particularly concerned that members of the Mississauga and Scarborough campuses be aware of the services of the Ombudsperson's Office and of their opportunity to meet with a member of that Office on their own campus. Use of the Office by members of UTM is at about the same level as that by members of the St. George Campus. Usage by members of UTSC has been at a lower level. It is, however, clear that a very good level of effort has been made to make members of UTSC more aware of the Office. For example, links to the Ombudsperson website are provided from five or six locations on the UTSC website.

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Part II. Implementation of the Recommendations of the 2006 Review (Cont'd)

(2) Awareness of the Office by Members of the University (Cont'd)

There are also links from two access points on UTM web pages. There is, in addition, a direct link from the Governing Council homepage.

Professor Foley agreed that making members of the University aware of the service was a continuing issue. The Committee commends her efforts to improve awareness and urges that she continue them. It also urges the University's divisions to lend every assistance possible, including providing an appropriate link from their web pages. The Committee proposes that the availability of the Ombudsperson's services also be publicized from time to time by the inclusion of brief notices on the student portal, their inclusion in electronic newsletters sent to students, and their inclusion in the *eBulletin* sent to staff members.

RECOMMENDATION 1

(a) THAT the Ombudsperson's Office continue its efforts to make members of the University aware of its services; (b) that it investigate the possibility of inclusion from time to time of appropriate notices on the student portal and in electronic newsletters including the eBulletin and newsletters distributed to students; and (c) that the University and each of its academic divisions continue to cooperate in making information about the Ombudsperson's services prominently available to students by means of electronic communications as well as in academic Calendars and in paper handbooks and other appropriate communications.

(3) Assistance to Members of the University in Locating Information on How to Deal with Concerns Before Going to the Ombudsperson's Office

The 2006 Review Committee found that more than half of the approaches to seek assistance of the Ombudsperson had been resolved simply by providing information or by making referrals to another appropriate office. The Committee therefore recommended two things. The first was the restructuring of the Office, discussed above, that would provide for an officer at a level below that of the Ombudsperson to deal with the need to dispense information and to make referrals. (That would leave the Ombudsperson free to deal with matters related to University policies and procedures that might require review.) The second recommendation was that "the Ombudsperson develop a plan to improve access and utilization of the information available to members of the University on how to pursue concerns they might have with respect to their treatment by University authorities before they involve the Office of the Ombudsperson."

Report of the Committee on the Office of the University Ombudsperson, 2009-10**Part II. Implementation of the Recommendations of the 2006 Review (Cont'd)****(3) Assistance to Members of the University in Locating Information on How to Deal with Concerns Before Going to the Ombudsperson's Office (Cont'd)**

The Ombudsperson's two annual reports show that the majority of cases continue to be handled by means of the provision of information or making of referrals. As the Ombudsperson noted in her 2008 annual report, "the pattern of outcomes is quite consistent with past years." That said, the Ombudsperson's Office has made substantial improvements to its website to enable members of the University to seek remedy for their concerns before going to the Office. The Ombudsperson's homepage contains links to articles on such matters as "Seven Guidelines for Handling Conflicts Constructively" and "effective complaining"; links to websites dealing with such matters as academic integrity; links to booklets prepared by the Office of the Vice-Provost, Students on such topics as "Your Grades"; and links to sites on understanding petitions for students in Arts and Science on each of the three campuses. The Office's "Getting Help" page similarly provides links for members of the University who have particular concerns including harassment, barriers to accessibility, library services, or matters of particular concern to various categories of students, faculty and staff. It also provides a link to Downtown Legal Services, a free legal aid service offered to students by law students with oversight from qualified lawyers.

Part III. Effectiveness of the Office

The Committee concluded that the Ombudsperson's Office was carrying out its responsibilities in a highly effective manner. A Case Officer with exceptional experience in a broader context has been available to serve the needs of individual members of the University who seek assistance. The Ombudsperson has been highly effective in drawing attention to the need for review of policies and procedures and in obtaining action to have such reviews carried out. The breadth of Professor Foley's experience and her skill in making interventions in a sophisticated manner have succeeded in bringing about changes in a significant number of areas. She has achieved that outcome not by formal recommendations but instead by skillful informal interventions. The Office has begun by dealing with the problem at hand – the complaint drawn to its attention by the member of the University. The first informal intervention has been at the working level involved. When it appears that there is need for a review of a particular policy or procedure, the Ombudsperson has considered the matter carefully, sometimes completed research on policies and

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Part III. Effectiveness of the Office (Cont'd)

procedures elsewhere, and has then approached the officer(s) responsible for the matter. Where appropriate, that officer (those officers) might be those in an individual division. In other cases, an approach might be made at a higher level – for example to the Vice-Provost, Students, the Vice-Provost, Academic Life or the Vice-President, Human Resources and Equity. Professor Foley has advised the Committee that she follows no rule concerning the appropriate level of intervention except to seek the place where the concern is most likely to obtain attention and where it is most likely to find a solution.

Part IV. Terms of Reference for the Office of the University Ombudsperson

The Terms of Reference for the Office of the Ombudsperson were revised extensively in 2006 and, the Committee was not charged specifically to review them further. Professor Foley did, however, draw the Committee's attention to the possibility of specific improvements. On the basis of her suggestions and subsequent legal advice, the Committee recommends two amendments to the terms of reference.

(a) Mandate: Consideration of Individual Complaints – Complainants Not to be Penalized for making a Complaint

The Ombudsperson informed the Committee that complainants often feel themselves to be in a vulnerable position and from time to time “express concern about the possibility of reprisals if they elect to pursue the matter or even consent to enquiries being made from the Office.” Both the University's own Sexual Harassment Policy and the terms of reference of Ombudsperson's offices at many other institutions contain provisions to protect complainants against reprisals, and Professor Foley proposed that the Terms of Reference of the University of Toronto Ombudsperson's Office include a similar provision. The Committee fully endorsed that suggestion and so recommends.

RECOMMENDATION 2

THAT the Terms of Reference of the Ombudsperson's be revised to add the following section:

3.7. Complainants not to be penalized for making complaint. Persons who, acting in good faith, have filed a complaint or sought the assistance of the Office of the Ombudsperson or participated in an investigation/inquiry or made an effort to resolve a problem should be able to do so without fear of reprisal.

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Part IV. Terms of Reference for the Office of the University Ombudsperson (Cont'd)

Accordingly, no supervisor or other person acting on behalf of the University shall:

- (a) dismiss or threaten to dismiss an employee;
- (b) discipline or suspend, or threaten to discipline or suspend a student or an employee;
- (c) impose any penalty upon a student or employee; and/or
- (d) intimidate or coerce a student or employee

because that person, acting *bona fide*, has filed a complaint with, or participated in an investigation or inquiry by, the Office of the University Ombudsperson.

(b) Mandate: Consideration of Individual Complaints – Confidentiality

The Ombudsperson noted that section 3.3 of the terms of reference “quite properly emphasizes that the Office and all participants in an inquiry who are employees of the University are to respect confidentiality. However, the complainant is not so bound. Breaches of confidentiality on the part of a complainant can potentially be harmful to other participants in the process.” The Committee recognized the importance of protecting not only the complainant but also the subject of a complaint, both as a matter of right for the subject of the complaint and also as a functional matter – as condition of achieving a successful resolution of the problem. On the other hand, the Committee was advised that confidentiality is not required in most judicial complaint-driven processes, for example in labour grievances, most court proceedings and most human-rights proceedings, and the Committee did not want to dissuade complainants from coming to the Ombudsperson for fear of a “gag order.” The Committee therefore concluded that it would be appropriate to amend section 3.3 to include a hortatory provision that would give the Ombudsperson authority to urge that complainants respect confidentiality but that would not make it a requirement for the Ombudsperson’s Office to initiate an investigation or enquiry.

RECOMMENDATION 3

THAT the Terms of Reference of the Ombudsperson’s be revised to add the following paragraph to section 3.3:

Complainants who have provided written consent to an investigation or inquiry are reminded of the importance of confidentiality and encouraged to respect it in the interest of fostering an effective process.

Report of the Committee on the Office of the University Ombudsperson, 2009-10**Part V. A Note on Advocacy Services and
the Ombudsperson's Neutrality**

The Committee received a very thoughtful brief from the Students' Administrative Council (University of Toronto Students' Union), and it was very pleased to read that "reports from students indicated that the implementation of this [2006] recommendation [to restructure the Ombudsperson's Office] has been incredibly beneficial." The brief went on to state that "while there appear to be more students who are aware of the Office and its work than in the past, this number is quite small and it would be safe to say that the vast majority of students are unaware of the Office." The brief urged that the Ombudsperson's Office be placed in a new location as part of a new, centralized academic advocacy service for all University of Toronto students. While the suggestion is certainly an interesting one, the Committee took the view that it is essential to retain the neutrality and autonomy of the Ombudsperson's Office. That Office should continue to act, and to be seen to act, not as an advocate for a complainant but rather as a neutral party seeking (a) to achieve a mutually acceptable solution to a well-founded complaint and/or (b) to ensure a review and revision of any policies or procedures that might lead to well-founded complaints.

Report of the Committee on the Office of the University Ombudsperson, 2009-10**Appendix****Terms of Reference of the Office of the Ombudsperson
Including Proposed Revisions****1. The Office of the Ombudsperson**

The University of Toronto provides the services of an independent and impartial University Ombudsperson to assist the University: in protecting the rights of its students, faculty and staff; in fulfilling its obligations to its students, faculty and staff; and in achieving its mission to be an internationally leading public teaching and research university.

The Office of the Ombudsperson provides an impartial and confidential service to assist members of the University who have been unable to resolve their concerns about their treatment by University authorities. The work of the Office is devoted to ensuring procedural fairness and just and reasonable outcomes. While the Ombudsperson does not have the authority to over-rule decisions, she/he can consider complaints, make informal enquiries, carry out formal reviews, draw conclusions and recommend changes to decisions and to University policies and procedures.

2. Status

The Ombudsperson is appointed by the Governing Council on the recommendation of the President; is accountable to the Governing Council and has unrestricted access to all University authorities. The Office of the Ombudsperson is independent of all existing administrative structures of the University.

3. Mandate: Consideration of Individual Complaints

3.1 Appropriate stage for consideration of a matter by the Ombudsperson. The Ombudsperson considers complaints from members of the University (a) when they have been unable to resolve their concerns through the usual processes; or (b) when they have encountered unreasonable delays in the consideration of their concerns through the usual processes; or (c) when they are unable, because of other factors that are reasonable in the circumstances, to determine or to follow the usual processes. The Ombudsperson shall not normally consider complaints that are in the process of being dealt with through established processes, or that could reasonably be dealt with through established processes, apart from (a) situations of unreasonable delay or (b) situations where, given special circumstances, additional assistance is warranted. The Ombudsperson shall not consider complaints that are before the courts of law or are pending at or before any administrative tribunal outside the University.

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3.2 Impartiality. In considering complaints, the Ombudsperson shall act in an impartial fashion, acting neither as an advocate for the individual members of the University nor as a defender of the University, but rather seeking procedural fairness and reasonable outcomes.

3.3 Confidentiality. The services of the Ombudsperson are provided on a confidential basis. The Ombudsperson's Office shall hold all initial consultations in strict confidence. Where a member of the University decides to ask that the Ombudsperson deal with a complaint, the name of the complainant and the substance of the complaint shall be disclosed only to those staff who need to know the name to respond, and those staff shall hold the matter in strictest confidence. Where the outcome of an individual complaint is a formal report, that report shall be regarded as confidential by the Ombudsperson and by all recipients, although any policy implications of the reports may be made public without disclosure of the complainant's name(s). Where, in special cases, the Ombudsperson reports on a matter that has become public, the Ombudsperson may, with the written permission of the affected persons, publicly disclose names and findings. In all cases, confidentiality is also subject to disclosure required by law or where, in urgent situations, absent disclosure there is a real risk to health and safety.

Complainants who have provided written consent to an investigation or inquiry are reminded of the importance of confidentiality and encouraged to respect it in the interest of fostering an effective process.

3.4 Eligibility. The services of the Ombudsperson shall be available to any member of the University whose relationship with the University is under the jurisdiction of the Governing Council of the University and where resolution of the member's complaint is within the authority of the Governing Council. These individuals include: students, members of the teaching staff, and members of the administrative staff and former students and former members of the teaching and administrative staffs, but only in respect of matters arising out of and crystallizing during their former student or employment status. The services of the Ombudsperson shall not be available to applicants for admission to the University or to members of the public with complaints about the actions of University authorities.

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3.5. Consideration of an individual matter at the request of a University Officer. A University Officer may request that the University Ombudsperson consider a matter. The Ombudsperson may do so provided: (a) that the matter has not already been brought to the Office as a complaint by an individual member of the University (in which case it will be dealt with in the usual manner); and (b) that the other party(ies) consent to the Ombudsperson's considering the matter.

3.6 Process for Consideration of Individual Complaints.

The normal process for the Ombudsperson's consideration of individual complaints is informal inquiry and fact-finding, proceeding if appropriate to further fact-finding and informal intervention, and thereafter if appropriate to a formal review and report.

The Ombudsperson shall have such access to all University files and University Officers as she/he deems necessary in the pursuit of official duties, and Officers are required to provide prompt and full responses to the Ombudsperson's enquiries.

In dealing with individual complaints, the Ombudsperson shall not seek to replace established legislative, judicial or administrative rules or procedures or to make a judgement that will replace University policy. The objective shall be to determine whether the established legislative, judicial or administrative rules or procedures have been carried out fairly and appropriately and to determine whether a University policy, in the case under review, had an unintended outcome that is unfair or unreasonable.

In considering individual complaints, the Ombudsperson may decline to proceed with a matter if she/he determines that the complaint is frivolous or vexatious.

If the consideration of an individual complaint proceeds to the stage of a formal review and report, a draft of the report will be provided in advance to the University Officer responsible for the matter, who will be invited to provide a formal written response. That response will be included in the final report, which is submitted to that Officer, to the senior officer to whom she/he reports, to the Vice-President responsible for the division, to the Secretary of the Governing Council, and to the Chair of the Governing Council or to the member of the Governing Council designated by the Chair as the Ombudsperson's liaison.

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3. Mandate: Consideration of Individual Complaints (cont'd)

- 3.7. Complainants not to be penalized for making complaint.** Persons who, acting in good faith, have filed a complaint or sought the assistance of the Office of the Ombudsperson or participated in an investigation/inquiry or made an effort to resolve a problem should be able to do so without fear of reprisal.

Accordingly, no supervisor or other person acting on behalf of the University shall:

- (a) dismiss or threaten to dismiss an employee;
 - (b) discipline or suspend, or threaten to discipline or suspend a student or an employee;
 - (c) impose any penalty upon a student or employee; and/or
 - (d) intimidate or coerce a student or employee
- because that person, acting *bona fide*, has filed a complaint with, or participated in an investigation or inquiry by, the Office of the University Ombudsperson.

4. Mandate: University Policies and Procedures

- 4.1 Ombudsperson's responsibility.** In the course of considering complaints, the Ombudsperson may become aware of possible deficiencies in the University's policies or procedures. Where the Ombudsperson perceives such deficiencies, she/he shall expeditiously draw them to the attention of the appropriate University authorities. It shall be the special concern of the Ombudsperson to draw the following matters to the attention of the appropriate University authorities:

- (a) any situations where the rights and responsibilities of members of the University community are not adequately defined and publicized; and any situations where information on proper procedures for problem-resolution is not readily understandable and readily available;
- (b) any gaps and inadequacies in existing University policies and procedures that affect the ability of individuals to function as members of the University community or that might jeopardize their human rights and civil liberties;
- (c) any situations in which the problems of members of the University community are not addressed with reasonable promptness; and
- (d) any deficiencies in procedures used to reach decisions or in criteria and rules on which the decisions are based.

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In carrying out this responsibility, the Ombudsperson shall not purport to make University policy or to replace established legislative, judicial or administrative rules or procedures. Rather the Ombudsperson shall draw problems to the attention of the appropriate University authorities and recommend a review of the policy or procedure. Where the Ombudsperson wishes to do so, she/he may recommend specific improvements.

While it is anticipated that the Ombudsperson will become aware of potential deficiencies in the University's policies or procedures or in their application as the result of complaints, it is recognized that such potential deficiencies may come to the attention of the Ombudsperson by other means. In such cases, the Ombudsperson may give consideration to the matter.

4.2. Process for consideration of possible deficiencies in the University's policies or procedures.

The Ombudsperson shall have access to all University Officers as she/he deems necessary in the pursuit of official duties, and Officers are required to provide prompt and full responses to the Ombudsperson's enquiries.

If the consideration of a possible deficiency in a policy or procedure proceeds to the stage of a formal report and recommendation for review, a draft of the report will be provided in advance to the University Officer responsible for the matter, who will be invited to provide a formal written response. That response will be included in the final report, which is submitted to that Officer, to the senior officer to whom she/he reports, to the Vice-President responsible for the division, to the Secretary of the Governing Council, and to the Chair of the Governing Council or to the member of the Governing Council designated by the Chair as the Ombudsperson's liaison.

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5. Reporting

- 5.1 Annual report.** 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.
- 5.2 Interim report to the Executive Committee.** In addition, the Ombudsperson shall, early in the governance cycle, provide an interim written report to the Executive Committee of the Governing Council.
- 5.3 Protection of privacy in public reports.** The Ombudsperson, in public reports to the Governing Council and the Executive Committee, shall protect the privacy of members of the University who use the services of the Office in accordance with the requirements of the *Freedom of Information and Protection of Privacy Act*.

6. Files

- 6.1.** The Ombudsperson shall maintain suitable records of complaints, findings and recommendations and these shall be accessible only to the Ombudsperson and members of the staff of the Office of the Ombudsperson who need those records to perform their official duties.
- 6.2.** Each file and record will be maintained for a period of three years and one day from the date on which the Ombudsperson deems the case to be completed. At the end of the period of three years and one day, the file or record may be destroyed; however, no destruction of the file or record will take place while any proceedings are pending in the University, the Courts or any outside tribunal and until after all rights of appeal are exhausted or times of appeal have expired.
- 6.3.** Unless otherwise required by law, the Ombudsperson shall not release any information regarding personal and personnel records, unless written permission has been received from the affected persons for releasing the information.

7. Term / Review / Appointment

- 7.1 Term.** The normal term of the Ombudsperson should be for three to five years, with the possibility of reappointment.

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7. Term / Review / Appointment (cont'd)

7.2 Review. The Office of the Ombudsperson shall be reviewed on a regular basis. At least eight months before the end of the term of the Ombudsperson, the Executive Committee of the Governing Council will commission a review, state its terms of reference and appoint its membership. The report of the review will be presented to the Governing Council through the Executive Committee, and the recommendations will be considered for approval by the Governing Council, upon their endorsement by the Executive Committee.

7.3 Search and Appointment. The search for Ombudsperson shall be conducted in the light of the recommendations of the review of the Office, subject to their approval by the Governing Council and in the light of other guidance as provided by the review. The search committee, appointed by the Executive Committee of the Governing Council, shall be representative of the University community and shall include, among others, students and members of the teaching and administrative staff.

7.4 Mid-Term Review. The Executive Committee of the Governing Council shall consider the appropriateness of a limited review of the operations of the Office of the Ombudsperson in the middle of the incumbent's term. If the Executive Committee determines that a review is appropriate, it will specify the manner in which the review is to be carried out. The Committee may also determine, in the light of the regular reports to the Committee, that a review is unnecessary.

Approved by Governing Council on December 14, 2006, replacing the policy approved on May 31, 2001

Revisions approved by Executive Committee on October 6, 2008

An addition to section 3.3 and the addition of a new section 3.7 approved by the Governing Council on January 21, 2010.