



the **OMBUDSPERSON** report

Volume 13

Issue 1

<http://www.uvss.uvic.ca/ombudsperson>

April, 2010

Because Fairness Matters

2009 marked the 200th anniversary of the ombudsman concept and the 30th anniversary of the British Columbia Ombudsman office, leading in October to the promotion of “Fairness Week” by Canadian provincial ombudsman offices. It seems like an opportune time to reflect on best practice for fair decision-making in a university context.

This report covers Calendar year 2009. While the overall number of contacts with the office was similar to previous years, there was an increase in situations requiring extensive guidance or intervention because they presented multiple challenges (for example: chronic illness, personal or financial difficulties and cultural differences exacerbating communication or procedural breakdowns). When departments deal with this level of complexity, it is particularly important to pay attention to fair process principles (see page 3).

Thank you to the many students, staff, faculty and administrators who worked collaboratively with the ombuds office this year. I look forward to questions or comments at ombuddy@uvic.ca or 250-721-8357.

Martine Conway



Credit: UVic Photo Services

BANNER DEVELOPMENT: ISSUES RAISED WITH THE UVIC ADMINISTRATION

The University has concluded the NOVA project to implement the new student information system (BANNER). Given the project’s breadth and complexity, some aspects of system development are yet to be completed. The ombuds office noted two types of difficulties:

- (1) delay in providing students with access to an “unofficial transcript” or an online up-to-date “record of degree program”; and
- (2) confusion about academic standing due to some discrepancies between the language in the UVic Calendar and the information currently available in BANNER (*e.g. unavailability of sessional GPA information on the academic summary*).

(1) Online access to both the “unofficial transcript” and the “record of degree program” by students and departmental staff is essential information that was available in the legacy student information system. For example, once a student has declared a program, an online “record of degree program” indicates which degree requirements have been met or are still unmet. Currently, students only have online access to an academic summary, which shows course registration, completed courses and grades. Without online access to these two documents, students are at a disadvantage in monitoring the fulfillment of program requirements, academic standing and registration.

The lack of available information has increased inquiries to advising and administrative offices and runs counter to self-service provision. Much credit must be given to records officers and academic advisers at the faculty and departmental levels for keeping students on track for program completion. However, there is a limit to staff availability and to students’ knowledge of what to ask. Some students discovered that they had missed one or more faculty-level or university-level requirements, e.g.:

course units or residency requirements. See for example UVic’s “Minimum Degree Requirements for Graduation”: <http://web.uvic.ca/calendar2009/FACS/UnIn/UARe/Grad2.html>

(2) The Calendar provides information about student standing (good standing, probation, required to withdraw) based on the sessional grade point average (GPA). Sessions are September-April and May-August. However, BANNER works on a term basis, and the sessional GPA is not displayed on the academic summary. For example, one student received a “required to withdraw” letter in early May because of a GPA below 1. His GPA for the second term was 1.2, so he thought that the letter was a mistake and tried to re-register at UVic. His GPA for the first term was 0.5. His sessional GPA (combining terms 1 and 2) was indeed below 1 and he was correctly withdrawn. Unfortunately, the confusion caused him to lose an opportunity to register at a college for the summer.

Over the course of the year, the ombuds office issued two memoranda for the UVic administration with questions and recommendations related to the implementation of BANNER. The memos described the areas of concern summarized above and two questions related to fee payment deadlines and registration blocks. Along with the registrar’s office, the ombuds office has asked for the record of degree program and unofficial transcript to be identified as priorities by systems developers. The revised target for their release to students is now delayed until system upgrades are completed, and I ask again that they be considered a priority. I recommend that reminders go to all students about degree requirement and sessional standing regulations. The Registrar has agreed to include reminders in upcoming summer and fall re-registration authorizations.

DISTRIBUTION OF CASES BY SUBJECT MATTER

During calendar year 2009, the office handled a total of 412 complaints and inquiries distributed as follows: **Information/Referral** 156, **Advice** 207, **Intervention** 49.

R: Information and Referral A: Advice I: Intervention

Subject Matter	R	A	I	2009	2008	2007	2006
Academic Concession	16	42	6	64	59	69	47
Accommodation of Disability	4	1	5	10	8	14	6
Admission	4	6	3	13	9	14	6
Cheating and Plagiarism	5	9	1	15	14	25	13
Course Delivery	10	7	3	20	26	13	18
Course Registration	3	9	5	17	23	8	9
Employment	6	3	2	11	12	10	12
English Requirement	-	-	1	1	1	3	7
Examination	4	3	1	8	20	14	14
Fees Appeals	9	3	4	16	21	30	26
Financial Aid	5	3	2	10	7	9	9
Grading/Evaluation	16	26	3	45	45	42	56
Housing	2	9	-	11	7	5	5
Human Rights & Safety	1	1	-	2	14	9	6
Interpersonal Conflict	4	2	1	7	5	9	12
Landlord-Tenant	5	-	-	5	7	7	7
Practica/Work Placement	3	4	-	7	9	8	9
Privacy	2	-	-	2	4	-	1
Probation	-	2	-	2	2	1	2
Program Requirement	2	11	4	17	15	10	7
Requirement to Withdraw	8	47	2	57	53	55	54
Student Societies/Groups	2	3	-	5	7	17	6
Supervisory Relationship	1	8	1	10	8	10	16
Transfer Credit	3	1	1	5	5	4	3
Other Academic	12	5	2	19	17	20	20
Other Non-Academic	29	2	2	33	26	30	21
Total	156	207	49	412	427	436	391

DISTRIBUTION OF ACADEMIC CASES BY LEVEL*

When dealing with an academic question, students consulted or involved the ombudsperson at the following stages:

Instructor/supervisor	31.7 %
Unit head/program level	39.3 %
Dean/faculty level	28.3 %
Senate Committee on Appeals	0.7 %

*These do not include requirements to withdraw from UVic for low GPA, which are handled by Records Services and the Senate Committee on Admission, Re-registration and Transfer.

TYPE OF ADVICE SOUGHT BY STUDENTS

The advice category includes extended (30 minutes or longer) or repeated consultations at various steps in the student's handling of the situation.

Putting a decision in perspective/identifying options (Students may or may not pursue the situation further)	39.6 %
Guidance about grounds or process for an appeal or request	37.3 %
Feedback and coaching (feedback on a letter; preparation before a meeting or an appeal)	23.1 %

DISTRIBUTION OF OUTCOMES FOR CASES WITH OMBUDS INTERVENTION

The ombudsperson only intervenes in individual cases with the student's permission. Interventions include facilitating communication between students and units, problem-solving, mediation and case review or investigation.

Recommendation made	1
Resolved	11
Partially resolved/student satisfied	6
Information obtained/clarified	24
Denied/not resolved	5
Discontinued by student	1
No grounds	1
TOTAL	49

FAIR PROCESS PRINCIPLES

The ombudsperson often acts as a broker of good process, either by intervening with the academic or administrative unit, or by guiding the student through an appeal.

The situations and breakdowns in communication described below are not representative of the vast majority of decisions made at UVic. Some were impacted by a transition between decision-makers or by heavy workload. But some were also caused by a lack of understanding about fair process.

Attention to process at the program level of decision-making doesn't just save time otherwise spent in appeals. It is essential to fairness at UVic since it is at that level that questions of academic judgment are decided.

The case stories illustrate one or more principles of fair process, important in avoiding delay, real or perceived bias or unfair decisions. I hope they are a useful reminder to academic and administrative units as they consider safeguards for their own processes. See also the British Columbia Ombudsman's fairness checklist:

<http://www.ombudsman.bc.ca/about/fairness-checklist.htm>

Concerns about a research project

A student employed in a research project contacted an academic unit alleging potentially serious concerns with the project. The student met with the ombudsperson one month after her original complaint, having received no answer. The ombudsperson intervened to request a response.

It was clarified that no one at UVic had jurisdiction in the matter because, even though there had been prior affiliation with UVic, this was not the case by the time of the alleged concerns. However, this clarification and a subsequent referral outside UVic came with much delay. Interestingly, the decision-maker was correct in not commenting on the substance of the complaint since he had no jurisdiction. However, he needed to let the student know that he wasn't the right authority and, if possible, refer the student to another authority.

Fairness principle: Providing a response or referral

Prior to talking to the ombudsperson, the student had no way of knowing that UVic didn't have authority in this situation. Given the nature of the alleged concerns, the initial lack of response caused potentially serious delay, and it was interpreted by the student as a lack of care for fairness and integrity.

Practicum denied

Students in two separate professional programs (one graduate and one undergraduate) failed a required practicum and requested an opportunity to repeat the practicum. In both cases, permission was initially denied by the programs because program committees felt that there was evidence of serious concerns about the students' performance or suitability, and they thought that they already had all of the relevant information. However, in both cases the committees made decisions without providing the student with an appropriate opportunity to address concerns or to submit relevant documentation.

The undergraduate case was resolved after a referral by the ombudsperson and submission of additional documentation by the student. The graduate case concluded after the ombudsperson provided guidance for an appeal to the dean. In both situations, the programs were asked to review their decisions after providing the students with a full opportunity to be heard. The undergraduate program overturned its initial decision; the

graduate program maintained its original decision and provided reasons.

Fairness principle: Providing an appropriate opportunity to be heard before making a decision

This is a key characteristic of fair process, and it is essential where the decision has a potentially serious impact (e.g. interruption in or withdrawal from a program of study), regardless of the outcome. A decision-maker who overlooks this step runs the risk of making a seriously wrong decision. A successful appeal may not avoid delay, duplication of work, or diminished trust in the academic unit's commitment to fairness. Even where the decision is correct, this failure of process can cause delay and duplication, and it seriously undermines the credibility of the decision-making process.

An in-person meeting is not always necessary, but the decision-maker must provide an "opportunity to be heard", which includes 2 components:

- clear information about the concerns;
- a proper opportunity to respond and to provide relevant documentation before a decision is made.

Intellectual property complaint

A student emailed his department chair with a complaint regarding a course assignment. The student expressed concerns about intellectual property for his submission, and possible concerns about the grade. In his email response, the chair correctly directed the student to the grade review process for an appeal of the grade. He also told the student that he would investigate the matter of intellectual property and communicate his findings to the student.

A month and a half later, the student had received no response or follow-up, so he asked the ombudsperson to contact the chair. It turned out that the chair had concluded that there were no grounds for the complaint about intellectual property. But, when no grade appeal was made, the chair forgot to inform the student about the results of his review of the intellectual property question.

Fairness principle: Providing a timely decision, appropriate to the seriousness of the alleged concerns

Unfortunately, the lack of response undermined the perceived integrity of the review process. A decision-maker needs to provide a response that is timely and related to the seriousness of the alleged concerns, regardless of the outcome. It is important to have a system for identifying serious or urgent inquiries or complaints, for keeping track of them, and for completing any follow-up. Where a response cannot be given in a short time, or where unexpected delay occurs, a serious or urgent matter needs to be acknowledged, and a time-frame provided.



Academic concession denied

A student made a request for a course back-dated drop (academic concession) because of illness. The request was denied by the faculty, but no reasons were given and the student was not told where he could appeal the decision. When the student discussed the situation with the ombudsperson, it became clear that, although he had grounds for the back-dated drop, he had not provided sufficient supporting documentation for the request. The doctor's note referred generally to an on-going condition but provided no information about the severity of the illness at the time of the missed coursework. The situation was resolved when, under the guidance of the ombudsperson, the student followed up by providing additional documentation to the faculty.

Fairness principles: Giving reason(s) for a decision; indicating the next avenue of appeal

Availability of student services (e.g. counselling or health services), the ombudsperson and appeal procedures can serve as a safety net for the student and the decision-maker. But for the process to work, it has to be transparent and accessible. The decision-maker needs to provide a rationale for the decision, and information about any further level of appeal or complaint available to the student.

DUPLICATE AND MUTUALLY-EXCLUSIVE COURSES

In accordance with Calendar regulations, students may not obtain credit where there is an overlap of course material, either when the same or equivalent course is repeated or when a course is taken that has considerable overlap in content with another course. This year, I heard from several undergraduate students who had assumed that the computer system would flag those courses during registration. This is not a correct assumption. The system runs verifications, but only after the registration period has ended.

There are many reasons why a student would choose to repeat a course or its equivalent (e.g. to meet a specific grade requirement). However, registration in a duplicate or “mutually-exclusive” course (DUP or M/X) provides no additional credit for that course.

As indicated in registration guides, it is a student's responsibility to check the (online or hardcopy) Calendar description of each course prior to registering in it for credit, and to determine if the course may be repeated or if a note indicates a course overlap. Students can consult with an academic adviser if they have any doubt. (If so, they should ask a specific question about a specific course.) Failure to check before registering in a DUP or M/X course may impact eligibility for student loans/awards as the student may not be considered full-time. The loss of expected credit due to the assignment of a duplicate or M/X designation may delay a student's graduation.

GRADUATE STUDENTS

As in previous years, assistance in dealing with the supervisory relationship was the most common type of inquiry from graduate students (1 in 5). Some situations involved a transition to a new supervisor, others the development of a plan for thesis or program completion. Other types of inquiries included (by order of frequency): questions of intellectual property & academic integrity, fees & funding, grading, program progression and termination, concession & temporary withdrawal, admission into a program. A student also raised the question of graduate student representation on departmental committees, an issue that was resolved in April with the adoption by the Faculty of Graduate Studies of new guidelines.

Ombuds roles ranged from **brief information or referral** (approx. 1 in 5 students), to **confidential consultation** (3 in 5) — e.g. advice about process, coaching about communication, parameters for decision-making, grounds for appeal — and **intervention** (1 in 5) — e.g. problem-solving or participation in a meeting as a third party. Graduate students typically look to the ombudsperson for an independent perspective and for guidance about process and communication.

“Thank you for your support and for checking back in with me. Your help was very constructive and your perspective was much appreciated.”

- A graduate student after a transition between supervisors.

OUTREACH AND COMMITTEE WORK

I am a member of the UVic Educational Equity Advisory Group (Human Rights Committee). I participate in undergraduate and graduate students' orientations in January and September, and I meet as needed with academic and administrative units to provide feedback on current issues. In 2009, I also provided feedback on revisions to the academic integrity policy and to grade review procedures, and on the development of a policy on the use of plagiarism detection software.

I provide consultation, workshops or presentations on request to the campus community on a range of topics related to fair process, conflict resolution, academic integrity, academic concessions or human rights issues like accommodation and access for students with disabilities.

CONFERENCES AND PROFESSIONAL ACTIVITIES



Credit: Josef Leidenfrost, Vienna, Austria

Martine Conway with Michael Reddy (Office of the Independent Adjudicator for Higher Education, UK) and Josef Leidenfrost (Student Ombudsman for Austria) at the 200th ombuds anniversary conference in Montreal, April 2009.

I am serving a second term (2008-2010) as president of the Association of Canadian College and University Ombudspersons (ACCUO), and I am a member of the steering committee for the North West Ombuds Group. I helped organize the joint conference held in April in Montreal to celebrate the 200th anniversary of the ombudsman concept.

In May, I participated in a panel on *Faculty and Staff Issues when Supporting Students with Mental Health Problems* as part of the “Healthy Minds/Healthy Campuses” Conference organized by the Canadian Mental Health Association BC Division) at UVic. In June, I was a presenter during

the two-day workshop on *Conducting Internal Investigations* organized by the Canadian Institute in Vancouver. And in October, I was a panel member on *Comparative Approaches to Ombudsman Work* during the anniversary celebration of the British Columbia Ombudsman office.

OFFICE MANDATE AND STRUCTURE

The ombuds office is an independent, impartial and confidential resource for all members of the university community. The office receives inquiries and complaints from students about academic and non-academic matters, and seeks to ensure that the principles of natural justice are observed. The ombudsperson complements but does not replace the decision-making and complaint mechanisms available at UVic. Ombuds roles include providing information or guidance, problem-solving, case review or investigation. The ombudsperson often facilitates communication between students and academic or administrative units. The ombudsperson may make recommendations in individual cases or for the improvement of policy or practice.

The office is staffed by one full-time ombudsperson. It is funded by direct contributions from students and a grant from the university administration. The ombudsperson reports to the Ombudsperson Advisory Committee.

OMBUDSPERSON ADVISORY COMMITTEE

The Ombudsperson Advisory Committee has the following representation: UVSS director of Academics (Chair), one student senator, one UVSS director-at-large, one student-at-large (UVSS), one graduate student (GSS), one faculty member (Faculty Association), one staff (PEA), two members from the UVic administration (appointed by the VP Academic and the VP Operations and Finance). Because of confidentiality requirements, committee members do not have access to individual case information.

In 2009, the committee met three times to receive the statistical and annual reports and to approve the budget. My thanks go to all committee members for their commitment and their hard work on behalf of the office.

