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



## INTRODUCTION

This annual report is a measure of accountability for the Office of the Ombudsperson and provides recommendations for system-wide improvements that flow from the discussion of complaints, concerns, the Ombudsperson's research and observations. In this report we also provide updates on the progress made on previous recommendations and present statistics on the type of concerns and complaints received, the constituencies bringing forward concerns, and how complaints are handled on a general basis.

# Essential Characteristics of the Office of the Ombudsperson at Ryerson University (RU)

## CONFIDENTIALITY:

All information provided to the Office of the Ombudsperson is kept confidential, unless the Office has explicit permission for names and/or identifying details to be released and the Office considers it to be appropriate to do so.

## IMPARTIALITY:

The Office of the Ombudsperson considers all of the information it receives and collects with the highest degree of objectivity. We strive to ensure that everyone involved believes their perspectives have been understood and considered and that they have been treated **fairly**.

## INDEPENDENCE:

The Office of the Ombudsperson and staff operate independently of the University, including all administrative and academic structures and student government.

## SYSTEMIC AND SYSTEM-WIDE ANALYSIS

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

## PREVENTATIVE ORIENTATION

### *Online presence*

- make detailed information available on our website on how to access policies, procedures and relevant forms along with explanations for the routes available for addressing all manner of concerns and complaints.

### *Consultation*

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

## Modus Operandi of the Office of the Ombudsperson at Ryerson University (RU)

### INDIVIDUAL CASE WORK

- discussion about concerns or complaints;
- review of relevant options and assist in the assessment of these options so that the student can decide in an informed manner the viable routes available for moving 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.

## TESTIMONIALS

“You seem to always know what to say, you point me in the right direction to get my matters resolved. Thank you helping me navigate difficult decisions this year.”

# Progress Made on Ombudsperson's Recommendations

## Progress Made on Ombudsperson's Recommendations Accepted in 2012:

My understanding is that the University's implementation of the 2012 recommendation related to ensuring that University policy and procedure framework recognizes the current student reality has been delayed for the past two years given the degree of resources that have been dedicated to the review of Senate Policy 60, *Academic Integrity* and Senate Policy 118 *Scholarly Research and Creative Activity (SRC) Integrity Policy*. However, I have been advised that the University has put into place a comprehensive, multi-pronged and time-sensitive policy review process that will commence in the Fall of 2015. The policies that will be reviewed and updated through the work of this university-wide Committee whose membership will be supplemented by input from resource people with particular areas of expertise include:

- Undergraduate, Continuing Education and Graduate Student Academic and Consideration Appeals policies,
- Examination policy,
- Course management policies (Undergraduate/Continuing Education and Graduate Students)

As this is a major undertaking the expected completion date is a final report to Senate in June 2016 preceded by an interim report in April 2016.

The revised *Scholarly Research and Creative Activity (SRC) Integrity Policy* was approved on June 2, 2015 by the Senate to come into effect at the same time.

## Progress Made on Ombudsperson's Recommendations Accepted in 2013:

The University's implementation of the 2013 recommendation related to ensuring that the criteria and process used to select Academic Integrity Council (AIC) and Senate Appeals Committee (SAC) committee members is easily accessible has been fulfilled as this information is now posted on the Academic Integrity Office and Senate websites.

The Secretariats for the AIC and the SAC have also taken both strategic and tactical action to form decision-making Panels which are more representative of the diversity within the student body. Specifically, the University issued a call for applications to all students and faculty members using the following terminology:

Ideal candidates for all three bodies will have knowledge of and commitment to the importance of academic integrity, a commitment to an educative approach, be well versed in the recently revised version of Policy 60 and, most importantly, be committed to continuously learning about fair process for conducting hearings and making decisions. In addition to academic integrity issues, the SAC deals with grade and standing appeals, as well as cases of non-academic misconduct, so ideal candidates will have significant knowledge of the relevant policies and a similar commitment to their fair application and fair decision-making. Members will receive training on the applicable policies and procedures, as well as the principles of natural justice and administrative decision-making.

A diverse membership for all three bodies is important, so we aim to have representatives from all teaching Faculties, including the Yeates School of Graduate Studies and the Chang School. We are strongly committed to fostering diversity and welcome members who reflect a broad range of social demographics, including but not limited to socio-economic, racialized, Indigenous, ability, sexual orientation and gender identity diversity. The membership terms are for 1-2 years (renewable), and membership is limited to one of these bodies at a time.<sup>1</sup>

Interviews were then held with qualified applicants to select additional AIC and SAC Panel members. As a result of these extensive advertisement and interview processes, the commitment made by RU has been met and a much more comprehensive and transparent approach to the recruitment and selection of AIC and SAC decision-makers has been put into place as of 2015.

<sup>1</sup> "Details about Membership on the: Academic Integrity Council (AIC) Senate Appeals Committee (SAC) Designated Decision Makers Council (DDMC)" (2015), online: Senate Office at Ryerson University < <http://www.ryerson.ca/senate>>.

### Progress Made on Ombudsperson's Recommendations Accepted in 2015:

With respect to the University's implementation of the recommendation related to making use of explicit policy language and regular communiqués as it relates to the fair exercise of discretion I have been advised that this expectation is being addressed in the following ways: 1) as a key element of the comprehensive policy review that is being initiated in Fall 2015 for all course management, examination and academic consideration and appeals policies; 2) by including the importance of the fair exercise of discretion in the training for AIC and SAC Panel members; 3) by giving greater emphasis to this topic in the training provided to designated Department/School and Faculty level decision-makers.

With respect to the issue of ensuring that make-up exams are scheduled appropriately, the following expectations were articulated on November 7, 2014 via written correspondence to all faculty members: 1) The default response to a student missing an exam or other type of assessment for verifiable reasons is to provide a make-up, as opposed to redistributing the weight of the exam across other elements of the course. 2) If there are only two evaluations in the course, and/or the missed work is worth more than 30%, then a make-up must be provided. 3) Make-up exams are to cover the same material as the original assessment and be at an equal level of difficulty, but need not be of an identical format. In addition, examples of allowable exceptions were outlined such as group presentations, lab or studio where it is not possible to replicate the assessment a second time and a means for accommodating this type of missed work was provided in describing when it is acceptable to distribute the weight of the assignment over other course assessments. It was also confirmed that if a student misses a scheduled make-up of a midterm exam without a verifiable reason, a grade of zero may be assigned. A detailed explanation of the requirement to provide an Incomplete (INC) grade when students miss a final exam for a verifiable reason, and the timing and the criteria for a fair assessment process for addressing missed final exams and missed make-up final exams was also included.

With respect to the University's implementation of the recommendation related to emphasizing the expectation that student requests for assistance and extensions are handled in a timely, respectful and objective manner, I have been advised that this expectation will also be addressed in the upcoming comprehensive review of aforementioned course management, academic consideration and appeals and examination policies.

With respect to the assignment of INC grades I have been advised that discussions have been had with the Registrar's Office to gather information on the type of information they accept for confirming that students have agreed to the conditions of the INC grade. It is expected that the aforementioned comprehensive policy review will address the broader issue of how INC grades will be handled so that the communication is both timely and informative.

With respect to the University's implementation of the 2015 recommendations related to addressing the length of time taken to schedule AIC hearings the fulfillment of these are now complete as I have been advised that the new automated processes recently implemented will capture all of the relevant statistical data needed to monitor the relevant time frames.

# Compliments

I would like to commend the Registrar's Office for the launch of the Service Hub, a centralized place for students to go to when seeking information about a range of areas including student financial assistance, RAMSS support, tuition and fees, enrolling in courses, document pick-up and class and exam schedules. The consolidation of these service points suggests that it will be easier for students to access important information about a diverse range of topics on a face-to-face basis in one place. In addition, it is expected that the amalgamation of a number of service points will be especially beneficial to students who have complex and interconnected issues, allowing them to seek information and resolve issues at one location. The Hub design and atmosphere is also an inviting and comfortable location for students to go to when they have queries. The leadership shown in launching this important initiative was supplemented by a notable amount of planning and transitioning over a number of years and these efforts are deserving of recognition.

I would also like to commend the Office of Academic Integrity and the Senate Secretariat for the robust application and selection process developed to recruit additional members for the Senate Appeals Committee (SAC) as well as the Academic Integrity Council (AIC), and the first phase of Designated Decision Makers for the implementation of the newly revised Academic Integrity Policy. As the membership of these bodies is responsible for ensuring fair and equitable outcomes when deciding appeals of findings of academic misconduct for AIC and academic misconduct, non-academic misconduct and grade and standing appeals for SAC, it is essential to have a diverse complement of well-trained decision-makers of sufficient size so as to deliver fair and timely decisions.

I would also like to recognize the opening of the Student Learning Centre. The provision of a sizeable amount of new space on campus for students to meet and study in informal ways is a welcome addition to the campus. The diversity of study spaces available throughout the building, ranging from comfortable places for students to meet, to collaborative study rooms and designated quiet spaces, allows for a variety of both individual and group study needs. The unique and vibrant design of the Student Learning Centre creates an appealing aesthetic draw to the building, which is also home to Student Learning Support, the Digital Media Experience Lab (DME), and the Launch Zone. This was a large scale undertaking involving a number of different departments across the university over many years. Once again the leadership and sustained effort to create this dramatic addition to the campus, deserves to be recognized and commended.

## TESTIMONIALS

"Thank you to everyone who was working on my case and to say how much I appreciate the seriousness and scrupulosity, with which my case was analyzed."

# Recommendations Flowing from Concerns and Complaints (2014/2015)

**Nota bene:** Please be aware that in this annual report we do not provide descriptions of the individual cases dealt with by the Office of the Ombudsperson at RU. The reason for taking this approach is that all Ombudsman/person work must be undertaken in private so that the complainants' confidentiality is protected. In order to ensure that none of the people we work with conclude that their confidentiality has been compromised, the outcomes of our reviews and any specific recommendations that are made on individual cases are not included in this report. Rather, we report on cases in the aggregate and make only systemic and system-wide recommendations. As a result, the case references are necessarily generic in nature so as not to reveal the identities of those who have raised the concerns and complaints that are the basis for the following recommendations.

In order to provide recommendations that are likely to benefit the whole community we analyze the complaints received for indicators or trends that have systemic or system-wide implications. Surprisingly, a predominant theme that cuts across many of the discussions had and correspondence reviewed this year relates to the way in which some RU personnel have responded to situations that are devastating for the individual.

Specifically, it is not uncommon for students to make a request for alternative arrangements for an administrative or academic matter due to a personal circumstance that has a high degree of complexity and a profoundly negative impact. Examples of these kinds of complex scenarios include economic shortfalls that are wholly unanticipated such that all of the working members of a family are laid off due to recession in the local economy; or, students are suddenly required to fend on their own as there is a major schism in the family due to differing values and expectations for proper behaviour; or, the student is required to suddenly bear all the responsibilities of maintaining a household due to the death of a parent, guardian or spouse or has to manage family affairs from a distance; or, the student repeatedly falls ill and proper diagnosis and treatment is elusive; or, a student or a family member becomes embroiled in complicated legal processes, due to no fault of their own, which can be frightening, lengthy and very expensive.

In some instances, when difficulties of this nature are brought to the attention of Ryerson (RU) personnel in order to justify some form of academic or administrative consideration, a summary of the responses given is: 'Everybody has problems.' In addition, or as a stand-alone response, students can be advised in either a kindly or a brusque way to see a counsellor with the erroneous underlying premise being that a complex constellation of problems can be easily addressed through that one support system.

When comments of this nature are made after students have revealed deeply personal or in some instances what the speaker considers to be very embarrassing information, they approach our Office as they are either very angry or discouraged or both. When they speak to us about their anger or disappointment due to a dismissive or unkind response, we encourage them to try not to take it personally as it may be a reflection of the individual's personal discomfort rather than a considered effort to trivialize the situation. It may also reflect the reality that some staff and faculty members receive similar information from different people at different times and they may respond in what appears to be a cold manner in order to maintain their own composure. We also caution students not to assume that because someone they are dealing with does not appear to have an understanding or any experience of adversity, it doesn't mean that they never have in the past or that it is not the case currently.

Sometimes students will ask for academic consideration due to the death of a close family member immediately prior to or during the examination period and receive a response that simply states: 'The make-up exam is at the following time and date.' Or, the student is provided with a link to a policy. The student who has just lost a grandparent or aunt or uncle who has been their long term guardian or caregiver is understandably shocked by such a response and assumes the author of such a brief missive is uncaring.

When we hear about the types of situations outlined above it causes us to ponder how it is that such an initial response would be considered to be appropriate. The conclusion I have drawn in speaking with a variety of individuals about this type of response is that in some instances there is a reluctance to respond in an empathetic way so as not to be seen to be demonstrating partiality and thus lacking objectivity. Or, some will say they do not believe they are 'qualified' to deal with such difficult circumstances. This kind of thinking is ironical for two reasons:

- Firstly, the capacity to be impartial in making a decision about a request increases with the degree of empathy shown, as it is through our desire and attempt to understand the experiences that are brought to our attention, that we gain the best understanding that we can without necessarily having gone through the same experience ourselves. This more in-depth level of knowledge is crucial to making fair and equitable decisions.
- Secondly, there is no extraordinary qualification required in order to respond with empathy to a disclosure of sensitive information.



Also, it must be emphasized that an empathic reaction does not mean the request is granted as presented, rather a decision-maker's empathetic response is the precursor to looking into the request and then making a fair decision. The difference between empathy and agreement is well described by Valerie Couzo as "Empathy does not dictate an outcome or solve issues; it merely permits a [decision maker] to better understand the problems before her."<sup>2</sup> The benefit of having a better level of understanding is the opportunity it provides for balancing the interests of all of the parties involved and to appreciate the ramifications of the decision.<sup>3</sup>

So as to ensure there is a clear understanding of what I mean when using the term of 'empathy' I will provide a common definition as it is used in academic literature followed by examples of its practical application: "Mature empathy is thus a response to a network of cues from another's behavior, emotional expression, immediate situation and life condition."<sup>4</sup> Hence, there are both cognitive and emotional components.<sup>5</sup> This is the structural or theoretical framework of empathy. The practical application is seen in attempting to understand the perspectives of those seeking assistance or a decision, as well as one can. In addition, as explained by Beverley McLachlin, a senior Canadian jurist, a high level of empathy assists us to "...recognize the legitimacy of diverse experiences and viewpoints".<sup>6</sup> Chief Justice McLachlin also makes the crucial point that empathy does not mean adopting a particular viewpoint but rather it requires the decision-maker "...to attempt to imagine how each of the [parties] sees the situation".<sup>7</sup> Justice McLachlin also speaks frequently about the importance of staying connected to the reality of how others live and that in her own case, knowing and loving the law is insufficient, rather "**The test of true wisdom is to exercise your intellect with empathy and emotional imagination.**"<sup>8</sup> Another eminent jurist, when explaining how courts demonstrate accountability to the public while maintaining the requisite independence, states this is done: "through an empathetic hearing of [its] concerns, being open to the possibility that [its] concerns may be valid, and responding as effectively and quickly as possible when they are."<sup>9</sup> Once again, the emphasis on the importance of listening and responding empathetically is front and centre in the pursuit of fairness and justice. It is as important in any administrative setting, as it is in a court based environment, to demonstrate empathy as a key element of a fair decision-making process.

However, it must be acknowledged that making decisions fairly can be difficult. Conversely, simply responding in a kind and empathic way to a disclosure of personal difficulties is not particularly onerous.

The second concern that has arisen frequently this year, as well as in previous years, is the repeated documented unwillingness to provide a rationale for the denial of a request. This kind of reaction is difficult to understand when it is readily evident that great effort has been made to prepare a coherent and cogent foundation for the legitimacy of the request and to collect relevant documentation to demonstrate the veracity of the circumstances described in the request. Often the collection of such materials entails substantial financial costs, (e.g. translation costs, document production fees, transportation costs for going to a distant office to pick up a needed document, etc.) as well as considerable time and effort.

Examples where reasons are not provided when it seems obvious that they would be include: 1) declining to act on a petition; 2) declining a straightforward and properly supported request for a short extension; 3) denying a request for a meeting to discuss an urgent and complex matter; 4) declining to recommend a retro-active drop of a course; 5) declining a request for a leave, etc.

In these kinds of scenarios it is difficult to understand how someone receiving a carefully constructed submission would then conclude that a one word response such as 'no' or 'denied' would ever be considered to be sufficient or fair, regardless of the time constraints or personal circumstances of the individual providing the decision. In my view, this unwillingness to provide reasons may be another example of a lack of empathy, as if the decision-maker considered the negative impact a one or two word denial would have on the applicant, then it is likely that the reasoning for the denial would have been provided as a matter of course.

Another example to reflect on relates to commentary that can be found in some course outlines. By way of background it is important to keep in mind that the preambles to the *Course Management Policies* in place for Continuing Education, Graduate and Undergraduate students require that Program Directors/Chairs/Directors ensure that all course outlines are consistent with policy requirements.

<sup>2</sup> Veronica Couzo "Sotomayer's Empathy Moves the Court a Step Closer to Equitable Adjudication" (2013) 80, *Notre Dame Law Review* (2013) 403 at 408.

<sup>3</sup> *Ibid.*

<sup>4</sup> Martin L. Hoffman, "Empathy, Justice and the Law" In Amy Coplan and Peter Goldie (eds.) *Empathy: Philosophical and Psychological Perspectives* (Oxford Scholarship Online (2012) at 14.1.4. (b)).

<sup>5</sup> Martin L. Hoffman, "Empathic Emotions and Justice in Society" (1989) 3, *Social Justice Research*, 283 at 284.

<sup>6</sup> Beverley McLachlin, "Remarks of the Right Honourable Beverley McLachlin, P.C. for Retirement Ceremony of the Honourable Claire L'Heureux-Dubé" (10 June 2002), online: Supreme Court of Canada <<http://www.scc-csc.gc.ca>>.

<sup>7</sup> *Ibid.* at 9.

<sup>8</sup> Margaret Wente, "The Making of Beverley McLachlin" *The Globe and Mail* (9 November 1999).

<sup>9</sup> Rosalie Silberman Abella, "Professionalism Revisited" Opening Address at Benchers' Retreat Law Society of Upper Canada, Ontario, (14 October 1989) online: <[www.ontariocourts.ca](http://www.ontariocourts.ca)>.

## Recommendations Flowing from Concerns and Complaints (2014/2015) (cont'd)

However, examples of information included in some course outlines that does not comport with the University's course management policy requirements include:

- 1) No extensions will be given
- 2) Medical documents must be provided within 3 working days – no exceptions [without including the very important caveat of unless due to extenuating circumstances it is not possible to do so]
- 3) No make-up exams will be given

The inclusion of this type of information in some course outlines suggests they may not have been reviewed in detail or not as frequently as may be necessary.

Another area that has been notable this past year is the lateness of responses to academic grade and standing appeals in multiple instances across a wide spectrum of the University. I have seen documented instances of appeal responses being delayed for weeks to months with no reasonable explanation provided for the delay. Once again, such lengthy and unexplained delays suggests a lack of empathy for the student in this situation as the lack of a response makes it impossible to move forward and/or make feasible contingency plans. It is also important to acknowledge that the students' family members may also be negatively affected by lengthy delays as the determination as to whether the student will continue with their program or remain terminated or who may not proceed with the next term due to the lack of a prerequisite may have a weighty financial impact. In addition, a much delayed response can eliminate the viability of proceeding to additional levels of appeal as the time frame is such that a positive decision at another level will be delivered too late for it to be of value to the student.

### RECOMMENDATION 1:

That it is expected, and that the University promulgates this expectation in its policy development and communications that all personnel approach their interaction with students (as well as fellow staff and faculty members) so as to "...relate to each other as cooperating partners in a joint enterprise."<sup>10</sup> This type of relationship is only possible when each of the partners attempts to understand the others' perspectives by demonstrating a high degree of empathy.<sup>11</sup>

### RECOMMENDATION 2:

That the key foundational document that describes the faculty member's expectations for the student in a course, that being the course outline, be carefully reviewed on an annual basis to ensure the content is consistent with the applicable policies and does not allow for an institutionally sanctioned lack of empathy.

### RECOMMENDATION 3:

That a mechanism be put in place such that if a student does not receive an appeal response within the required time line or after a reasonable time frame due to a justifiable circumstance, that the Dean's Office or the Secretary of Senate implements a protocol whereby a replacement decision-maker is put into place immediately. Similarly, provision must be made for interim decision-makers to be appointed when it is known in advance that the required time line is impossible to meet due to research activities, lengthy vacation periods or personal circumstances. In addition, when circumstances arise unexpectedly that prevent the decision-maker from meeting the deadline, the aforementioned protocol should provide for an easily implemented means for providing a back-up person to fulfill this function.

## TESTIMONIALS

"I just wanted to thank you again for all of the effort and time you have spent on this."

<sup>10</sup> John Deigh, "Empathy, Justice and Jurisprudence" (2011) 49 The Southern Journal of Philosophy, Spindel Supplement, 73 at p. 74.

<sup>11</sup> *Ibid.* Please be aware that my views on the benefit of adopting this type of approach have also been influenced by Lorne Sossin's view of the interdependence of the individuals who make decisions and those who request them within an administrative environment as described in "An Intimate Approach to Fairness, Impartiality and Reasonableness in Administrative Law" 27 Queen's Law Journal 809. Please note that Dr. Sossin's definition of intimacy is that of "inward knowledge" or knowledge that is derived from observation and understanding. (See p. 857 at Footnote 1.)

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

January 13, 2016

Ms. Nora Farrell  
Ombudsperson  
Ryerson University

## RE: THE OMBUDSPERSON'S 2014-2015 ANNUAL REPORT

Dear Ms. Farrell,

We wish to thank you for your 2014–2015 Ombudsperson's report. Please find below our comments and responses to your recommendations.

### PROGRESS ON THE OMBUDSPERSON'S 2013-14 REPORT

We are pleased to see that there has been progress in the areas you identified as concerns in your 2013-14 report. As you note, the current review of Senate policies regarding course management, examinations, and academic consideration and appeals is a key route for establishing and communicating how decisions in these areas will be made with the fair exercise of discretion. The Academic Governance and Policy Committee, a standing committee of Senate, is the steering committee for the *ad hoc* Academic Policy Review Committee, which began meeting in the Fall of 2015. The committee is gathering information regarding policies and procedures in these areas at other universities, plans to consult widely with the Ryerson community, and has created its first working-group, which is tasked with determining the principles and values that will guide the content of the policies. And, as you mentioned, recruitment and training for Senate Appeals Committee (SAC) members, Academic Integrity Council (AIC) members, and other decision-makers has already benefitted from the inclusion of more information about the decision-making bodies, an effort to have the bodies reflect more diversity, and examples and discussion regarding the fair exercise of discretion.

### RESPONSES TO THE 2014-15 REPORT

There are three recommendations in this year's report, to which we have responded below:

#### RECOMMENDATION 1:

That it is expected, and that the University promulgates this expectation in its policy development and communications, that all personnel approach their interaction with students (as well as fellow staff and faculty members) so as to "...relate to each other as cooperating partners in a joint enterprise."<sup>1</sup> This type of relationship is only possible when each of the partners attempts to understand the others' perspectives by demonstrating a high degree of empathy.<sup>2</sup>

*The University understands the Ombudsperson's general concern that students be treated with respect, and that demonstrating respect often includes the ability to appreciate a student's situation and perspective. It is expected that the current review of policies related to course management, examinations, and academic consideration and appeals will continue to include and will elaborate on the University's perspective on this issue, partially described by the statement in Ryerson's Senate Policy 134, "That academic judgments by faculty will be fair, consistent and objective, and recognize the need to grant academic consideration, where appropriate, in order to support students who face personal difficulties or events." In addition, Policy 145 states that, "In a university setting, learning is a shared enterprise in which faculty and students come together in an environment influenced by their disciplines, academic programs, the University, broader intellectual traditions, and the values and priorities of the community at large." As part of the implementation of the anticipated revisions arising from the review of these policies, and others, the University will continue to communicate these values and expectations to the Ryerson community.*

*Of special note is your concern that denials of student requests be accompanied by a rationale. Specifically, in the context of grade, academic standing, and academic misconduct appeals, if a policy allows for exceptions under extraordinary circumstances, we are striving to ensure that decision letters denying the granting of such exceptions provide a suitable explanation.*

#### RECOMMENDATION 2:

That the key foundational document that describes the faculty member's expectations for the student in a course, that being the course outline, be carefully reviewed on an annual basis to ensure the content is consistent with the applicable policies and does not allow for an institutionally sanctioned lack of empathy.

*As you note, Ryerson's Senate policies for undergraduate and graduate course management state that, "It is the responsibility of Chairs and Directors to ensure that course outlines are produced and meet policy requirements." The University will continue to improve its efforts to provide guidance to faculty members on the content and format of their course outlines, as well as its efforts to inform Chairs and Directors of their responsibility to review outlines in their schools and departments. The Senate Office shall, on an annual basis, remind Chairs and Directors of this responsibility. The University will also explore additional avenues to communicate this information.*

#### RECOMMENDATION 3:

That a mechanism be put in place such that if a student does not receive an appeal response within the required time line or after a reasonable time frame due to a justifiable circumstance, that the Dean's Office or the Secretary of Senate implements a protocol whereby a replacement decision-maker is put into place immediately. Similarly, provision must be made for interim decision-makers to be appointed when it is known in advance that the required time line is impossible to meet due to research activities, lengthy vacation periods or personal circumstances. In addition, when circumstances arise unexpectedly that prevent the decision-maker from meeting the deadline, the aforementioned protocol should provide for an easily implemented means for providing a back-up person to fulfill this function.

*The Secretary of Senate has responsibility for the training and monitoring of decision-making for academic appeals, and will continue efforts to ensure that decisions are issued in a timely manner. As part of that process, the Secretary will enhance efforts to maintain the list of decision-makers at the Department/School and Faculty levels, communicate with Chairs/Directors and Deans regarding the status of those designated to respond to appeals on their behalf, and respond to inquiries from students regarding the timeline for processing their appeal. We note that not responding to an appeal in the time period described by policy can constitute grounds for a Procedural Error at subsequent stages of appeal, which acknowledges the importance of a timely response.*

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

Sincerely,



Chris Evans  
Interim Provost and  
Vice-President, Academic



Janice Winton  
Vice-President,  
Administration and Finance

<sup>1</sup> John Deigh, "Empathy, Justice and Jurisprudence" (2011) 49 The Southern Journal of Philosophy, Spindel Supplement, 73 at p. 74.

<sup>2</sup> *Ibid.* Please be aware that my views on the benefit of adopting this type of approach have also been influenced by Lorne Sossin's view of the interdependence of the individuals who make decisions and those who request them within an administrative

environment as described in "An Intimate Approach to Fairness, Impartiality and Reasonableness in Administrative Law" 27 Queen's Law Journal 809. Please note that Dr. Sossin's definition of intimacy is that of 'inward knowledge' or knowledge that is derived from observation and understanding. (See p. 857 at Footnote 1.)

# The Year in Numbers

## Types of Concerns 2014/2015<sup>12</sup>

	14/15	13/14	12/13	11/12	10/11	09/10	08/09	07/08	06/07
<b>TOTAL</b>	<b>520</b>	<b>483</b>	<b>593</b>	<b>617</b>	<b>571</b>	<b>579</b>	<b>586</b>	<b>558</b>	<b>606</b>
ACADEMIC ADVICE <sup>13</sup>	151	133	192	177	138	104	103	92	106
ACADEMIC APPEALS <sup>14</sup>	83	95	102	103	107	169	158	142	165
ACADEMIC MISCONDUCT	55	41	49	61	70	65	83	64	57
ACCESSIBILITY	21	18	27	25	33	10	12	11	5
ADVANCEMENT & DEVELOPMENT	0	0	0	0	1	0	0	0	1
ADMISSIONS (UNDERGRADUATE)	15	20	20	11	17	10	15	25	35
ADMISSIONS (GRADUATE)	1	3	4	5	4	5	6	5	4
ANCILLARY SERVICES	0	1	1	2	1	1	0	1	1
CAMPUS PLANNING & FACILITIES	0	2	0	3	0	1	0	0	2
CONDUCT – INSTRUCTOR/FACULTY	61	51	62	53	57	78	43	42	45
CONDUCT – STAFF	8	8	8	8	13	14	12	11	12
CONDUCT – STUDENT	3	4	4	8	9	4	7	9	11
CONFIDENTIALITY	1	3	0	0	4	5	1	0	3
CURRICULUM ADVISING <sup>15</sup>	7	4	11	3	7	7	11	18	17
ENROLLMENT SERVICES	23	17	29	45	24	37	41	35	44
FEES	8	27	14	21	7	7	20	24	18
FINANCIAL ASSISTANCE	24	16	18	20	16	9	15	13	14
INFORMATION REQUESTS – NO COMPLAINT	0	3	1	5	2	7	4	9	7
LIBRARY	0	1	0	4	2	2	1	1	1
OUTSIDE JURISDICTION	14	9	13	13	13	8	13	9	7
PRACTICUM/PLACEMENT (ADMINISTRATION & AVAILABILITY)	22	5	9	11	4	2	7	9	11
REINSTATEMENT/READMISSION	5	6	11	14	27	17	15	26	25
RESIDENCE	1	0	2	1	3	7	4	3	2
SAFETY & SECURITY	2	3	2	5	2	1	2	3	5
SPORTS & RECREATION	0	0	2	0	1	0	0	1	1
STUDENT SERVICES <sup>16</sup>	6	6	6	8	4	1	2	2	2
STUDENT UNIONS/ASSOCIATIONS	8	7	5	8	3	5	8	2	4
TEAM WORK	1	0	1	3	1	2	2	0	1

<sup>12</sup>The following categories have been removed from the 2014/15 Annual Report as the number of concerns for these very specific categories is minimal on a comparative basis: Student Media, Convocation & Awards and Exchange Programs.

<sup>13</sup>This category includes concerns regarding not being able to easily access academic advice from a knowledgeable person.

<sup>14</sup>Includes Grades and Academic Standing.

<sup>15</sup>Including Transfer Credits and Challenge Credits.

<sup>16</sup>Including application of Student Code of Non-Academic Misconduct.

## Status of Individuals Bringing Forward Concerns & Complaints

	14/15	13/14	12/13	11/12	10/11	09/10	08/09	07/08	06/07	05/06	04/05
<b>CONSTITUENCY</b>											
ALUMNAE	7	6	11	10	8	11	22	6	22	27	10
APPLICANT	10	23	18	13	17	13	25	27	40	29	15
CONTINUING EDUCATION/PART-TIME DEGREE	62	79	81	87	76	106	95	82	87	92	85
FULL-TIME DEGREE	322	283	401	416	406	368	385	375	394	372	375
GRADUATE STUDENTS	58	58	40	49	27	41	25	32	31	14	10
MISCELLANEOUS (PARENTS, STAFF, ETC.)	61	34	42	42	37	40	34	36	32	39	40
<b>TOTAL</b>	<b>520</b>	<b>483</b>	<b>593</b>	<b>617</b>	<b>571</b>	<b>579</b>	<b>586</b>	<b>558</b>	<b>606</b>	<b>573</b>	<b>535</b>

## 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).

	14/15	13/14	12/13	11/12	10/11	09/10	08/09	07/08	06/07	05/06	04/05
<b>ACTION TAKEN</b>											
ADVICE & REFERRAL	397	382	484	511	482	493	471	452	434	386	364
INFORMATION	5	10	1	3	1	2	10	8	9	23	51
INTERVENTION – CLARIFYING	37	33	48	37	39	42	43	36	79	82	62
INTERVENTION – MEDIATION	0	1	1	3	1	0	1	1	1	0	2
INTERVENTION – SHUTTLE DIPLOMACY	63	44	43	49	31	25	31	42	61	62	45
INVESTIGATION	18	13	16	14	17	17	30	19	22	20	11
<b>TOTAL</b>	<b>520</b>	<b>483</b>	<b>593</b>	<b>617</b>	<b>571</b>	<b>579</b>	<b>586</b>	<b>558</b>	<b>606</b>	<b>573</b>	<b>535</b>

### Website Activity

The Office of the Ombudsperson website was completely redesigned and re-launched on August 31st, 2014. The newly designed website was created to improve access to key information and to create a more user friendly and aesthetically appealing interface. The re-design was guided by statistical analysis so as to improve and centralize the most viewed content by previous users.

The website provides information and links to frequently consulted policies, procedures, deadlines and contact points at Ryerson, allowing users to acquire the knowledge they need to prevent academic or administrative problems from arising or if they do, to resolve them without ever having to contact our Office directly.

As part of the site re-development, the method of collecting user statistics changed, therefore we are not including historical data for comparative purposes as it would have no value. As a result, this report shows the information collected from the launch of the new website from August 31 2014 until August 31, 2015 so as to reflect a twelve-month period. As we are now using a more sophisticated tool for analyzing users which eliminates the potential for automated users (a.k.a. bots) from being included in the count, we expect to see a lower number of total users compared to previous years. We analyze user activity on an ongoing basis so as to provide information that is easily accessible and the use of which will prevent problems from arising and increase the opportunities for addressing issues in a timely and constructive manner.

The most frequently consulted webpages during the reporting period were the homepage and the pages providing information to students on how to drop courses, and what to do in the case of missed exams or classes. A total of 51% of users were repeat users, showing that more than half of the users returned to the site more than once to review the information available.

The table below provides a summary of key user information as it was collected from August 31, 2014 – August 31, 2015. As explained earlier, there is no historical data provided for comparative purposes as the new data collection system differs so dramatically from the system used previously.

Year	Total Users	Average number of visitors/month	Months with most traffic (top 3 in descending order)	% increase monthly from previous year
2014/2015 <sup>17</sup>	8,611	718	March, April, January	n/a

### TESTIMONIALS

“I cannot thank you enough and express how much this helps my academic career.”

<sup>17</sup>The statistics presented in this chart were collected from August 31, 2014 to August 31, 2015

# Fifty Years of Fairness in Canada

2015 marks '50 Years of Fairness' as provided by Ombuds/man/person Offices in Canada. The first Ombudsman role was established at Simon Fraser University in Vancouver, BC in 1965 with John Mynott filling this position. Notably, this is the first academic Ombuds role to be established in North America.

## A Definitive Statement:

The quintessential definition of the Ombuds/man/person role as articulated by Justice Brian Dickson formerly of the Supreme Court of Canada is:

The Ombudsman represents society's response to these problems of potential abuse and of supervision. His unique characteristics render him capable of addressing many of the concerns left untouched by the traditional bureaucratic control devices. He is impartial. His services are free, and available to all. Because he often operates informally, his investigations do not impede the normal processes of government. Most importantly, his powers of investigation can bring to light cases of bureaucratic maladministration that would otherwise pass unnoticed. The Ombudsman "can bring the lamp of scrutiny to otherwise dark places, even over the resistance of those who would draw the blinds": *Re Ombudsman Act (1970)*, 72 W.W.R. 176 (Alta. S.C.), per Milvain C.J., at pp. 192-93. On the other hand, he may find the complaint groundless, not a rare occurrence, in which event his impartial and independent report, absolving the public authority, may well serve to enhance the morale and restore the self-confidence of the public employees impugned.

In short, the powers granted to the Ombudsman allow him to address administrative problems that the courts, the legislature and the executive cannot effectively resolve.<sup>18</sup>

## TESTIMONIALS

"It has been fixed and I really appreciate your help. Thank you so much, you do not know what this means to me."

<sup>18</sup>British Columbia Development Corp. v. British Columbia (Ombudsman) [1984] 2 S.C.R. 447

# Upcoming Developments

The Office of the Ombudsman for Ontario has been lobbying for increased jurisdiction in a variety of public sector domains since the Office was first established in 1975 and led by Arthur Maloney. In 2014 the Ontario legislature passed the *Public Sector and MPP Accountability Act and Transparency Act* which expanded the jurisdiction of the Ombudsman to include municipalities, school boards and universities. As of September 1, 2015 the Office of the Ombudsman began accepting complaints about school board administration and as of January 1, 2016 complaints about Universities' and municipalities' administrative actions will be accepted.

The Ombudsman for Ontario is an independent Officer of the Legislature whose authority and actions are set out in the *Ombudsman Act*. This office has jurisdiction over provincial ministries, Crown corporations, tribunals, agencies, boards and commissions which include more than 1000 different entities (500 prior to the expansion of jurisdiction and 548 more with the addition of municipalities, school boards and universities).

## THE KEY CHARACTERISTICS OF A CANADIAN OMBUDSMAN/PERSON OF GENERAL JURISDICTION TYPICALLY INCLUDE:

- An independent structure and an impartial approach
- Investigative authority and all the requisite powers needed for conducting investigations effectively
- The work is conducted in private and complainants' names will not be released
- The majority of the work is handled on an early resolution basis and the bulk of the complaints are handled very quickly
- The Office undertakes systemic and system-wide investigations and has the authority to investigate issues on an 'own initiative' or 'own motion' basis in addition to inquiring into individual complaints
- This is an Office of last resort such that all existing internal appeal mechanisms and local Ombudsman/person or oversight authorities must be exhausted before a complaint will be accepted by the Office of the Ombudsman/person.

## ONTARIO OMBUDSMAN'S DESCRIPTION OF HOW THE OMBUDSMAN OFFICE WORKS IN ONTARIO:

1. We assess all complaints and refer them to relevant mechanisms for quick resolution wherever possible.
2. If existing mechanisms are unsuccessful, we may contact the organization in question for more information.
3. We will attempt to resolve the issue, but if an investigation is necessary, the organization will receive written notice and will be required to provide relevant information and documents.
4. If the Ombudsman makes recommendations, the organization under investigation is given a chance to respond before any report is made public.
5. The Ombudsman follows up on all recommendations to ensure they are implemented and have the desired effect.<sup>19</sup>

For more detailed information and to review the annual reports and special reports issued by the Ombudsman's Office, visit the Ombudsman Ontario website at this URL:  
<https://www.ombudsman.on.ca>

In order to explain how the Ombudsman for Ontario would operate when the expanded jurisdiction came into effect, the Ontario Ombudsman from 2005 – 2015, penned an explanatory op-ed early in 2015. The following excerpt demonstrates the expectation that complainants must first approach local accountability mechanisms, (e.g. University Ombudsperson), prior to lodging a complaint with the Ontario Ombudsman Office.

7. We will work with local accountability mechanisms and refer issues back to them wherever possible. My job is to oversee and ensure government bodies work properly, not do their work for them. When we investigated the effectiveness of the Special Investigations Unit, or the monitoring of the use of force by correctional officers, we didn't redo the provincial bodies' investigations. We figured out ways to help them work better. So it will be for municipalities, universities and school boards. If there's a municipal integrity commissioner or a university ombudsman in place, great! Local authorities are best placed to handle local issues. We will step in where they can't — or won't — be effective. (Your municipality can still hire its own closed-meeting investigator instead of using the free services of our office if it chooses, but that's a topic for another day.)<sup>20</sup>

<sup>19</sup> "How we work" (2015) online: Ombudsman Ontario < <https://www.ombudsman.on.ca> >.

<sup>20</sup> André Marin, "Bill 8 good news for Ontarians" Toronto Sun (3 January 2015), online: Toronto Sun < <http://www.torontosun.com/2015/01/03/bill-8-good-news-for-ontarians-ombudsman-andre-marin> >.



## In Appreciation

We recognize what a great privilege it is to assist individuals to resolve their concerns fairly and we take this responsibility very seriously. We also recognize through daily discussions that given our ‘arms-length’ vantage point we are often the first to have the benefit of a 360 degree view of the problem. As a result, we are in an excellent position to assist all those involved to also try to view the issues from everyone’s perspective. We are grateful to all of the RU community members who engage with us in a constructive and open manner so as to ensure that all concerned have the opportunity to express their views and to work toward the ultimate goal of fair treatment for all concerned.

I would also like to recognize the membership of the Ombudsperson Committee for their respect of the impartiality, confidentiality and independence of the Office and their willingness to provide input, advice and commentary in a timely and considered manner.

I would also like to acknowledge the dedication of the staff of the Office of the Ombudsperson at RU. Firstly, Ms. Heather McGhee Peggs who began working with this Office in 2005 provided ongoing assistance for the next ten years on both a full-time and part-time basis. In the Fall of 2015 Heather accepted the position of Manager, Conflict Resolution Support Centre at the University of Toronto. We are very grateful for the enthusiasm and energy and thoughtful analysis that characterized Heather’s approach and wish her all the best in this important new role at the University of Toronto.

Secondly, I would like to thank Ms. Gemma Kerr who brings a wealth of dispute resolution skills to the role of Interim Assistant Ombudsperson and demonstrates a high degree of sensitivity, clarity and proactivity in all of her consultations.

Finally, I would like to acknowledge the contribution of Ms. Stephanie Lever who conscientiously served as our Administrative Assistant on a part-time basis from 2003 – 2014. We wish her well in the pursuit of her many creative activities.

Respectfully submitted:

Nora Farrell  
Ombudsperson at Ryerson University

# Appendices

## APPENDIX 1:

### About the Office

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

#### STAFFED BY:

**Nora Farrell,**

Ph.D., LL.M. (Osgoode), M.Ed. (UBC) Ombudsperson

**Gemma Kerr,**

B.Sc. (Dublin City), M.Ed. (Trinity) Interim Assistant Ombudsperson

**Heather McGhee Peggs,**

B.A. (Queen's), LL.B. (UBC) Assistant Ombudsperson (2005 – 2015)

## APPENDIX 2:

### The Terms of Reference of the Ombudsperson

#### 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.

#### 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.<sup>21</sup>

## TESTIMONIALS

“I am so impressed with how seriously confidentiality is taken.”

<sup>21</sup> 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>>.

### APPENDIX 3:

## Information Illustrating the Size of the Ryerson University Community<sup>22</sup>

### STUDENT ENROLMENT, FFTE<sup>23</sup> 2009-2015

Year	Undergraduate Students	Graduate Students
2014/2015	28,963	1,961
2013/2014	27,369	1,940
2012/2013	25,466	1,931
2011/2012	24,161	1,905
2010/2011	23,237	1,805

### CONTINUING EDUCATION STUDENT ENROLMENT 2009-2014

Year	Continuing Education Students, FFTE	Continuing Education Course Registrations
2014/2015	2,673	67,735
2013/2014	3,077	69,549
2012/2013	3,046	68,294
2011/2012	2,213	69,108
2010/2011	2,412	68,532

### TEACHING AND STAFF COMPLEMENT 2009-2014

Year	Tenure/ Tenure Track Faculty	CUPE 1 Part-time and Sessional Instructors	CUPE 2 Continuing Education Instructors <sup>24</sup>	Staff (FFTE)
2014/2015	856	261	483	1,950
2013/2014	847	250	490	1,905
2012/2013	832	229	431	1,800
2011/2012	808	220	486	1,803
2010/2011	778	228	464	1,718

<sup>22</sup> "University Planning Office, Key Statistics" (2014), online: Ryerson University <<http://www.ryerson.ca/upo>>.

<sup>23</sup> *Ibid.* 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, E.g. If a program normally includes 20 hours of instruction, a student enrolled in 15 hours of courses would generate 0.75 FFTE (15/20).

<sup>24</sup> 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 2010/2011 to 2014/2015.

