

Listening & Learning

2012/2013

What is the reason for this report?

One of the measures of accountability for the Office of the Ombudsperson is the production of an annual report which lists the number and types of concerns and complaints received by the Office; explains how the issues raised were handled; provides recommendations for system-wide improvements that flow from the discussion of complaints and concerns and the Ombudsperson's observations; reflects on the feedback provided by those who responded to inquiries and investigations; and summarizes the research conducted about the issues raised with the Office.

It is my hope this report achieves two objectives: 1) assists all members of the community to understand the role of the Ombudsperson at Ryerson University so they can make best use of this service; and 2) contributes via the recommendations made and the University's response to these recommendations to the ongoing development and improvement of the fairness of decisions made as well as the degree of civility of the interactions among community members.

Quick facts:

Essential Characteristics of the Office of the Ombudsperson at Ryerson University include:

Confidentiality
Impartiality
Independence
Informality

The Office of the Ombudsperson was established in 1997 via leadership from a community-wide taskforce.

Staffed by:

Nora Farrell, Ombudsperson

Ayesha Adam, Assistant Ombudsperson (on leave)

Heather McGhee Peggs, Interim Assistant Ombudsperson

Stephanie Lever, Administrative Assistant (part-time)

What we do:

The role and functions of the Ombudsperson at Ryerson University as defined by the Terms of Reference are:

- a) To advise and/or refer members of the University student community as needed about all situations and University procedures concerning which grievances may arise; specifically, to advise students of their rights and responsibilities and of the proper procedures to follow in order to pursue whatever business or complaint they may have. Where such information exists in University offices or publications, the Ombudsperson shall direct enquirers to these sources and emphasize their responsibility for initiating the appropriate actions and for returning to the Ombudsperson if not satisfied with the results;
 - b) To investigate, in an impartial fashion, student complaints that may arise against the University or against anyone in the University exercising authority. Complaints may be made by any member holding status as a student of the University community, by former members of the student body or by student applicants to the University (dependent on the discretion of the Office of the Ombudsperson), whether accepted or not at the time of the complaint. Investigations may also begin on the independent initiative of the Ombudsperson in respect of anyone of the above entitled to make a complaint...
 - c) To bring findings and recommendations to the attention of those in authority by the most expeditious means possible.
- 2. It shall be the special concern of the Ombudsperson that:**
- a) Decisions affecting members of the University student community are made with reasonable promptness;
 - b) Procedures and policies used to reach decisions affecting students are adequate and consistently applied and that criteria and rules on which the decisions in question are based are appropriate;
 - c) Any gaps and inadequacies in existing University policies and procedures that might jeopardize the principles of fairness and natural justice of members within the University student community be brought to the attention of those in authority. It is not the function of the Ombudsperson to devise the new rules and procedures, but to make recommendations and follow these up to the extent necessary for their formulation and/or improvements; and
 - d) The complaints received by the Ombudsperson are analyzed on an annual and multi-year basis to determine trends and identify potential for systemic or system-wide problems.¹

¹ Terms of Reference for the Office of the Ombudsperson (October 2009), online: The Office of the Ombudsperson at Ryerson University <<http://www.ryerson.ca/ombuds>>.

Note: The citation style used throughout this report follows the McGill Law Journal tradition.

How the Office of the Ombudsperson at Ryerson operates:

Preventative Orientation

Online presence:

- very detailed information on website on how to access policies, procedures and relevant forms;
- explanation of what routes are available for addressing concerns if particular things happen; and
- available 24/7 and regularly updated

Consultation:

- consult on policy development and
- consult on University training initiatives and lead training developed and offered by the Office of the Ombudsperson.

Individual Case Work

- discussion about concern or complaint;
- review of relevant options;
- assist in the assessment of options so that student can decide in an informed manner what are viable routes for going forward;
- assist with 'reality testing' of expectations for a resolution or a response;
- coach people on how to approach the resolution of a dispute in a kind, calm and respectful manner;
- if a student has tried to resolve a problem and not been successful and it appears there is a gap in information or a possible misunderstanding we may call to seek clarification;
- if an opportunity for a mutually satisfactory and fair outcome emerges we may engage in shuttle diplomacy or mediation;
- if it becomes evident there is no other means to resolve the situation and the student has identified concerns that relate to fair treatment, process or outcome, we may initiate a fairness review to investigate what has transpired and determine if the University has acted fairly.

Systemic and System-wide Analysis

- review concerns and complaints received to identify common trends; and
- analyze individual complaints to see if they are indicative of a potential systemic or system-wide concern.

The following information² is provided to illustrate the size of the Ryerson University community:

Student Enrolment, FFTE³ 2009-2013

Year	Undergraduate Students	Graduate Students
2012/2013	25,466	1,931
2011/2012	24,161	1,905
2010/2011	23,237	1,805
2009/2010	22,223	1,643

Continuing Education Student Enrolment 2009-2013

Year	Continuing Education Students, FFTE	Continuing Education Course Registrations
2012/2013	3,046	68,294
2011/2012	2,213	69,108
2010/2011	2,412	68,532
2009/2010	2,671	67,231

Teaching and Staff Complement, 2009-2013

Year	Tenure/ Tenure Track Faculty	CUPE		(FFTE)
		Part-time and Sessional Instructors	CUPE Continuing Education Instructors ⁴	
2012/2013	832	229	431	1,800
2011/2012	802	220	486	1,803
2010/2011	778	228	464	1,718
2009/2010	772	228	469	1,687

Eight Faculties:

Arts

Chang School (Continuing Education)

Communication and Design

Community Services

Engineering and Architecture

Graduate Studies

Science

Ted Rogers School of Management

² Source: "University Planning Office, Key Statistics" (2013), online: Ryerson University <<http://www.ryerson.ca>>.

³ FFTE stands for Fiscal Full-Time Equivalent. A student's FFTE (fiscal full-time equivalent) is the proportion of a full load course load that he or she is taking. For example, if a program normally included 20 hours of instruction, a student enrolled in 15 hours of courses would generate 0.75 FFTE (15/20).

⁴ Source: Office of Instructor Relations, Continuing Education – The Chang School. These numbers represent the average number of Instructors engaged to teach courses in the Chang School over the Fall, Winter and Spring semesters for 2009/2010 to 2012/2013.

Types of Concerns

	12/13	11/12	10/11	09/10	08/09	07/08	06/07	05/06
TOTAL	593	617	571	579	586	558	606	573
ACADEMIC ADVICE ⁵	192	177	138	104	103	92	106	71
ACADEMIC APPEALS ⁶	102	103	107	169	158	142	165	137
ACADEMIC MISCONDUCT	49	61	70	65	83	64	57	37
ACCESSIBILITY	27	25	33	10	12	11	5	8
ADVANCEMENT & DEVELOPMENT	0	0	1	0	0	0	1	1
ADMISSIONS (UNDERGRADUATE)	20	11	17	10	15	25	35	28
ADMISSIONS (GRADUATE)	4	5	4	5	6	5	4	
ANCILLARY SERVICES	1	2	1	1	0	1	1	2
CAMPUS PLANNING & FACILITIES	0	3	0	1	0	0	2	2
CONDUCT – INSTRUCTOR	62	53	57	78	43	42	45	60
CONDUCT – STAFF	8	8	13	14	12	11	12	21
CONDUCT – STUDENT	4	8	9	4	7	9	11	15
CONFIDENTIALITY	0	0	4	5	1	0	3	1
CONVOCATION & AWARDS	0	0	0	0	1	1	N/A	N/A
CURRICULUM ADVISING ⁷	11	3	7	7	11	18	17	23
ENROLLMENT SERVICES	29	45	24	37	41	35	44	55
EXCHANGE PROGRAMS	0	0	0	1	0	0	0	0
FEES	14	21	7	7	20	24	18	30
FINANCIAL ASSISTANCE	18	20	16	9	15	13	14	11
INFORMATION REQUESTS – NO COMPLAINT	1	5	2	7	4	9	7	10
LIBRARY	0	4	2	2	1	1	1	1
OUTSIDE JURISDICTION	13	13	13	8	13	9	7	10
PRACTICUM/PLACEMENT (ADMINISTRATION & AVAILABILITY)	9	11	4	2	7	9	11	5
REINSTATEMENT/RE-ADMISSION	11	14	27	17	15	26	25	25
RESIDENCE	2	1	3	7	4	3	2	3
SAFETY & SECURITY	2	5	2	1	2	3	5	3
SPORTS & RECREATION	2	0	1	0	0	1	1	0
STUDENT MEDIA	0	0	1	0	0	0	0	0
STUDENT SERVICES ⁸	6	8	4	1	2	2	2	3
STUDENT UNIONS/ASSOCIATIONS	5	8	3	5	8	2	4	9
TEAM WORK	1	3	1	2	2	0	1	2

⁵ This category includes concerns regarding not being able to access easily, academic advice from a knowledgeable person

⁶ Includes Grade and Academic Standing Appeals.

⁷ Includes Transfer Credits and Challenge Credits.

⁸ Includes Non-Academic Misconduct concerns and charges.

Status of Individuals Bringing Forward Concerns & Complaints

	12/13	11/12	10/11	09/10	08/09	07/08	06/07	05/06
CONSTITUENCY								
ALUMNAE	11	10	8	11	22	6	22	27
APPLICANT	18	13	17	13	25	27	40	29
CONTINUING EDUCATION/PART TIME DEGREE	81	87	76	106	95	82	87	92
FULL-TIME DEGREE	401	416	406	368	385	375	394	372
GRADUATE STUDENTS	40	49	27	41	25	32	31	14
MISCELLANEOUS (PARENTS, STAFF, ETC.)	42	42	37	40	34	36	32	39
TOTAL	593	617	571	579	586	558	606	573

Summary of Service Provided

Information:

Providing information on policies and procedures.

Advice:

Providing information and discussing possible options with students.

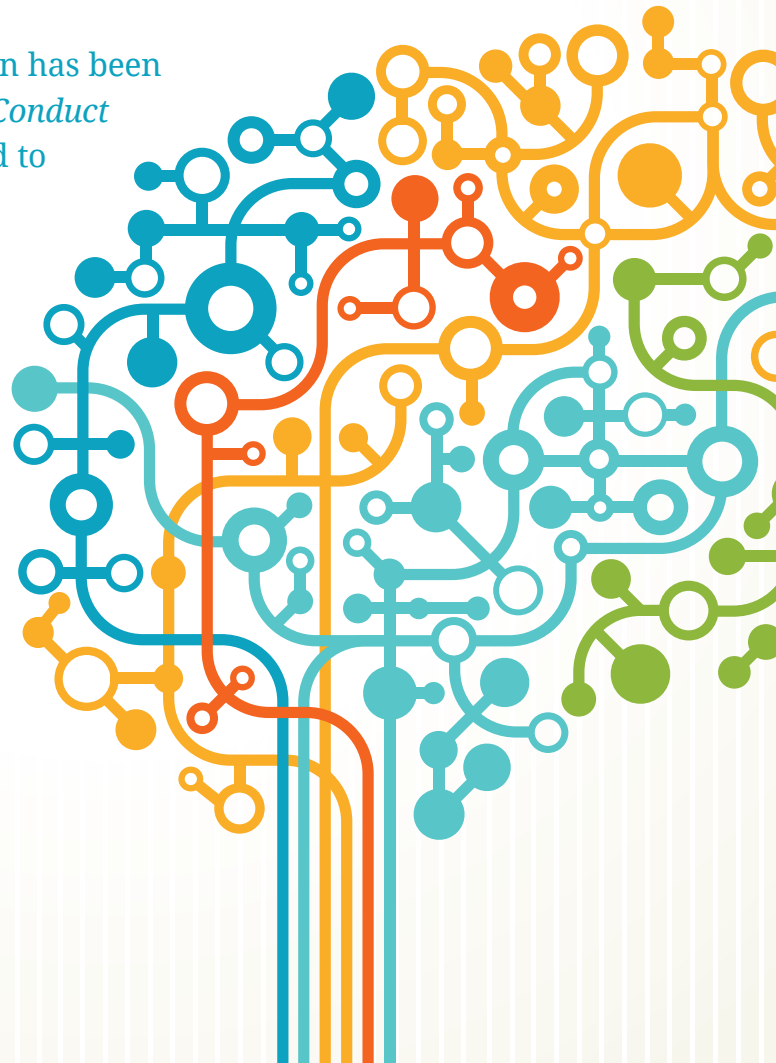
Intervention:

Taking action to assist in some way to resolve the concern, e.g. clarifying information, facilitating, mediating, conducting investigations.

	12/13	11/12	10/11	09/10	08/09	07/08	06/07	05/06
ACTION TAKEN								
INFORMATION	1	3	1	2	10	8	9	23
ADVICE & REFERRAL	484	511	482	493	471	452	434	386
SUBTOTAL	485	617	571	579	586	558	606	573
INTERVENTION – CLARIFYING	48	37	39	42	43	36	79	82
INTERVENTION – MEDIATION	1	3	1	0	1	1	1	0
INTERVENTION – SHUTTLE DIPLOMACY	43	49	31	25	31	42	61	62
INVESTIGATION	16	14	17	17	30	19	22	20
TOTAL	593	617	571	579	586	558	606	573

Compliments:

- 1 → The establishment of the ‘Soup and Substance’ discussions by the team in the Associate Vice-President and Associate Vice-Provost, Equity, Diversity and Inclusion portfolio is another welcome addition to the panoply of fascinating speakers, films and workshops which compete for our individual and collective attention. Each session seeks to present a variety of points of view on a key topic as perceived and experienced through the lens of a demographically diverse Panel of presenters. This particular approach is attracting ‘standing room only’ attendance and educates, provokes debate and increases awareness about important issues for all members of the University community. In addition, attendees can actively contribute to the debate or simply listen and learn in a well-managed 60-minute period of time.
- 2 → Over this past year continued attention has been paid to the *Student Code of Academic Conduct* both with respect to policy review and to the volume of resources dedicated to the Academic Integrity Office. I see this continued attentiveness as an important contribution to creating a scholarly environment and academic culture which supports and expects the highest degree of academic integrity as well as providing for fair process when it is suspected that community standards in this area have been compromised.



Follow-ups on Progress made on 2011/2012 Recommendations

Issue → Retro-active or Late Drops

Recommendation One:

That consideration be given to centralizing the process whereby all requests for retroactive drops are submitted to Enrollment Services for processing and the relevant department is consulted prior to a final decision being made.

Recommendation Two:

That a clearly defined process and explanation be provided to all academic advisors, academic decision-makers and affected administrative staff as to how requests for retro-active drops will be assessed and to whom they should be submitted.

Recommendation Three:

That attention be given to addressing the means by which retro-active drop requests are being reviewed by Enrollment Services so as to reduce the current decision-making time frame from six to eight weeks to a shorter time frame.

University's Response:

It is agreed that an explicitly defined process for retroactive drops needs to be instituted and that a clear explanation of this process should be communicated to all stakeholders, including advisors and administrative staff. The Registrar's Office has committed to undertake this procedural review with the intention of implementing the new standardized process by Fall 2013.

Progress made: I have been advised that the Vice-Provost, Students and her staff reviewed relevant university policies and their findings were discussed with the outgoing and incoming Secretary of Senate and the relevant Associate Deans in each faculty. Clarification of the appropriate practice will be provided to all Schools and Departments in November of 2013.

Issue → Graduate Student/Academic Supervisor Dynamics

Recommendation Four:

That Graduate Program Directors receive specialized training and support on how to address and when appropriate, manage destructive conflict between graduate students and their academic supervisors. As managing negative conflict well is neither easy nor simple it must be acknowledged as such. Therefore, continuous attention must be paid to supporting Program Directors in acquiring or improving the capacity to make use of a broad repertoire of dispute resolution skills so as to support effective graduate student/academic supervisor relationships.

Recommendation Five:

While, it can be difficult to be an academic supervisor, there are many 'tried and true' ways to be effective and this kind of information should be disseminated by the School of Graduate Studies to academic supervisors for application to their own circumstances in order to reduce the potential for destructive conflict and address interpersonal issues that affect productivity as early as possible.

Recommendation Six:

Mandatory orientation is provided to graduate students on how to make the most of their relationship with their academic supervisor and what to do when the problems are no longer soluble without external intervention.

Recommendation Seven:

As there will always be situations where the differences between student and academic supervisor are irreconcilable, I would encourage the university to put in place means for a graduate student and an academic supervisor to negotiate the equivalent of a 'no fault divorce'. By having an easily accessible means for going forward without shame or retribution when a relationship fails, many serious and lengthy disputes could be avoided.

University's Response:

The Report makes a compelling case that the implementation of key preventative measures, as summarized in these recommendations, can help circumvent problems that sometimes arise in the graduate student/academic supervisor relationship. During Winter 2013, the Dean of the Yeates School of Graduate Studies will refer these four recommendations to the appropriate subcommittee of YSGS Council for careful consideration.

Progress made: I have been advised by the Dean of the Faculty of Graduate Studies that progress has been made on what she described as "...the terrific recommendations from [the] annual report...". Specifically, with respect to Recommendations 4 and 5, a half-day workshop on "Conflict Resolution Styles and Effective Conflict Resolution" was offered to Graduate Program Directors in the Winter 2013 term and workshops on how to be an effective supervisor have been hosted by individual departments as well. In addition, various professional development and enrichment activities have been organized by individual Graduate Program Directors for their specific departments. It has also been noted that with the addition of the position of Associate Dean, Students and Programs for the Yeates School of Graduate Studies, further attention will be dedicated to the implementation of Recommendations 6 and 7 in the coming calendar year.



Issue →
Recognition of the current student reality within the University policy and procedure framework

Recommendation Eight:

In summary, I am recommending that all policy frameworks emphasize an ethic of care whereby responses to requests for assistance begin from the perspective of building a respectful and mutually beneficial relationship. With that ethos in mind, providing timely responses, engaging in constructive discussions and providing the highest level of support appropriate to the situation will be the default position. Maintaining academic standards while providing for customization in a fair and appropriate manner given the specific circumstances should be the foundation for all of the policies and procedures that underlie the student to university relationship.

University's Response:

The concerns encapsulated in this recommendation are legitimate ones. They have been raised not just in this year's Report, but in previous reports as well. Building on the ongoing review of Senate Policy 60, Student Code of Academic Conduct, the University has initiated community wide consultations on the three major policies that, in addition to Policy 60, govern undergraduate studies at the University: Policy 134, Undergraduate Academic Consideration and Appeals; Policy 135, Examination Policy; and Policy 145, Course Management Policy. The focus of these consultations will be on the ways in which the Ryerson community experiences these policies and their effects. The feedback received in these consultations will then inform an integrated policy review. We hope that this process, which is a departure from the way the University has conducted policy reviews in the past, will help reinforce the principles of fairness and mutual respect that underlie these policies, and ensure these principles are infused in a holistic and consistent fashion.

Progress made: I have been advised by the Secretary of Senate that a draft report on the discussions and consultations with students, faculty and staff regarding how Policies 134, 135 and 145 are viewed and experienced was prepared in May 2013. The report includes recommendations in three main areas: Course outline content, academic consideration and accommodation issues, and the student appeal process. Many of the overarching issues regarding the wording and format of policies, efforts to streamline procedures, and reconciling inconsistencies across policies are similar to the issues that will be addressed by the current Policy 60 Review Committee, which was approved by Senate in October 2013. The Committee, which is currently undertaking renewed community consultations to understand how students, faculty and staff experience Policy 60 and its effects, will present a final report based upon these consultations by May 2014. The University expects that the renewal of Policy 60 will help guide the future review of Policies 134, 135 and 145.

Observations on the Types of Concerns Presented for 2012/2013:

The number of concerns raised about academic grade and standing appeals has remained static over the past three years even though the number of undergraduate and graduate students enrolled has increased from 25,042 to 27,397 over that time period. I attribute this outcome largely to the availability of the Fresh Start program and the fact that first year students can no longer be required to withdraw for poor academic performance after spending only the Fall semester as a member of the University community. Interestingly, the type of complaint received in this area is changing in that while the numbers overall are decreasing the percentage of complaints about the fairness of the decision-making process is increasing. The types of fairness issues raised include: delay in the receipt of responses which are well beyond the required five or ten day time frame with no notice given that the response will be delayed or reasons for the delay; and inquiries about who is actually responsible for making the decision and how they go about doing so. In contrast, the volume of concerns raised about the inability to access accurate academic advice easily which are shown under the category of 'Academic Advice' continues to increase. As I have commented on the need for greater attention to be paid to developing alternative ways and means for the provision of academic advice in previous reports and I am aware that the University is trying various approaches I will not comment on this area again in this year's report.

Concerns and Complaints

Decision-making


A critical area of decision-making for the University is that which is taken on by faculty members and students who volunteer to serve as Panel members for the Academic Integrity Council (AIC) and the Senate Academic Appeals Committee (SAC). The AIC and SAC hear appellants and respondents speak to what they believe to be the correct interpretation and implementation of the *Student Code of Academic Conduct* and in the case of SAC, not only the *Student Code of Academic Conduct* but also the *Undergraduate Academic Consideration and Appeals Policy* and the *Graduate Student Academic Appeals Policy* as well as related course management, examination and grading policies. Each AIC and SAC Panel is populated by two faculty members and one student, none of whom is affiliated with the academic program in which the appellant is enrolled or the respondent is located. In addition, some Faculties and Administrative Units have established Appeals Committees to make decisions on various academic and administrative matters and have their own unique configurations. Making

difficult decisions that often have life-changing impact is not for the faint of heart. The commitment and hard work of those who serve on these Panels deserves considerable acknowledgement and appreciation. I applaud the Senate Office and the Academic Integrity Office for the work they do in organizing annual training for all Panel members on how to conduct hearings and how to adjudicate the issues brought to their attention in a manner that is consistent with the principles of natural justice and administrative fairness, as well as providing orientation on both the importance of and the mechanics of how to write accessible and useful decisions. It is also very heartening to see emphasis being placed on the singular importance of the individual Panel member's responsibility for thinking and behaving in as unbiased and impartial a manner as is possible.

Another beneficial and fundamental aspect is the requirement that the AIC and SAC Panels are composed of three individuals, that being the aforementioned two faculty members and one student. The potential benefit inherent in this set up is highly desirable from a fairness point of view as there is extensive research from various appeal level judicial decision-making contexts to show that when three individuals are different from one another with respect to social demographics and political ideology, the decisions they arrive at as a group are qualitatively different from those that are made by a homogenous group.⁹ As a university has both the freedom and the ability to create an ideal environment for the adjudication of grade, academic standing and academic misconduct appeals, I am encouraging the University to reflect on the academic research that has been done with respect to the concept that 'justice must not only be done but be seen to be done'. Please be aware that while I am not comparing the AIC and SAC Panels who are making these very important decisions to a judicial bench, I believe there are conceptual considerations that are analogous. For instance, the notion of 'structural impartiality' is worthy of consideration. Specifically, Sonia Lawrence, Osgoode Hall Law School professor, speaks to the value of this concept in arguing for a more comprehensive and foundational approach to increasing the potential for impartiality on the bench by recommending that the members of the judiciary be not only diverse but actually reflective of and representative of the population it serves through the matters they adjudicate.¹⁰

⁹ Cass R. Sunstein, David Schakde, Lisa M. Ellman & Andres Swack, *Are Judges Political? An Empirical Analysis of the Federal Judiciary* (Washington, D.C.: Brookings Institution Press, 2006) at 25 and 45 and James Stribopoulos & Moin Yahya, "Does A Judge's Party of Appointment or Gender Matter to Case Outcomes?: An Empirical Study for the Court of Appeal for Ontario", (2007) 45 Osgoode Hall Law Journal 315 at 319 (gender) and 332 (political ideology).

¹⁰ Sonia Lawrence, "Reflections: On Judicial Diversity and Judicial Independence" in Adam M. Dodek & Lorne Sossin, eds., *Judicial Independence in Context* (Irwin Law, 2010) (SSRN) 193 at 201.



Similarly, Sherrilyn Ifill, who has written about ‘structural impartiality’ at some length as a professor at the University of Maryland, sees structural impartiality resulting from the dialogue that is informed by a wide variety of perspectives such that the possibility of the domination of one particular viewpoint is reduced.¹¹ For example, Ms. Ifill observes that when a Panel of judges is composed of only one race, the absence of the differing experiences that could be brought to the discussion takes away from the quality of the deliberation.¹² Ms. Ifill’s point of view is supported by former Associate Justice of the U.S. Supreme Court, Ms. Sandra Day O’Connor, who in her description of the importance of the impact made by the first African-American appointed to the U.S. Supreme Court – Justice Thurgood Marshall – said: “Justice Marshall imparted not only his legal acumen but also his life experiences, constantly pushing and prodding us to respond not only to the persuasiveness of legal argument but also to the power of moral truth.”¹³

This statement is a practical demonstration of the benefit that diversity of experience, which I argue should include not only race and ethnicity but all manner of social demographics, can provide for more nuanced and balanced discussions during decision-making processes. In-depth deliberations which include the thorough discussion of perspectives from many different vantage points, may then serve as a potential check on what can be both unknown and known personal biases which may flow from particular social locations and experiences. The following examples are illustrative of beliefs which may seem in isolation as only an innocuous personal perspective but which when unchallenged or unexamined can have an unintended negative impact depending on the circumstances:

A. Essentially the belief is: It does not matter where you go in the world, even if a student doesn’t have a laptop or a smart phone they can use, there is always an internet café nearby so by definition students always have internet access and can be in touch with the university. So when a student misses a deadline and requests an extension after the fact or is attempting to explain why he or she did not advise the appropriate individual of their plight immediately, the explanation is not accepted as being reasonable. This conclusion demonstrates a rather narrow view of the world as many of us have been in and could imagine locations where an internet café is not accessible due to geographic locale (e.g. rural area with unreliable electricity and/or no transmission towers; lack of public transportation to a village, town or an urban centre); or where the student’s ability to travel to an internet location is circumscribed due to safety issues; or, where internet connections in some locales whether they be rural or urban are unreliable and/or prohibitively expensive.

One can easily see how the aforementioned belief does not take into account many students’ reality and could therefore affect the decision that would be made when deciding whether it was reasonable to provide an extension of a deadline, or if a decision hinged on whether the student had kept University personnel informed as to their situation.

B. Another example of what appears to be a basic premise for some is that all medical conditions can be treated successfully. Notably, when a student is suffering from an illness that is difficult to diagnose or when there is no reliable treatment regimen, it appears to be difficult for some who have no experience with this kind of uncertainty to accept that it is real. As a result, conclusions have been drawn which suggest that it may be that the condition is not as bad as it is described or perhaps the student is malingering. Sadly, for all manner of medical conditions – both physical and mental – there may be no easy fix and in some instances it can take years of assessment, trials and observation to come up with an effective treatment program. Alternatively, access to the best treatment options may be limited by social location, (e.g. the cost of physiotherapy or psychotherapy) and thus may make them inaccessible.

The provision of these very simple examples and a number of reasons that reveal the weakness of such assertions or beliefs, demonstrates the possibility that individuals who represent a wide variety of social locations may have a more realistic and accurate view of what some students experience when attending to personal crises or health situations which are beyond the confines of some community members’ experience.

As the university community continues to evolve with respect to the multiplicity and diversity of its social demographics it will not be surprising that in addition to the importance of ensuring all Panel members are well prepared to execute their mandate with respect to due process and knowledge of the policies and with their personal responsibility for the highest degree of impartiality, there is also an opportunity for consideration of other structural advantages. Specifically, individuals whose behaviour and character are judged by the aforementioned Panels have complained to my Office that they feel at a disadvantage, as from their perspective as participants the Panel members are homogenous with respect to socio-economic status, race, ethnicity and/or physical mobility. Please be aware that I have no evidence to indicate that what may appear to be homogenous Panels have made unfair decisions or that the hearing process was unfair. Rather, my rationale for bringing this kind of concern forward for discussion is to provide for the best possible means for having a wide variety of experience and perspectives brought to bear on the matters of such import that are heard by these two decision-making bodies.

¹¹ *Ibid.*, at 199.

¹² Sherrilynn A. Ifill, “Judging the Judges: Racial Diversity, Impartiality and Representation on State Trial Courts” 39 *Boston College Law Review* (1997) 95 at 95.

¹³ Sandra Day O’Connor, “Thurgood Marshall: The Influence of a Raconteur” 44 *Stanford Law Review* (1992) 1217 at 1217.

Keeping the potential benefit in mind that can accrue from having decision-makers in place who are reflective of the multiplicities of the Ryerson community, I have had informal discussions with the Secretaries of Senate and the Director of the Academic Integrity Office about the importance of creating Panels that are more diverse. My understanding is that gender is now always taken into account such that all Panels are composed of both men and women.¹⁴ However, to date the experience of some of the people who appear before these various Panels is that it is a rarity for the composition of the Panels to be diverse with respect to race, ethnicity and other important but perhaps less visible social demographics. In addition, I have also been asked about how the individuals who serve as Panel members for the AIC and SAC are recruited. As I have some familiarity with the processes used, I provide a brief explanation and then suggest those who are interested in acquiring more information contact the respective Secretariats directly for more information. Some individuals have expressed a reluctance to do so as they would prefer to inform themselves about the recruitment and selection process through review of information prepared by the University on this topic.

In an effort to build on the solid infrastructure that is already in place for contributing to the best possible decision-making I believe there is benefit in ensuring all those who have the desire and the capacity to make a contribution to the AIC or SAC are knowledgeable about what is required in order to be considered to fulfill one of these roles. As there is no information available to all Ryerson community members as to how the AIC and the Senate Appeal Committee memberships are determined I am recommending that:

Recommendation 1:

The selection criteria used for choosing AIC and SAC committee members along with the process used, that is, how applications are solicited and who assesses them in order to choose the successful candidates and when this occurs, be posted on the Academic Integrity Office and Senate websites.

Given how valuable it can be to have as wide a variety of experience and social locations represented on the various appeal committees sponsored by the University I am recommending:

Recommendation 2:

That the Secretariats which support the Academic Integrity Council and the Senate Appeals Committee make a concerted effort to see that the composition of Panels reflect a broad range of social demographics, including but not limited to gender, race, mobility, socio-economic and ethnic diversity. In making this recommendation I would like to emphasize that I am not casting aspersions on the qualifications and capacities of those who currently provide exemplary service to the University community as Panel members. Rather I would like this recommendation to be seen as an opportunity for encouraging others to make a similar contribution and to provide for the greatest possibility for the composition of Panels of decision-makers which are reflective of the Ryerson student body.

The Provision of Make-up Exams

This subject continues to be a problem of considerable concern and magnitude and is a recurring issue that continues to dominate the discourse. By way of background, it appears to be an 'article of faith' in many areas of the University community that '*the policy*' is that a student is allowed only one opportunity to schedule a make-up exam unless the instructor agrees to provide a new date for the missed make-up exam regardless of the circumstances surrounding the student's inability to fulfill this commitment. However, the *Course Management* policy for Undergraduate and Continuing Education students states:

Course Management Policy 145

Missing a make-up


2.2.9.1 **Provision of a second make-up:** On a case by case basis, ***a second make-up may be scheduled at the discretion of the instructor. (bold italics my emphasis)*** The student may be required to provide a detailed rationale supported by appropriate documentation for consideration.

In contrast the **Course Management Policy 151** for Graduate students states:

3.5 Students who miss a final exam with the appropriate advance notification and/or documentation and who cannot be given a make-up exam prior to the submission of final course grades, must be given a grade of INC, and a make-up exam (normally within two weeks of the beginning of the next semester) that carries the same weight and measures the same knowledge, must be scheduled. ***If a student misses a scheduled make-up exam, a grade of zero will be assigned. (bold italics my emphasis)***.

¹⁴ This expectation is consistent with James Stribopoulos and Moin Yahya's proposal that the Registrar who currently determines the composition of Panels for the Ontario Court of Appeals should be ensuring diverse Panels are composed with respect to party of appointment and gender so as to reduce the

potential for polarization around either ideology or gender as stated in "Does A Judge's Party of Appointment or Gender Matter to Case Outcomes?: An Empirical Study for the Court of Appeal for Ontario", (2007) 45 Osgoode Hall Law Journal 315 at 320.



Therefore, if the instructor does not agree to schedule a new date for the missed make-up exam for an Undergraduate or Continuing Education student or implements the policy as written for Graduate students, and if due to continued illness or a chronic disabling condition or devastating personal circumstances which are beyond the control of a student, such that the student was not able to appear for the scheduled make-up exam the student may be advised that he or she has now failed the course. Students in this situation are often advised they may appeal this grade if they choose to do so. This approach is profoundly unfair on many levels:

Specifically, if a student has a medical condition whether it be temporary or chronic which is so disabling that it prevents the student from writing a final exam on one occasion it does not seem to be such a large leap in logic that the student may continue to be debilitated by that condition for an extended period of time and miss the scheduled make-up exam. The same is true when personal circumstances are such that a student is prevented from writing the original exam which then had to be 'made up', so to speak. I am very troubled by some of the decisions I see that are written in response to these kinds of situations as they rely so heavily on the notion that the *Course Management* policies state that only one opportunity to write a make-up exam *has* to be provided. I think it's highly unlikely that the authors of the *Course Management* policies were suggesting such an approach would be fair when due to circumstances beyond these students' control, they miss the first make-up exam. It is hardly magnanimous to offer such an opportunity in the first place given the complexity and social fragility of so many students' realities. Rather, it is only reasonable given the size of the student body to plan for the fact that there will always be situations of this nature which arise, especially, in my experience, for students who are parents of small children or care-givers for elderly relatives or have chronic mental or physical health conditions that are not easily diagnosed or treated. Surely the drafters of the policy were not suggesting that these kinds of situations should not be accommodated by the re-scheduling of another date for the make-up exam at a time when the student is well and functioning at as close to optimum levels as is possible. Fortunately, students who are registered with the Access Centre can seek and receive assistance in arranging for re-scheduling of make-up exams when the impact of their disability warrants doing so. Unfortunately, though, unintentional collateral damage has occurred as a result of either a misunderstanding of or an uninformed devotion to the strict wording of the aforementioned policy excerpts. Specifically, it is not uncommon for students who are very ill or debilitated to

decide to write the original exam or the make-up exam as they are frightened if they do not that they will ultimately fail the course. To be motivated by fear makes no sense in an environment which is designed to provide the best conditions for students to demonstrate their skills and knowledge.

It is important to recognize that many individuals do exercise discretion correctly when making decisions about how to deal with the administration of make-up exams. However, the difficulty arises when: 1) individuals believe they have no authority to make alternative arrangements when in fact they have both a moral imperative to do so as well as the administrative capacity to do so and 2) when individuals operate under the misapprehension that it is their personal opinion that determines the outcome when in fact discretion must be exercised in such a fashion that it is clear what information was taken into account, the criteria that were used to make a particular determination, and why a particular result is fair given the circumstances. Consistency is also important and in this context the imperative is to be consistently fair rather than making the same decision consistently regardless of the differing circumstances that may be in play. As a result of the fact that there appears to be a misunderstanding of the fairness requirements in these types of situations, I am recommending:

Recommendation Three:

That until the *Course Management* policies are reviewed an advisement be provided to all those who are responsible for making decisions about the re-scheduling of additional make-up exams, explaining the requirement to ensure that discretion is being exercised fairly given the individual circumstances and such that the *Course Management* policies (Policy 145 and 151) are implemented properly and in a manner that is consistent with *Academic Accommodation of Students with Disabilities* (Policy 159).

Provost & Vice President Academic's, and Vice President, Administration and Finance's Response

We wish to thank you for your 2012-13 Report. We are pleased to see that there has been progress in the areas you identified as concerns in your 2011-12 Report. Specifically, the issues raised in your Recommendations 1, 2 and 3 regarding retroactive or late withdrawals from courses have been addressed by the Vice Provost, Students, with plans to communicate the details to the University as soon as possible. Also, the issues raised in Recommendations 4 through 7 regarding graduate student supervision have been addressed by the Dean of the Yeates School of Graduate Studies. And the issues raised in Recommendation 8 regarding a coordinated review of policies 60, 134, 135 and 145 have been addressed by the Secretary of Senate.

Regarding your 2012-13 Report, we join with you in recognizing the success of the Soup and Substance discussions led by the Assistant Vice President/Vice Provost, Equity, Diversity and Inclusion. As well, we agree that the continued attention paid to the review of the Student Code of Academic Conduct is a positive step for the University. In addition, you make three recommendations in this year's report, to which we have responded below:

Recommendation 1.

The selection criteria used for choosing AIC and SAC members along with the process used, that is, how applications are solicited and who assesses them in order to choose the successful candidates and when this occurs, be posted on the Academic Integrity Office and Senate websites.

The University appreciates the Ombudsperson's recognition of the significant time and effort contributed by members of the Senate Appeals Committee (SAC) and the Academic Integrity Committee (AIC). As noted in the Report, both student and faculty members of these committees are charged with the difficult task of hearing complicated cases and interpreting relevant policies to arrive at "Decisions that often have life-changing impact, [which] is not for the faint of heart." The Report also makes a valid point that more information about the process by which people become members of the SAC and AIC could be provided. Fortunately, many members continue to serve year after year, so that they gain invaluable experience as hearing panel members, and ultimately as panel chairs, but the description of how new members are recruited could be expanded. The University, therefore, agrees with Recommendation 1 to post information on the Academic Integrity and Senate websites regarding the process for how and when applications to the AIC and SAC are solicited and assessed.

Recommendation 2.

That the Secretariats which support the Academic Integrity Council and the Senate Appeals Committee make a concerted effort to see that the composition of Panels reflect a broad range of social demographics, including but not limited to gender, race, mobility, socio-economic and ethnic diversity.

The University also appreciates the Ombudsperson's recognition that much effort is already made to ensure that AIC and SAC hearing panels are established so as to be as unbiased and balanced as possible for each case. The University also agrees with Recommendation 2 to maintain and expand that effort so that "The composition of Panels reflect a broad range of social demographics, including but not limited to gender, race, mobility, socio-economic and ethnic diversity." The office of the Assistant Vice President/Vice Provost, Equity, Inclusion and Diversity is ideally suited to provide advice on strategies to accomplish this goal.

Recommendation 3.

That until the Course Management policies are reviewed an advisement be provided to all those who are responsible for making decisions about the re-scheduling of additional make-up exams, explaining the requirement to ensure that discretion is being exercised fairly given the individual circumstances and such that the Course Management policies (Policy 145 and 151) are implemented properly and in a manner that is consistent with Academic Accommodation of Students with Disabilities (Policy 159).

The University agrees that there have been some inconsistencies in the way missed make-up exams are managed, and notes that changes to Policy 145 in 2011 were designed at least in part to address that concern. Most relevant is that, as mentioned in the Ombudsperson's Report, instructors have the discretion to provide an additional make-up for both term-exams and final-exams if the student has verifiable and documented reasons for missing the first make-up. Related to this option is the provision that, "If a student misses a scheduled make-up of a mid-term, assignment or other assessment for verifiable reasons, the grade may be distributed over other course assessments even if that makes the grade on the final exam worth more than 70% of the final grade in the course." The University agrees that more information about the discretion to offer a second make-up exam, or to redistribute the weight of the missed exam, be provided to the community, explaining that such discretion should be exercised fairly.

Again we would like to thank you for your thoughtful submission and for your commitment to Ryerson University.



Mohamed Lachemi
Provost and Vice President
Academic



Julia Hanigsberg
Vice President,
Administration and Finance

Every effort is made to respond to all contacts in a timely way. This year we are pleased to report the following performance statistics for this Office:

RESPONSE TIMES	
RESPOND ON THE SAME DAY (EXCLUDING WEEKENDS)	99.7%
RESPOND WITHIN ONE DAY	0.3%

CASE COMPLETION TIMES	
CASES CLOSED WITHIN ONE WEEK	85.7%
CASES CLOSED WITHIN TWO WEEKS	4.2%
CASES CLOSED WITHIN THREE WEEKS	1.7%
CASES CLOSED WITHIN FOUR WEEKS	2.0%
CASES CLOSED WITHIN FIVE WEEKS	2.4%
CASES CLOSED WITHIN SIX WEEKS	0.8%
CASES CLOSED AFTER MORE THAN SIX WEEKS	3.2%

Website Activity

The Office of the Ombudsperson website provides FAQ's, information and links to frequently consulted policies, procedures, deadlines and contact points at Ryerson, thereby assisting users in acquiring the knowledge they need to solve or prevent academic or administrative problems without ever having to contact our Office directly. As shown in the table below, accessing information via the Ombudsperson website has increased steadily over the past five years.

Calendar YEAR	TOTAL Unique visitors	AVERAGE number of visitors/month	Months with most traffic (top 4 in descending order)
2009	7,928	660	May; September; January; December
2010	8,059	671	January; December; September; May
2011	10,905	908	December; May; November; October
2012	16,290	1,357	September; December; October; November
2013	17,795 (to Oct 31, 2013)	1,482	October; September; January; April

We also provide a link to an anonymous online questionnaire where individuals who have interacted with the Office can provide feedback on their experience. I would like to express our sincere appreciation to those individuals who have taken the time to provide their assessment and commentary. We make every attempt to use this input to improve our service to the Ryerson community.

In Appreciation

- I am very grateful to all of the individuals within the Ryerson community who have approached the resolution of complaints and disputes with an open mind and have made their best efforts to arrive at a fair outcome for all concerned. I would also like to thank those individuals and departments who have invited this Office to provide training and support for further professional development on effective conflict resolution, administrative fairness and the principles of natural justice as well as how to engage in principled negotiation. This preventative orientation and desire to build capacity for resolving disputes fairly both for the present and the future is noteworthy.

I would also like to acknowledge the willingness and generosity of the members of the Ombudsperson Committee to serve as well-informed stakeholders and knowledgeable advisors while maintaining the highest degree of respect for the structural independence of the Office of the Ombudsperson.

Finally, I would like to recognize the caring and commitment of Ayesha Adam and Heather McGhee Peggs, the Assistant Ombudsperson and Interim Assistant Ombudsperson, respectively, and our Administrative Assistant, Stephanie Lever, for their important contributions to the successful implementation of the Terms of Reference for the Office of the Ombudsperson at Ryerson University.

Respectfully submitted:

Nora Farrell
Ombudsperson at Ryerson University



