

ANNUAL REPORT 2016 TO 2017

OFFICE OF THE OMBUDSPERSON CONFEDERATION COLLEGE

the
**Ombuds
Office**

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 Confederation
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Executive Summary

Each year, through the Ombuds Annual Report, the Ombudsperson informs the college community of their findings and recommendations. I am very pleased to present the 2016 – 2017 Annual Report which also describes the operations of the Ombuds Office this past academic year from September 1, 2016 to April 30, 2017. The annual report is considered a measure of accountability and a means to effecting and facilitating systemic changes in either policy, practice or both.

This report is based solely on the 133 students and 42 employees who visited the Office, and the experiences and insights which they so nobly shared. The report includes statistical information and identifies emerging or problematic trends.

Upon analysis of the data, two systemic issues were identified: the appropriate application of accommodation practices and the academic dispute resolution's informal stage as an effective means to resolution. Inter-related themes found throughout this report are: accessibility, accountability and transparency.

Introduction

The issues that have arisen throughout the year necessitate a need for close internal scrutiny, reflection, discussion and action. Two predominating issues, accommodation and the application of the informal process in academic dispute resolution include the core element of fairness – both perceived and actual. Students who experienced these issues felt compelled to speak out, to seek change and to find redress for what they saw as unfair treatment at the institutional level. Their concerns related to accessibility, trust and accountability at all levels.

Of note this year is what I view to be the beginning of a trend towards a rights-based perspective on these issues. Students consistently express their rising expectations of what they are entitled to receive. They want to be seen as being relevant - at the heart of the college, informed, engaged and driving positive change on issues that matter.

Mandate and Structure

The Ombuds Office was established to ensure that students received a fair hearing of their concerns. The Office, introduced in January of 2008 was established via a shared funding agreement with the College and the Student Union of Confederation College Inc. (SUCCI). The Office is staffed with a part time Ombudsperson who reports to the Presidents of the College and SUCCI but never on individual cases or concerns.

The Ombuds Office was created to assist and advise students in the just, fair and equitable resolution of college-related concerns. The Office acts as an independent, impartial, informal and confidential resource and service to the college community on student-related concerns and questions of fairness.

The Ombuds provides students with the tools and coaching they will need to advocate successfully on their own behalf; to understand the policies and procedures and their implications as well as their rights and responsibilities; and to make informed decisions, access pertinent resources and learn constructive approaches for raising and addressing concerns.

Neutrality and the independence of the Ombuds Office is the basis from which impartial advice and feedback are provided. The Ombudsperson follows the principles of fairness and natural justice, and helps to resolve concerns at the appropriate level.

The Ombuds Office follows the [standards of practice](#) of the Association of Canadian College and University Ombudspersons (ACCUO) and the [code of ethics](#) from the International Ombudsman Association (IOA). Terms of Reference for the Ombudsperson can be found on the Ombuds website at: www.confederationcollege.ca/ombuds/other.

The Ombuds Office Annual Report 2016 / 2017
Confederation College

How the Office Operates

The Ombuds Office is a safe place for a confidential discussion on issues of concern, conflicts or complaints. The main function of the Office is to help resolve these in an objective and impartial manner and also provide valuable advice and guidance for successful problem solving and relationship building.

Since conflict which occurs in college is ubiquitous, the best approach is through an informal means to resolution. The Ombuds Office is committed to good governance, natural justice and the provision of reasonable accommodations. The main goals are to facilitate fair resolutions; assist students to employ the tools of reflection, appreciative inquiry and respectful dialogue; and to change through empowerment and recognition.

The Ombuds assists students through a variety of roles:

- Educator (sets out the process, understands policies and procedures)
- Empathic listener and triage (understands the concern from the student's perspective; students feel heard and can defuse strong negative emotions)
- Catalyst (on the students themselves to follow through)
- Translator (conveys competing outcomes in a way that sounds reasonable, logical and impartial, explores different perspectives)
- Coach (engages students in best practices for resolving conflict)
- Guide (assists with analysis and pointing the way through complex situations)
- Bearer of bad news (with sensitivity and without escalation of hostility)
- Scapegoat (assists the parties to have greater awareness of the realities of the environment while upholding our values and core beliefs)
- Mediator (helps those involved to see the concern with new eyes, with wisdom and compassion; encourages individuals to let go of their justifications or the need to defend or blame, and to actively seek out creative options to support students' success)
- Lookout (attuned to situations and issues that may affect many more students)

Education and Skills Training for Students and Employees

- All day workshop 'Basic Conflict Resolution for Student Leaders' attended by 16 students and acknowledged in their co-curricular records
- Presentations to employees: 'Managing Conflict Mindfully' attended by 14 faculty and staff
- Presentation to SUCCI Board: 'Diversity and Racism'
- Eleven regional students participated in three, one hour presentations conducted through technology enabled learning
- Published article for students and employees, 'Courageous Communication'

Outreach and Consultation

- Student orientation, student services, campus and access fairs
- Meetings held with Chairs, Executive Dean's Committee, Academic Council, College Planning Committee, SUCCI Board of Directors, Senior Leadership Team
- Published four postings on the College website e.g. Facebook, Staff Update and Student Update
- Meeting held with faculty from Health and Community Services and Negahneewin regarding academic accommodations and the Ontario Human Rights Commission
- Consulted by faculty in the region regarding student conduct during online courses
- Member of Respect Committee, Managers Group, Sexual Assault and Sexual Violence Committee (SASV), and the Working Group for the Centre for Policy and Research in Indigenous Learning
- Member of Sub-Committees: Respect, Employee Approach; SASV, Student Approach; and Centre for Policy and Research in Indigenous Learning, and Bawaajigan
- Consulted on academic accommodation, resolving student conflicts, key messages for regional students and policy development or revisions e.g. Academic Integrity Policy, Academic Plan, Promotion Committee Practical Nursing Policy, and Student Assessment and Evaluation Procedure

Professional Accountability

- Completed the online course, Ontario Metis from Confederation College
- Completed the requirements of the Aboriginal and Canadian Relations Certificate Program, Confederation College
- Completed the pilot course, Indigenous Governance, Confederation College
- Completed the online course, Reconciliation Through Indigenous Education, the University of British Columbia
- Achieved the certificate for Indigenous Learning Outcomes, Confederation College
- Completed two training sessions required to provide education through SABA / Centra (enabled technology learning)
- Member of the Indigenous Book Club
- Member of the Association of Canadian College and University Ombudspersons (ACCUO)
- Participated in the Annual ACCUO / Forum of Canadian Ombuds which included presentations and discussions on topics unique to the profession
- Participated in the ACCUO teleconference, 'Practice Conversations'
- Attended 'Welcome Back' and 'Confederation Day'

Feedback from Students and Employees

“I had a very good experience. Informative and collaborative approach.” (Student)

“Being able to learn about myself and how I handle conflict.” (Student)

“Very informative and interesting workshop.” (Student)

“I think the College should inform students every semester so that everyone is aware of the Ombuds and how she can help us.” (Student)

“I am fully satisfied with the steps taken by the Ombuds for my case.” (Student)

“I really appreciated her concern towards my request in the respective issue.” (Student)

“The Ombuds helped me understand what I could do to help myself.” (Student)

“Your session was great and I’m glad I signed up.” (Faculty)

“Your words are good reminders.” (Faculty)

“Thanks for the chat yesterday. I was struggling with that decision and you really helped.” (Faculty)

“As always, very helpful and deeply appreciated.” (Academic administrator)

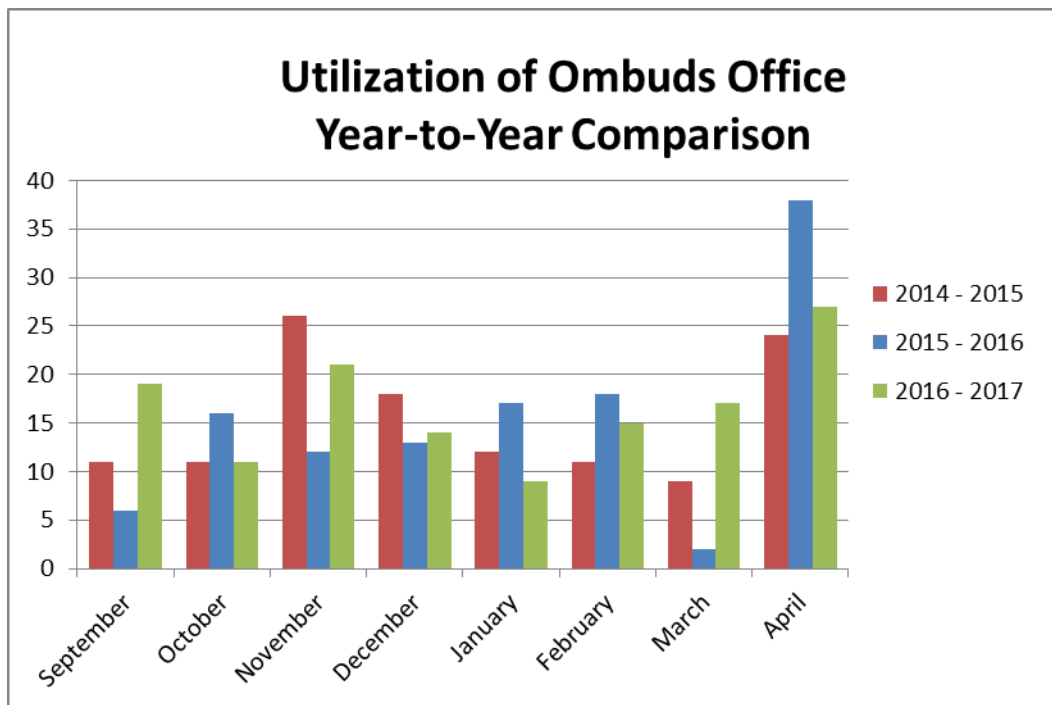
“This is really helpful Kim! I promise to follow-up and look forward to making a difference. Thank you for meeting with me and sharing what you are learning!” (Academic administrator)

“Thank you for your feedback, its greatly appreciated, and I am pleased with your suggestions. I think they are very worthwhile exploring.” (Staff member)

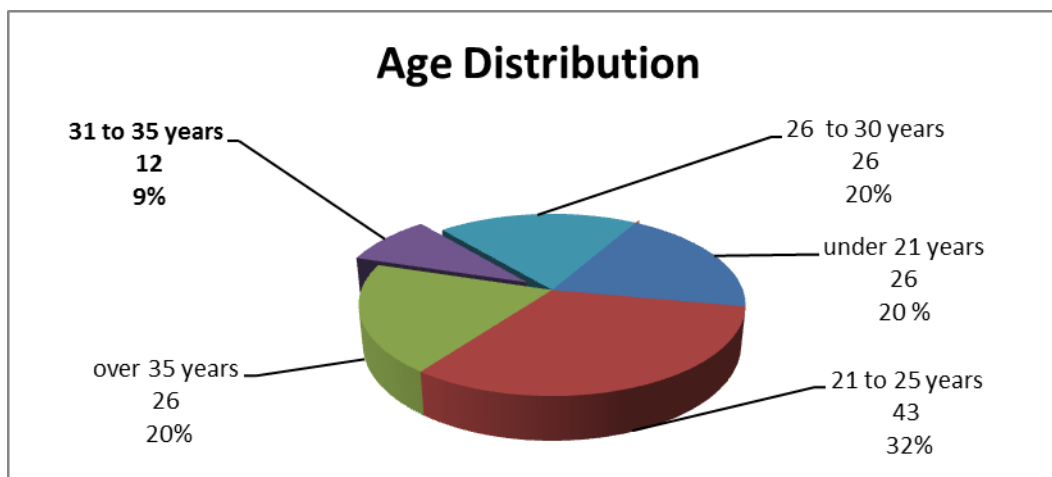
Statistics

Note: The following graphs reflect the experience of 133 students who utilized the Ombuds service and is representative of 4% of the total College population.

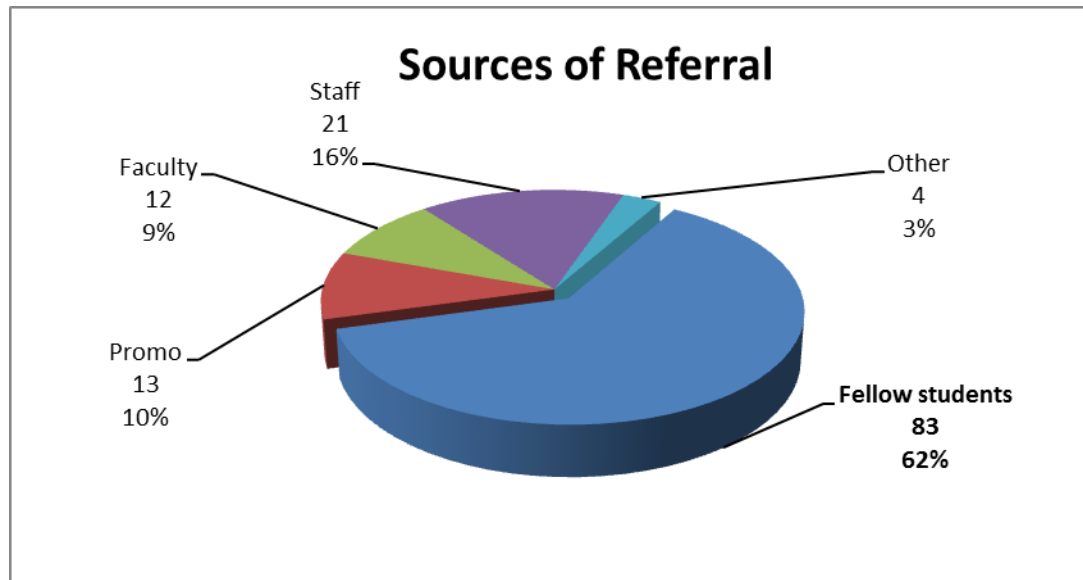
Special thanks to Peter Isosaari for his expertise in the development of these graphs.



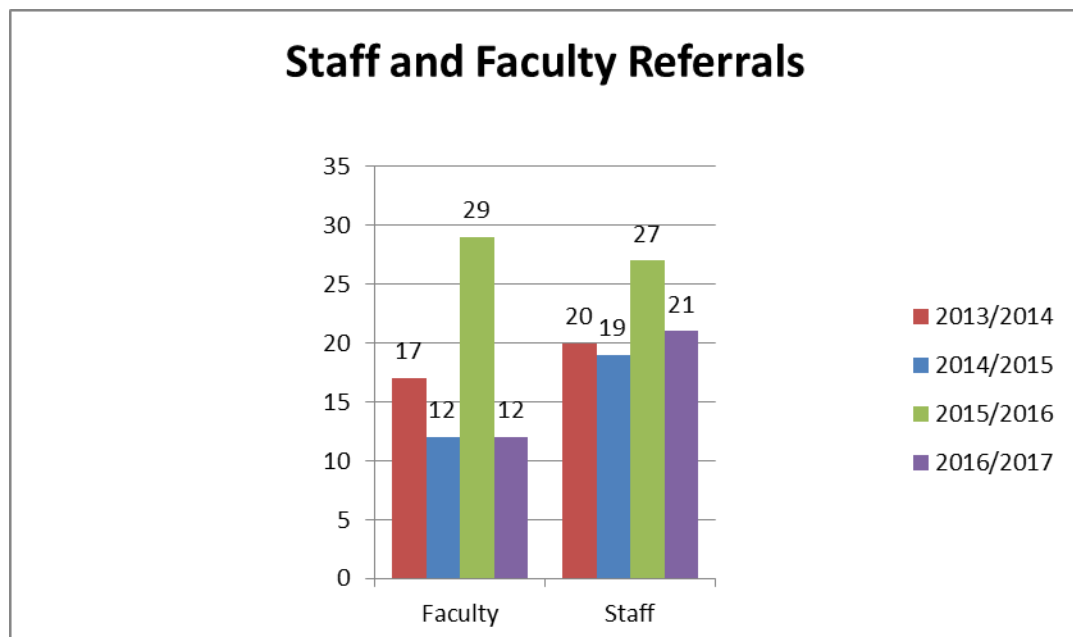
For the second consecutive year in a row, the month of April saw the highest volume of new students. This was followed by November. The most consistent month over a 3 year period, is December with 14 students on average.



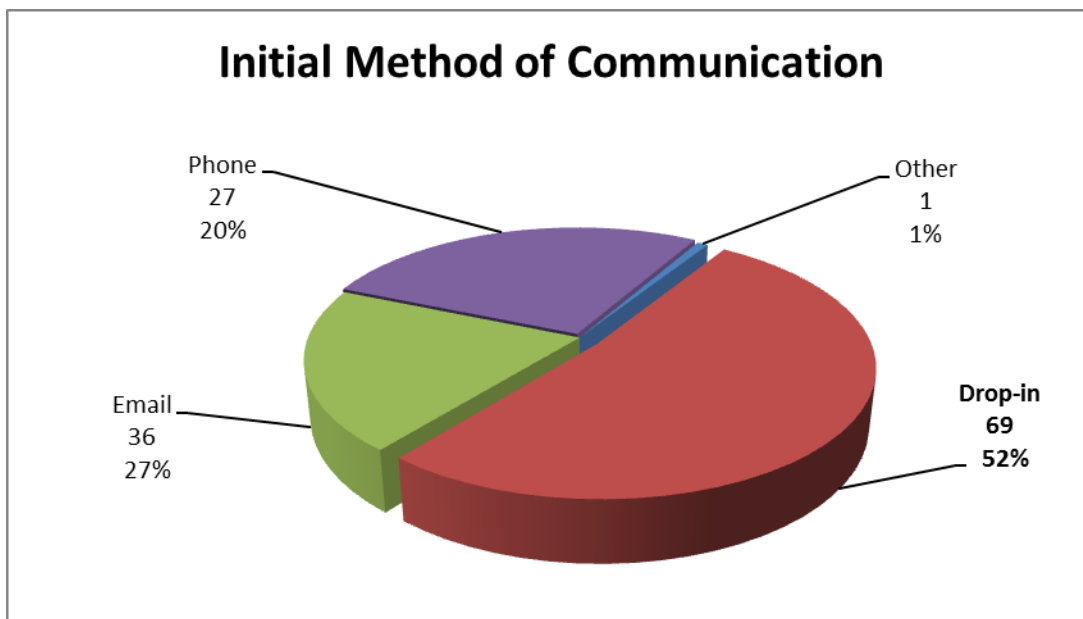
The age distribution among students was comparable to last year's percentages. However there was an increase in the number of students in the category ages 31 to 35 years which was up by 42% this year.



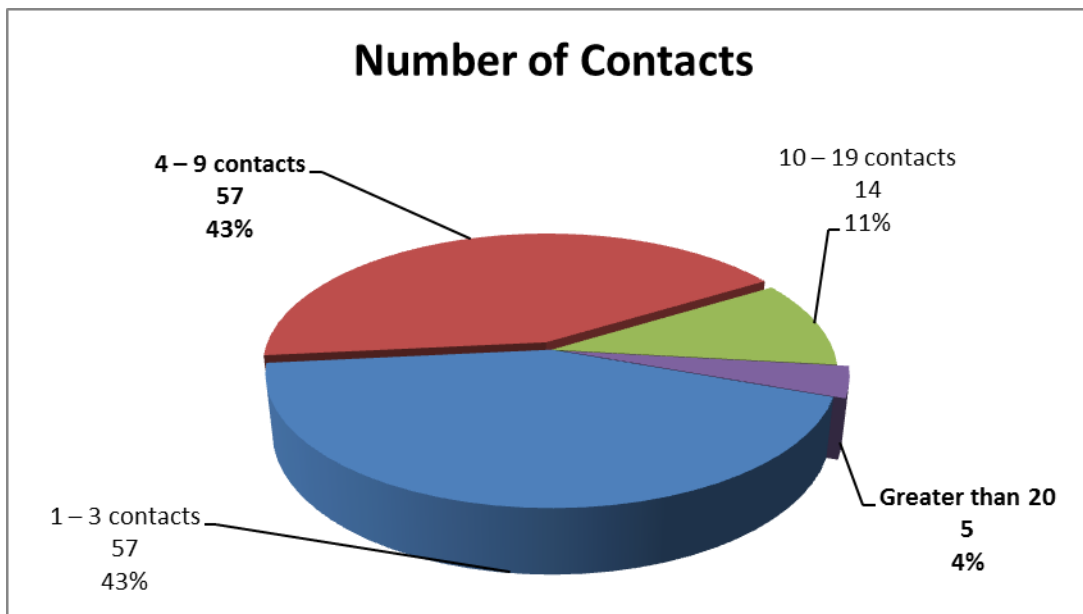
The highest number of referrals each year continues to be from fellow students. Of note is the 48% increase of referrals by fellow students along with a decrease in referrals for the remainder of the categories. In the Other category, 3 referrals came from family members and 1 from the Ontario Ombudsman's Office.



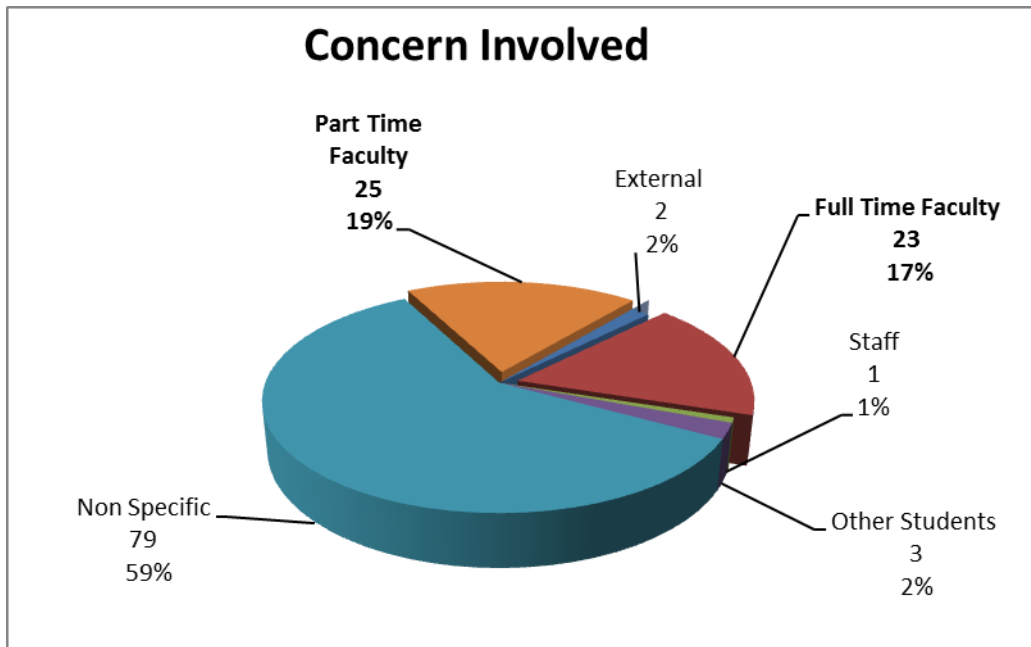
The number of faculty and staff who referred students to the Ombuds Office decreased after both categories had experienced increases in the previous year. Both are now in line with referral numbers during the previous 2 years.



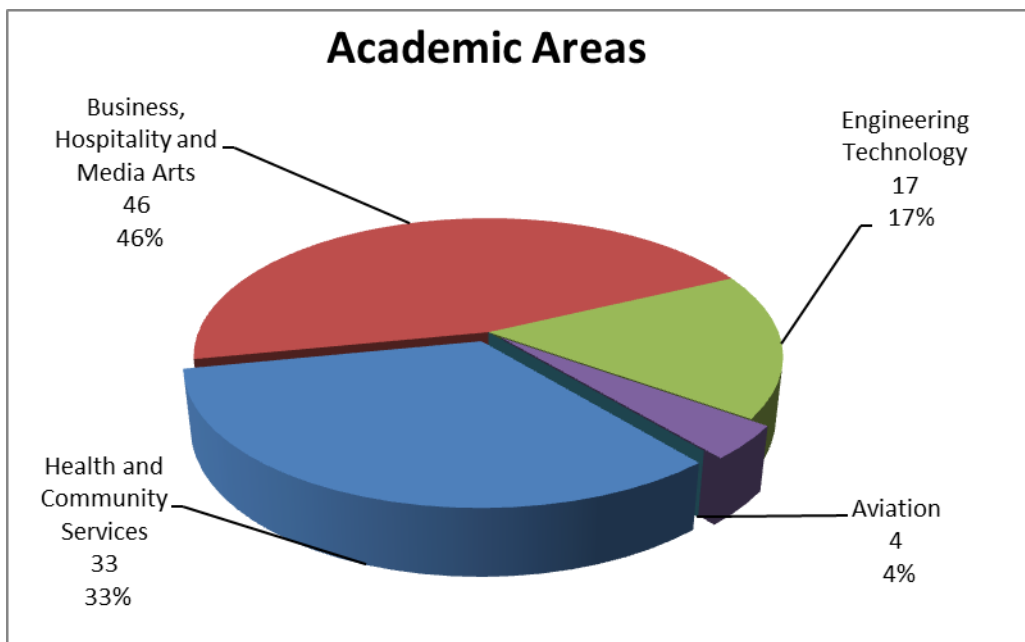
Drop-ins by students continue to be the preferred method of choice for initiating contact with the Ombudsperson. New students dropping-in increased by 10% this year. In the 'Other' category 1 student submitted the online contact form.



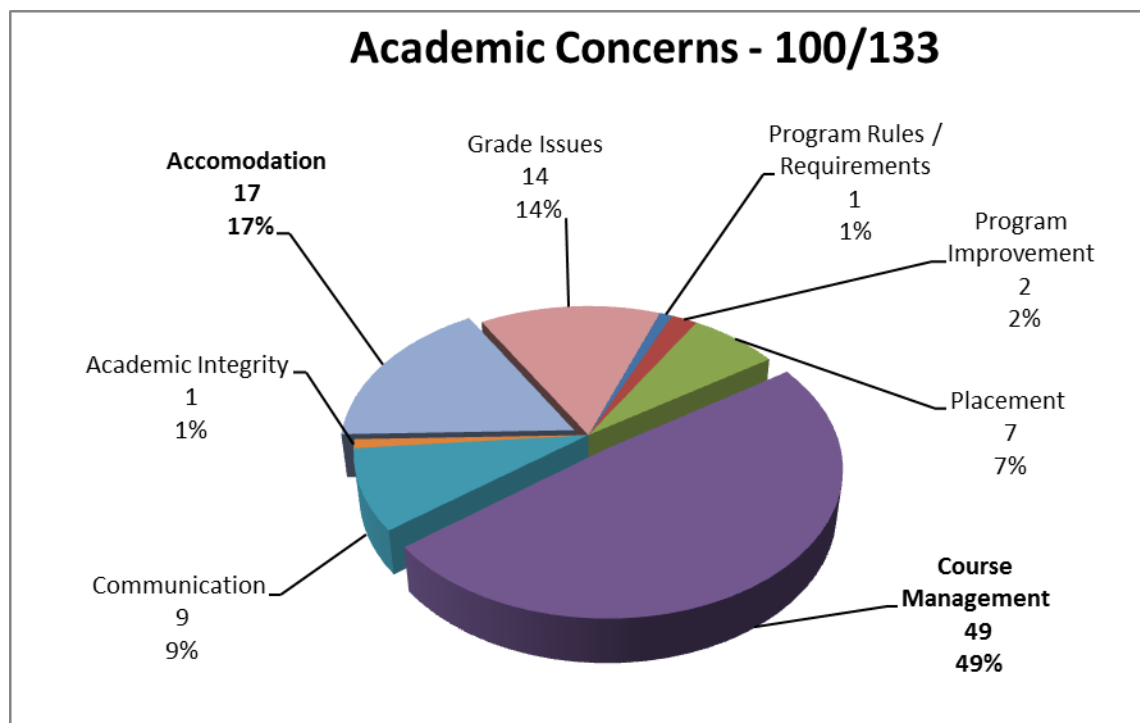
Contacts are those between the Ombuds with students, staff and faculty. The number of contacts in the 'Greater than 20' category increased by 40% and in the '4 to 9' category increased by 32%, while the remaining three categories each decreased minimally.



Concerns which involved full and part time faculty increased by 65% and 40% respectively; in contrast, concerns that involved staff decreased by 50%. The percentages in the remaining 3 categories also experienced a decrease.



I would like to highlight all four areas. Both Aviation and Health and Community Services experienced their lowest number of complaints over a five year period. However Business, Hospitality and Media Arts as well as Engineering Technology each saw the number of concerns increase by 70% over last year.



Course Management 49 (49%): This category moved from second place in last year's report to first place this year, increasing by 37% e.g. cancelled classes, late or non-return of tests / assignments and non-return prior to a final exam, unruly classroom, delayed/ no course outline or changes made to them during the semester, faculty expertise, text books not used during the course, personal information required within assignments, schedule changes, use of Centra as an effective educational mode, several faculty rotating in one course, and a question of ethics.

Accommodation 17 (17%): This category has always placed in last or second last place. An increase in the number of concerns was observed early in the fall semester and continued throughout the winter semester.

Grade Issues 14 (14%): Last year grade issues fell from 1st to 2nd place and now places 3rd e.g. grading practices, appeals, group work, lack of a mid-term evaluation, grading attendance.

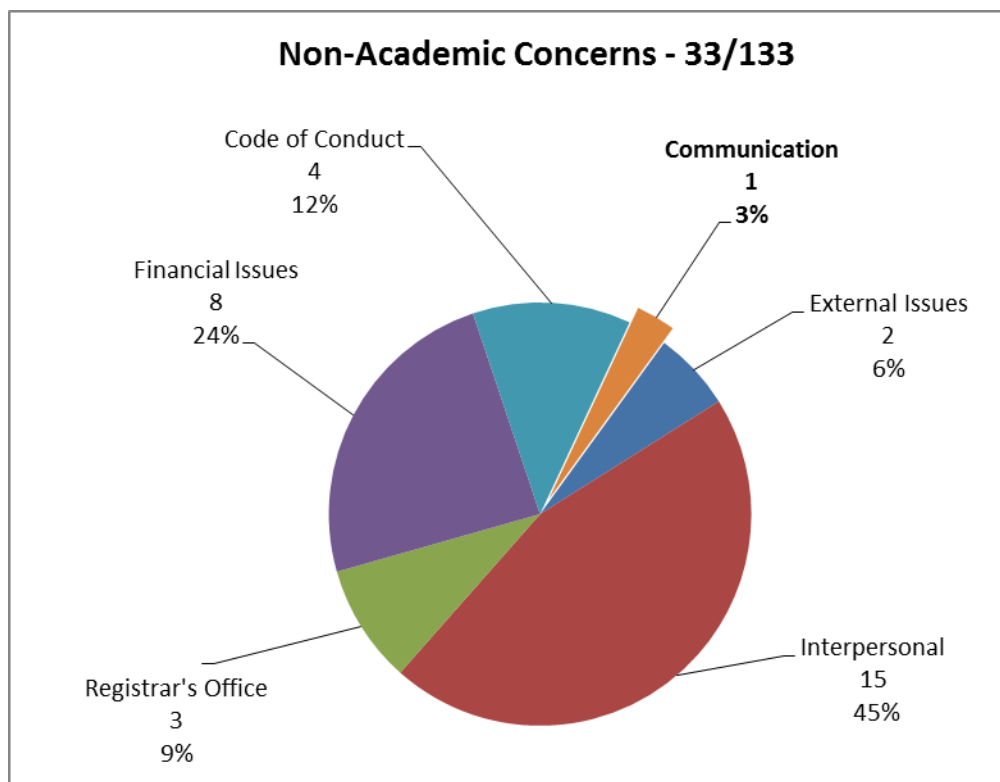
Communication 9 (9%): This category is consistent in each of the last 3 years e.g. respectful communication, breach of confidentiality, delayed responses to emails, use of Facebook.

Placement 7 (7%): Issues in this category have increased by 43% this year while in last year's report it had increased by 50% from the previous year e.g. flexibility, academic contracts/ success plans, clinical evaluation issues.

Program Improvement 2 (2%): This category has decreased by 71% over last year e.g. concerns brought forward by students who wanted to see changes for more quality programming.

Academic Integrity 1 (1%): Students who breach academic integrity range in numbers from 1 to 4 each year e.g. cheating, sharing assignments, plagiarism.

Program Rules/ Requirements 1 (1%): This category continues to experience low numbers e.g. policy/ procedure clarification, doctors' sick notes.



Interpersonal 15 (45%): The numbers over 5 years range from 9 to 15. This year the main concern of students was how to repair a fractured relationship with faculty or other students; other concerns expressed included time management, mental health and self-esteem.

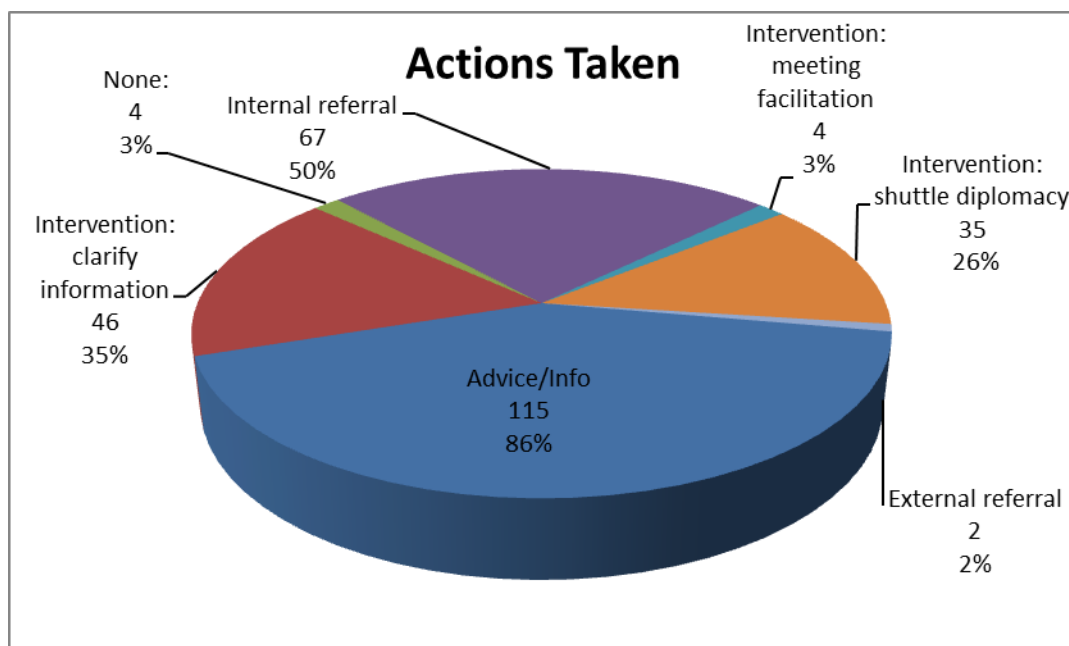
Financial Issues 8 (24%): The percentage is similar to previous years ranging from 22 to 26% with the exception of three years ago which reached a high of 35% e.g. refunds, student health plan, emergency funding, loan repayments, OSAP, residence.

Code of Conduct 4 (12%): This category includes student-to-student bullying and harassment, inappropriate behavior and anger management issues.

Registrar's Office 3 (9%): The number of concerns have been very low for the third year in a row e.g. admission, transfer credits, program re-entry, transcripts, withdrawal etc.

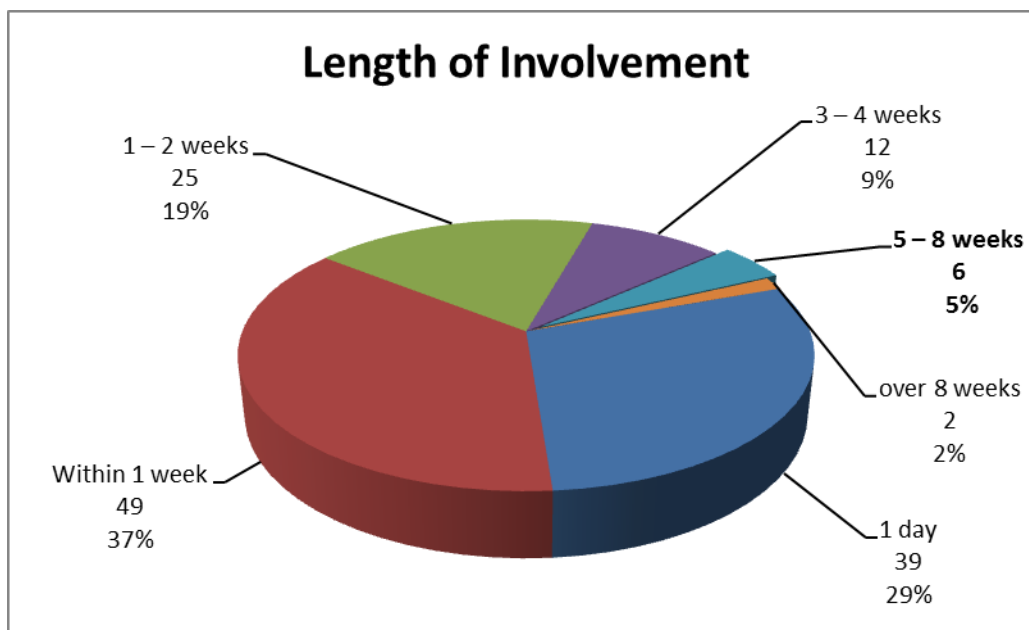
External Issues 2 (6%): Concerns have decreased by 75% over last year e.g. immigration, passports and landlord issues.

Communication 1 (3%): Student concerns regarding communication with staff decreased by 86% this year after experiencing an increase of 86% in the previous year e.g. confidentiality, receiving incorrect information, not returning phone calls or emails, respectful communication.

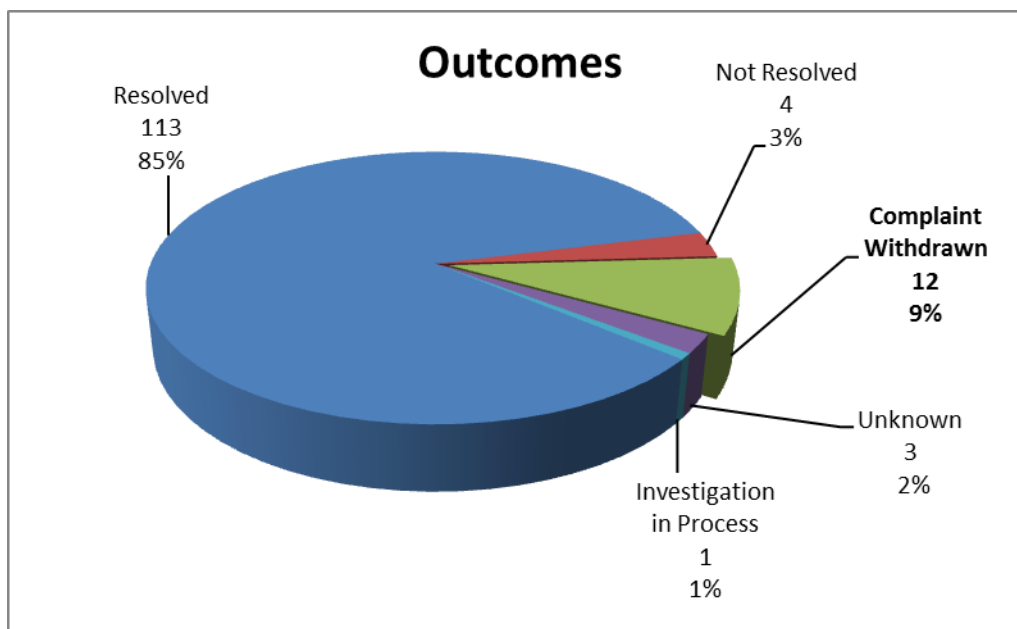


Types of assistance provided:

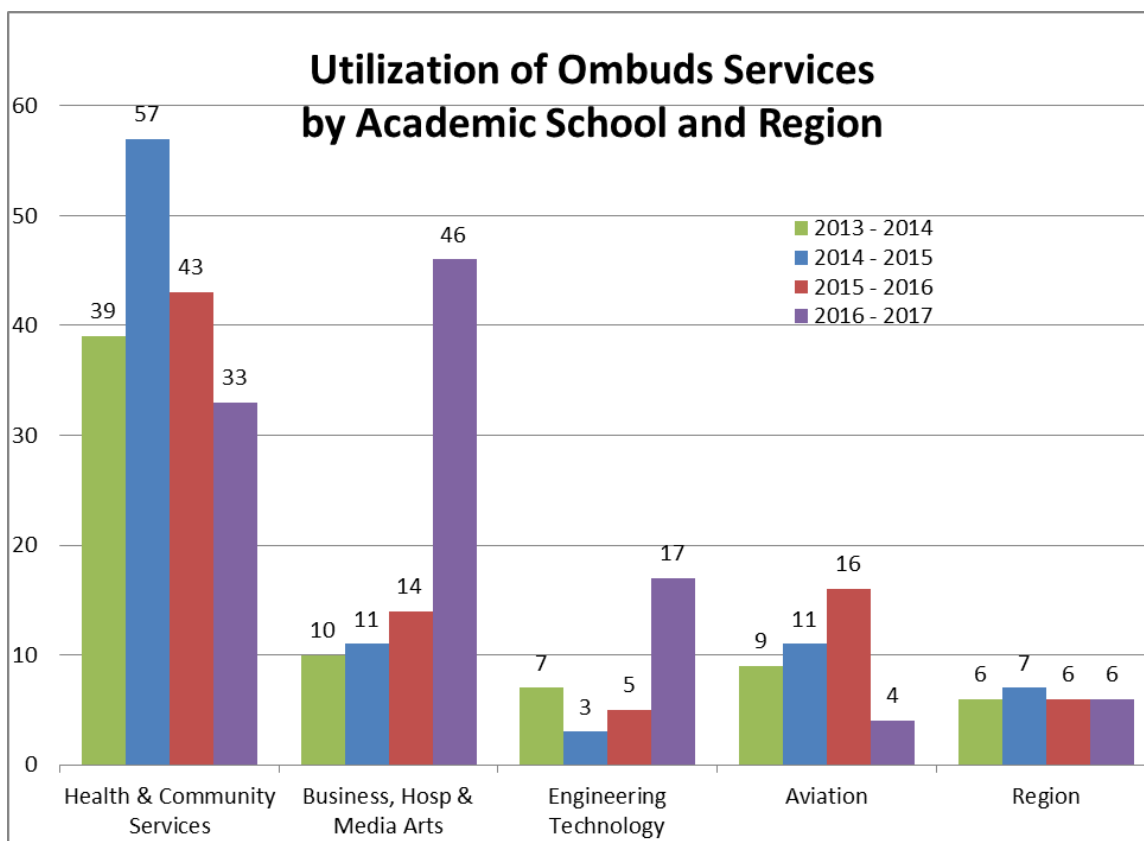
- **Providing advice/ information** includes discussing policies and procedures, helping a student understand a decision, reframing a situation, identifying options for a resolution, providing guidance for a formal appeal
- **An internal referral** is made to another service within the College to facilitate a resolution e.g. counselor, academic advisor, financial aid officer, faculty member
- **An external referral** is made to an agency or service outside of the College community
- **No action** includes complaint withdrawn (sometimes it was resolved elsewhere), failure of student to provide needed information or to show for an appointment
- **Intervention** is provided with the student's permission to follow-up and assist in some way to resolve the concern. Depending on the particular situation, one or more forms of intervention may be utilized. Intervention methods include:
 1. **Clarifying information** - informal fact finding/ gathering information
 2. **Shuttle diplomacy** - discussing the issue with staff or faculty where a student may feel disempowered or where emotions run high
 3. **Meeting facilitation** – with the consent of all the parties and may include informal mediation



All the categories remained extremely similar to last year with the exception of the 'over 8 weeks' category which increased by 100%, and the '5 to 8 weeks' category which decreased by 45% after having increased in the previous report by 55%.



The percentage of resolved cases has decreased by 7% over last year; whereas complaints withdrawn have increased by 33%. In the 'not resolved' category, the percentage increased by 20% over the previous year. There is an investigation currently being overseen by Human Resources.



This graph depicts the number of students in each academic school that were seen for academic reasons.

Regional numbers have been consistent over the last 4 years. The majority of concerns from the region have all been academic in nature.

The overall percentage of students who utilized the Ombuds service in each of the last 5 years ranges between 3.7% and 4.2%.

The year-to-year percentages are:

4.0% in 2016 – 2017

3.7% in 2015 – 2016

3.7% in 2014 – 2015

4.2% in 2013 – 2014

3.7% in 2012 – 2013

Note: regional and continuing education student numbers are included in the numbers for the academic schools.

Current Trends

1. More and more students each year see themselves as consumers of a service who question the quality of their education and the performance and expertise of their instructors. Their expectations include: course outlines that are described accurately and do not change mid-semester; a mandatory purchased text book is used during a course; a syllabus and rubric for grading be provided by the instructor; a College that is open, flexible and responsive; and reasonable procedures which are available to resolve concerns informally, at the first sign of trouble and followed with a timely response. Students are asking for a voice and they want to be heard.
2. 133 students visited the Ombuds Office for assistance as compared to 122 in each of the two previous years. The 2013/2014 academic year saw the highest number of students at 135.
 - a. 91% were full time students as compared to 81% last year; 4% were part time (same as last year); 2% were prospective students; and 3% were former students.
 - b. 100 students contacted the Ombuds for academic reasons with 33 students seeking help for non-academic concerns.
 - c. The percentage of male students increased this year to 41% as compared to 34% last year. This is the highest percentage over all previous years.
 - d. 5 students revealed that they had a previous mental health diagnosis compared to 3 students in previous years.
 - e. Overall, 70% of students contacted one or more College employees to resolve their situation prior to contacting the Ombuds as compared to 67% last year.
 - f. 30% of students did not contact a College employee initially as they did not know who to approach, or how without escalating the conflict.
 - g. When dealing with an academic concern, 64% of students consulted or involved the Ombudsperson after consulting with one of the following: Instructor 23%, Coordinator 16%, Chair 10%, and Dean 15%.
 - h. The number of academic concerns is at an all-time high of 75%. In 2015/2016 and in 2014/2015 the percentages were 64% and 67% respectively. The lowest percentage was seen in 2013/2014 at 50%.
 - i. The number of issues involving accommodations increased 82% over last year. Students expressed concerns on the barriers to accessing accommodations and a general lack of information on the matter.

- j. Health and Community Services and Negahneewin continue to see a decrease of students approaching the Ombuds Office. Last year the number decreased by 25% over the previous year; and this year it has decreased by another 23%.
 - k. Business, Hospitality and the Media Arts as well as Engineering both had a 70% increase over last year. The majority of the concerns from each academic area stemmed from within 2 program areas.
 - l. Aviation experienced its lowest numbers over 5 years and came in with a 90% decrease over last year. It is also the fewest students seen from this academic area since the inception of the Ombuds Office.
 - m. The three forms of intervention practiced by the Ombuds (clarify, shuttle diplomacy and meeting facilitation) increased to 64% as compared to 37% of all cases in the previous year. This reflected a greater need for more involvement by the Ombuds during the informal stage of conflict resolution.
 - n. The Ombuds provided informal recommendations to resolve specific student issues during the informal stage in 10 cases this year and all 10 were accepted.
 - o. Withdrawn concerns increased by 33% over last year. The increase was attributed to students expressing that the informal process was repetitive and unwieldy with no significant follow-up being conducted in the latter stage of the process.
3. This year 42 staff and faculty as compared to 44 last year approached the Ombuds for assistance with problem-solving and clarification regarding policy, assistance with conflict resolution and extenuating circumstances.

Reflections: Shared Insights from Students

Students view the college as a ‘helping’ organization and as such, they expect to receive help, support and empathy. Pope Francis delivered a first-ever papal TED (Technology, Entertainment and Design) Talk at the TED conference in Vancouver this year where he outlined his vision of the inter-connectedness of humanity. He emphasized that with age he has grown increasingly convinced that “none of us is an island”. “Please allow me to say: The more powerful you are, the more your actions will have an impact on people, the more you are called to be humble.”

As I read this quote in April of this year, I realized that I had throughout the year began to take extra steps and measures by asking more in-depth questions of students relating

to their experience. I was hoping to learn lessons based on their involvement in and impressions of the conflict resolution process. Questions posed to them included:

- What was it like for them during the informal process?
- Was the process easy to follow?
- Was there anything that stood out for them?
- Had their expectations been met?
- Did they have any suggestions or other comments?

Students shared openly about their experiences but not on what I had expected - the very issue that brought them into the process. Instead they wanted to focus on their experience throughout the process. Based on their feedback, their overall concern was with regards to the informal process of academic dispute resolution; and access to, and information on, academic accommodations.

With regards to the informal process, students viewed it as unfair but interestingly, this wasn't based on the decision or outcome itself. Rather they felt that the process, in and of itself, had had a negative impact on them. This insight was startling and would not have been visible through a review or examination of a policy. They articulated process concerns regarding trust, fairness, respect and accountability. In some instances, perceptions of unfairness had led to greater conflict, ill feelings and resulted in their disengagement from the process – and in extreme cases, the College itself.

Students had concerns regarding the conduct of an investigative process, their lack of confidentiality, the lack of options and flexibility, and having reached an impasse or a wall, no attempts were made to reconcile with restorative or creative solution building. Other students expressed feeling that their concern was basically dismissed. They came away from the informal process with the distinct impression that their experience and their perspective had not been understood, taken seriously, considered important or acknowledged. They left the experience feeling disconnected and unsupported. Their take-away was: it is you who has the problem and not us.

Currently the informal process predicates that a student must re-tell their story several times in hopes of reaching a resolution. These multiple steps are met with frustration, stress and deplete the student's energy to move their concern forward. They find the process confusing and intimidating. They end up feeling dismayed and discouraged.

The second main concern surrounded accommodations. Various issues arose due to communication problems and an accommodation policy which students felt lacked important information. Some examples included faculty questioning the student and disagreeing with the accommodation; and denial of retroactive requests for writing or rewriting a test, or submitting / resubmitting an assignment. Retroactive requests often involved a temporary mental health set-back e.g. personal or family crisis, illness, etc.

Recommendations

Introduction

The following recommendations do not include those made on an informal case-by-case basis in seeking a fair and reasonable solution. Rather they are systemic in nature based on a trend analysis of recurring problems or apparent gaps between policy and practice. System-wide recommendations may be an indicator of a lack of resilience based on an inadequate response to challenging situations or tensions embedded within the culture of the College.

Background: The Informal Dispute Resolution Process

The purpose of informal dispute resolution is to enable problems to be identified early and resolved with a minimum of delay. There should be a simple avenue to address and resolve student concerns in a timely manner. Dispute resolution procedures that are not timely or effective could amount to a failure of our duty to accommodate.

The decisions made in these situations impact students, often resulting in very serious consequences. Their experience of the process is just as important as the outcome itself. The way in which a policy is applied, the considerations given beforehand and the good intent conveyed during the process effect how students receive and accept the decision. These factors make a vital difference to preserving the student's self-esteem and our mutual investment in their college education.

Early, assisted, informal conflict resolution has the benefit of narrowing the catchment of cases to those most suited for formal channels. During the informal process, the parties should be focused on and make attempts at problem-solving. What I propose supports creation of a culture where College employees value the fact that a student has come forward with a concern, recognize the usefulness of their thoughts, ideas, views and experiences. In this regard, reworking the process will support and enhance greater inclusion through collaboration and consultation, and will directly impact the way in which decisions are made.

A good starting place could be to question the underlying assumptions of the current approach (including both policy and practice feedback within this report) and review it with the purpose to enhance its resilience and responsiveness. It is anticipated that this would reinvigorate the process and address the students' concerns discussed within this report. A new facilitative process will support the College in taking a systemic approach to conflict resolution. This may result in significant savings in lost productivity, time and energy; and indeed, would also offer these same benefits to the student.

Recommendation #1

- The College reviews the current informal academic dispute resolution process (Refer to Academic Dispute Resolution Policy, Number 5-1-02) with the purpose to investigate and create a new facilitated model / format or approach that is interactive, balanced, interest-based (versus issue-based), and collaborative in consultation with relevant staff e.g. Registrar and Ombudsperson.

Background: Student Accommodations

The Student Accommodation Practice, Number 5-4-04 requires additional information so that students can understand the practice and how this practice can be of applied during a period of a temporary mental health setback. For instance the Practice could include such information as: academic accommodations may be requested when facing an illness, accident, injury, a family / personal crisis / affliction; or other extenuating medical or compassionate circumstances; and how to access these accommodations.

Providing examples of accommodations that might be requested would also be helpful for students e.g. a deadline extension, a make-up test, a withdrawal from or permission to drop a course, a deferral of an exam or assignment past the date for final grade submission etc.

Recommendation #2

- The College reviews its Student Accommodation Practice Number 5-4-04 to ensure the inclusion and descriptions of accommodations for a temporary mental health disruption.

Recommendation #3

- To improve awareness and communication of available resources, the College informs all students about the provision of accommodations and mental health services using many different formats e.g. in brochures, web pages, acceptance packages and the Student Handbook with a link to the Student Accommodation Practice No. 5-4-04.

Conclusion

This report focuses on our students' expectations of us and their desire for greater engagement and acknowledgment of their rights. We have an obligation to meet their expectations, to listen through value-added communications and actions. We are now

at a tipping point; their voice, their input is essential for the College to create a better service and transform into a best practice, high-performance exemplary institution.

This past year has given rise to hearing from students who want to influence policy and how decisions are made. They want their input to be valued and to help in shaping positive relations and experiences. They want their views and their experiences to be seen as useful and relevant to College processes. They want the capacity to engage with their College; to work together to develop and implement new improvements; to be involved in decisions that impact their success; and to contribute new ideas and values, build trusted relationships and new ways of working together.

Ultimately effective conflict resolution practices begin with engaging students in the day-to-day education practices. The intent is building collective ownership to improve quality education with power residing in the co-production or co-design of best practices. The heart of what we do relies on students – the communications and trust we build and nurture with them.

I conclude this report with some questions to ponder: “What would work better? Can student insights create a better experience and learning /education system for them and the College?”

Appreciation

I would like to express my deep gratitude to Jim Madder, President of the College for his unwavering support of the Ombuds Office. I also want to acknowledge Jodi Afonso, President and Lynne Savelle, Executive Director of SUCCI, Patti Pella, Vice President of Academics and Don Duclos, Registrar for their commitment and focus on fair practices.

I commend those College employees who have reached out to consult with the Ombuds Office; their willingness actively engage in conflict resolution best practices is admirable.

Thank you to those students who courageously expressed higher expectations of our College; who envisioned a College that is actively engaged with them, interested in their success, their stories, their trials / tribulations and saw that we can and will be better.

Respectfully submitted,

Kim Morgan, BScN, MEd
Ombudsperson



Appendix A
The Ombuds Office Annual Report 2016 to 2017

**Guidelines for Conducting an
Investigation**

Contributing to Fairness, Integrity and Duty of Care

Kim Morgan
Ombudsperson, Confederation College
September 2017

For more information, contact:
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Website: www.confederationcollege.ca/ombuds

Introduction

In your role, you have the capacity to make positive, pro-active changes happen here. Individuals who have the courage to come forward with concerns are our biggest allies in making this a reality. They may question or disagree with a policy, practice or decision or view it as being unfair or unreasonable. It is important to listen, hear them out and hear from them that you understand the situation from their perspective. It is equally important for them to hear, *“This is your College. What can we do to make it better?”*

You are the decision-maker about what is and what is not administratively fair. As such your investigation must be thorough; your analysis rigorous; your conclusions logical; your decisions fair and reasonable with practical solutions to real problems that provide redress where and when appropriate. Recommendations may also be made to minimize the chances of mistakes from reoccurring and to make improvements.

Purpose

This document is a guide to best practices on the key matters that ideally need to be considered in the preparation and in the course of conducting an investigation. It has been prepared to assist College administrators in resolving conflict skillfully. In many situations, communication problems or misunderstandings can be resolved easily through explanations or discussions. However there will be some instances where concerns, due to their nature, will necessitate a review, investigation and resolution.

Duty of Care

In addition, the issue in question may negatively affect the individual’s interests, rights, status or their legitimate expectations. This then creates a higher level duty of care /procedural fairness and triggers the need to conduct a thorough review and investigate the matter presented. In your role, it is imperative to ensure there is no conflict of interest, that you will be fair and thorough, and model respect and understanding. The goal is to resolve the complaint where possible to achieve a remedy and /or restore rights that have not been satisfied.

As a best practice, the duty to act fairly includes the complainant’s right to be heard. As a pre-requisite it is important to meet with the person first before seeking additional or background information and beginning your investigation. It is human nature to want to know ahead of time what the issue entails but doing so is a deterrent to a fair process and a potentially fair outcome. It is important to be, and to be seen to be, impartial, neutral and open-minded; and to reserve judgement on the merits of the complaint.

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Elements of a Fair Decision

Making a fair decision is not usually as straight forward as it sounds. Often you will hear contradictory information as in *'he-said, she-said'* scenarios. Fair decision-making may mean different things to different people; may be applied differently at different levels of decision-making; and may lead to a different outcome under a different set of circumstances.

Where the fairness of a decision is in contention, the concern may involve one or more of the three elements (often depicted in triangle form) of the fair decision-making process:

- Substantive: the issue, the relevant information /facts and policies, details on the background and context, the decision itself and the rationale to support and substantiate it e.g.
 - Is the decision based on complete and accurate information?
 - Is there a legal, equity or accommodation principle to apply?
- Relational: a lesser-known but key component for overall fairness in decision-making focuses on how the people relate to one another, how they treat one another and how each person feels; the relational domain is based on respect, honesty, confidentiality, timeliness of follow-up and sound decision-making e.g.
 - Inquire (rather than accuse) by asking relevant and clarifying questions.
 - Provide clear information exploring extenuating circumstances.
- Procedural: how the decision was made i.e. using fair process, having easily accessible information, providing an opportunity to respond to allegations, taking into consideration exceptional circumstances, finding creative options and remaining impartial and unbiased e.g.
 - Identify the relevant policy or procedure.
 - Consult with your colleagues and supervisor and other services if needed.

Timelines

It is important to deal with the concern quickly and appropriately. Procrastination can result in an escalation of the concern and consequently increases the stress level of all parties concerned. It is also important to act in a confidential manner and involve only those who need to know, either to respond to or to effectively address the complaint. Lastly, it is important to determine under which policy the matter is to be addressed.

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Unbiased Decision-Maker

An essential element of a fair decision is the individual's right to an unbiased decision-maker. This includes from an onlooker's perspective there is no reasonable perception of bias. It is important to be aware of our own biases since it human nature to hear everything through our own filters e.g. memories, perceptions and predispositions. Becoming aware of these helps prevent making inferences or a blink judgement which may potentially be riddled with an unconscious bias and /or prejudice. Should this occur, our body language will most often give this away e.g. leaning forward will occur less; there'll be noticeably less eye contact maintained and less smiling; turning slightly away and closing our bodies will occur more often and there'll be more hesitation and stumbling over words.

Reasons to Investigate

- Hear the complainant and listen actively and empathically
- Gain information and a complete picture to prove or disprove the concern raised
- Understand the concern from their perspective
- Obtain reliable evidence (information that can be proven and substantiated)
- Address credibility and resolve the concern
- Ascertain the existence of a systemic problem
- Probe whether this may be one of a series of complaints indicating a pattern of conduct or a widespread problem

Active Listening

- Takes time and is the most important skill in conflict resolution
- Ensures that you give the complainant your complete and undivided attention
- Shows that you are listening e.g. using body language and gestures to convey your attention and interest
- Includes clarifying and asking questions; listening for their concern and their interests
- Acknowledges both the message and the feelings
- Helps you to respond appropriately and provide feedback
- Assists with reserving judgments, not making assumptions, inferring intentions, defending actions or jumping to conclusions
- Is a pre-requisite for establishing trust, building rapport and developing empathy (a key ingredient of emotional intelligence, self-awareness and the ability to challenge our own assumptions and points of view)

Conducting an Interview

- Ideally conducted in person, in a private setting and as soon as possible
- Request that the complainant bring relevant documents
- Open the discussion
 - *“I appreciate your taking the time to meet with me.”*
- Clarify any inconsistencies and take notes (include specific details of who, what, where, when and why)
 - *“Please tell me what’s on your mind. I’m going to take some rough notes and use these to clarify.”*
 - *“What exactly was said and done?”*
 - *“Has this happened before?”*
 - *“Who else was involved or was a witness?”*
- If you don’t understand the issue, keep asking questions
 - *“Can you tell me more about what happened and when?”*
 - *“Is there anything else I need to know or you haven’t already told me?”*
 - *“Let me make sure I understand what you said. I heard you say...”*
- Entertain the possibility that the complaint, as you are hearing it, is the truth and there is also the possibility that there may be additional facts and /or interpretations that are not being presented
- Look to the future and potential resolution
 - *“How can we resolve this situation?”*
 - *“What would you like to see done differently and why?”*
 - *“What do you need to be successful?”*
- Discuss specific actions
 - *“So here are the next steps...”*
- Close and confirm commitment; keep the individual appropriately informed of the investigation’s progress; and communicate any unexpected delays you encounter
 - *“Thanks for bringing this to my attention and having this discussion with me. I will follow-up and get back to you by (date).”*

Preparing for Further Interviews

- Identify the issue and determine what information you need
- Determine whether the issue is about policies, procedures or practices or the conduct of an individual
- Determine the significance of the issue for the complainant and the College
- Determine who else to interview, where and in which order (e.g. those affected, witnesses, decision maker, anyone with relevant information)
- Develop questions in advance
- Identify / consult those with an interest (e.g. your colleagues), your supervisor, the College Ombudsperson etc.
- Conduct a post-interview with the complainant to provide them with an opportunity to respond to new, contradictory information which may adversely affect the preliminary conclusion

Analysis and Other Considerations

- Assess whether you have gathered all the relevant information (including emails etc.)
- You may have to go back and re-clarify specific details, any inconsistencies or conflicting evidence to ensure you have a clear understanding from all both parties
- Determine whether the parties involved have been given the fair chance to consider and give input into the other parties' position and evidence
- Review all information gathered
- Examine the facts and identify which are the most important to making a finding on the complaint
- Analyze the facts in consideration of policies, procedures and practices and any relevant laws /regulations
- Consider: culture and gender, need for accommodations, vulnerability of complainant / witnesses, power differential, circumstantial evidence, the interests of the parties and the witnesses, balance of probabilities (what logically is most likely to have happened), extenuating circumstances and whether the decision is aligned with our vision /supportive towards the College community
- Draw conclusions about what happened and how it happened, and whether the complaint is substantiated
- Ensure you have facts, information or evidence to support all negative findings
- Seek feedback / advice on the validity of your conclusions
- Decide how the complaint will be resolved and determine appropriate options for addressing the situation

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Investigative Report and Follow-Up

- State the concern investigated
- Include the background information and the context
- Describe the investigation conducted and note relevant evidence
- Draw conclusions and submit rationale supporting the decision (refer to any legislation /regulations, policies /procedures or practices you are relying upon)
 - Note: When a decision is made, there is at the very least one alternative course of action that could have been made. Providing reasons for the decision enables the person affected by the decision to understand why a particular decision was made. This also helps the individual decide whether to submit an appeal and the issues they'll need to focus on when doing so.
- Communicate in writing to both parties with the results of the investigation, the actions to be taken and if appropriate, any appeal procedures and supports available e.g. the Ombudsperson, a counselor
- Monitor the situation and follow-up with the complainant to ensure the concern has been resolved
- Consider a separate report that identifies any gaps that need to be addressed or changes that need to be made and submit recommendations to your supervisor

Conclusion

The Latin root of 'respect', 'respecere' literally means 'to look again'. The individual must feel that they have been listened to deeply and their concern has been given a thorough second look. Throughout an investigation, being respectful and suspending judgement; modeling authentic dialogue, care and concern; and striking a fine balance between advocacy and inquiry, along with empathy and active listening, are best practice skill-sets which support conflict resolution, fair decision-making and the investigative process. In the end, individuals should feel they have been treated with respect and have received the best service possible.