

V. Addressing Harassment in the Promotion of Equity and Fairness – A Perspective from Canadian University Ombuds

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Summary: A. Introduction; B. History of OO at Concordia University; C. 1969' to 1980's; D. 1980's to 1990's; E. The 1990's; F. Comparative History of the OO of the University of Alberta and the Evolution of the University of Alberta's Response to Harassment Cases (1970s – present); G. Societal pressures for change: Universities rethink their approaches to sexual harassment and assault; H. Results Survey ACCUO regarding practices at Higher Education (HE) establishments; I. Highlights from the Survey; J. Lessons learned; K. Conclusion; L. Bibliography.

Introduction

For better or for worse, the academy often reflects society. It is therefore no surprise that many ombudsmen³ working in universities and colleges have dealt with the challenge of harassment in the academic communities they serve. Today, we are witnessing a cultural shift in which the persons harassed⁴ have become more outspoken, as they publicly confront their aggressors. People speak out, perpetrators are held liable, and institutions are challenged. Certainly, as ombudsmen examining our respective institutions, we need to look at our communities and ask ourselves: Are we doing enough? What is being done elsewhere? Can we do better? And, what best practices exist today that may inform our approaches to reform?

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³ Considering the historical references in the present article we decided not to use the alternative non gendered term Ombudsperson to facilitate the reading.

⁴ Refer to hashtag #MeToo campaign against sexual violence, call for action; "A Crowdsourced Survey of Sexual Harassment in the Academy", *The professor is in*, December 1, 2017, <https://theprofessorisin.com/2017/12/01/a-crowdsourced-survey-of-sexual-harassment-in-the-academy>.

In a joint effort, the Ombuds Offices (OO) of Concordia University and the University of Alberta explore these questions. We outline the history of the approach in our respective offices to address harassment from the 1970's to the present, and provide insights from our particular contexts that we hope will inform others. Next, we present the results of a survey we sent out to members of the Association of Canadian College and University Ombudspersons (ACCUO). For the purpose of this article, we asked: How do the OO in Quebec, Alberta and across Canada deal with harassment complaints? What challenges do OO face with social media? And, what best practices are proposed? Finally, we discuss the lessons learned from our attempts to deal with harassment complaints⁵.

History of OO at Concordia University

Concordia University (CU) is the product of a merger of two institutions and is located on two campuses: Sir George Williams (SGW) in downtown Montreal and Loyola campus on the urban outskirts. We have approximately 45,000 students enrolled in courses offered for credit⁶. The student body is culturally diverse, speaks several languages (half speak English as a first language and the other half is divided between French other languages⁷). A noteworthy 17% of the student body is composed of international students. We have over 6,000 employees and 13 collective agreements.

For the last 37 years since its creation, the OO has been committed to promoting and protecting procedural fairness in the University and provides an avenue for informal dispute resolution of concerns and complaints about policies, rules, and procedures⁸. The scope of the OO's mandate is independent of the University's administrative structures as it reports directly to the Board of Governors. Its services focus on concerns and complaints related to policies, practices, rules, and procedures. Services are impartial, confidential, and accessible to all members of the

⁵ In this article, we have grouped harassment into four categories: harassment, sexual harassment, psychological harassment, and harassment in the work environment.

⁶ Student Enrolment 2016/2017, <https://www.concordia.ca/about/fast-facts.html>

⁷ Linguistic Profile of Concordia's Students 2016/17. Consolidated, <https://www.concordia.ca/about/fast-facts.html#tab3>, online: Concordia university website.

⁸ Boncompain, Julie, *Ombuds Office Promoting Fairness Annual Report 2014-2015*, Concordia University, 2015, p. 1, <https://www.concordia.ca/content/dam/concordia/offices/ombuds/docs/Ombuds-Annual-Report-2014-15.pdf>.

community⁹. The OO has the power to investigate complaints and to recommend solutions when it determines a complaint is justified. Complaints and concerns under the umbrella of harassment have always been among the most difficult and challenging, but this brief history allows us to understand how the Ombuds Office and the Office of Rights and Responsibilities was created.

1969' to 1980's

In the Spring Term of 1968 prior to the creation of Concordia University, at Sir George Williams University (SGW) one of our founding institutions, located in downtown Montreal, six West Indian students¹⁰ accused a biology lecturer of racism, claiming that the lecturer's grading of their work was unfair and reflected bias. That fall, students argued that the formal complaint process took too long and was biased, so they went public with their demand for a fair and timely hearing. On January 29 1969, the day of the hearing, the six plaintiffs disapproved the choice of the hearing panel as it did not include student representatives. Accompanied by 200 other students, they walked out of the hearing and occupied the Computer Centre of the SGW main building to demand fair process. The conflict escalated when police were called and a riot broke out in the Computer Centre. In the end, ninety-seven students were arrested, and the cost and damages to the Computer Centre totalled \$2 million.

This incident made it clear that SGW University administrators urgently needed to review their internal procedures¹¹. As a result, in 1971, SGW made "considerable changes"¹². The Code of Conduct section on Rights and Responsibilities which dealt with non-academic issues was amended and the OO was established to deal with primarily academic matters such as cheating and plagiarism, and to informally address non-academic disputes.

The Code of Conduct for non-academic issues was under the responsibility of the Code Administrator and could be invoked by any member

⁹ *Ibidem*, p. 2.

¹⁰ "Computer Centre Incident", *Archives & Special Collections Catalogue of Concordia University*, <https://www.concordia.ca/offices/archives/stories/computer-centre-incident.html>.

¹¹ *Ibidem*, note 3.

¹² "Rights and responsibilities the university Ombudsmen, Issues and events", vol. 2, núm. 20, 2nd paragraph, 1971, p. 6.

of the community (faculty, students, or staff) it was a first in North America as usually this type of policy usually only applied to students. For the purpose of this article, we will refer to the current name of the Code of Conduct for non-academic issues: the Code of Rights and Responsibilities (CRR).

The CRR not only enumerated members' rights and responsibilities, it reinforced the university's "responsibilities to those who are part of it"¹³. In short, if a member of the community felt a decision was unsubstantiated and violated their rights, they could make a complaint to the OO¹⁴ as a last recourse. Most of the time, the OO would receive the non-academic conduct concerns and complaints and depending on the circumstances would, seek to address them through informal, alternative dispute resolution, and subsequently refer them to the Code Administrator if the complainant wanted to lodge a formal non-academic complaint under the CRR. During that period the term "harassment" did not appear in the CRR, much less sexual "harassment"¹⁵, a term that had not yet been coined, but referred to what we call today manifestations of harassment by employing the following terms: "disruption"¹⁶, "violence or incitement to violence; libel and slander"¹⁷.

In 1975, SGW merged with Loyola College, located on the outskirts of Montreal, to become Concordia University. In addition, it confirmed that there would be an OO on each campus (SGW and Loyola) and clarified that the OO had "the right of inquiry into the application of any regulations" except "collective agreements"¹⁸. In 1977, the new Board of Governors of Concordia University amended the CRR¹⁹ so as to allow student representation on the Hearing Board system.

Suzanne Belson, Concordia Ombudsman from 1978 to 1999, said during that period "we were pioneers, everything had to be done." The OO hosted the very First Canadian Conference of College and University Ombudsmen in 1971 marking it the first time ombudsmen across North America would discuss and tackle difficult issues together. The conference

¹³ *Ibidem*, Chapter I, entitled General, section 3, p. 6.

¹⁴ *Idem*.

¹⁵ The term *sexual harassment* was used in 1973 in "*Saturn's Rings*", a report authored by Mary Rowe to the then President and Chancellor of the Massachusetts Institute of Technology (MIT) about various forms of gender issues.

¹⁶ "Computer Centre Incident", *op. cit.*, Chapter II, section 3, p. 6.

¹⁷ *Ibidem*, section 4, p. 6.

¹⁸ Code of Conduct (non-academic) Concordia University, Policy A-41, approved by the Board of Governors on December 8, 1977.

¹⁹ Communiqué announcing the Code of Conduct, dated January 9, 1978.

participants discovered that no matter where they came from, they faced common challenges.

During the conference, a presentation focused on the reluctant complainant who refuses to divulge their identity or to make a formal complaint because they fear reprisals. This was especially true when it came to gender related harassment complaints. Several ombudsmen admitted that they were uneasy about what kind of offences should be labelled inappropriate. They also acknowledged that sometimes women, who complained about sexual harassment, would hesitate to pursue further action²⁰. A number of ombudsmen realized their college or university did not have a Code of Ethics or CRR, or similar guidelines²¹ that enabled them to determine when a behaviour or action contravened ethics in the context of sexual harassment. One of the main conclusions drawn from this conference on “the problem of sexual harassment in the university”²² was that it “should be subject to a code of ethics”²³, one that defines what is meant when a member’s behaviour is considered “unethical”²⁴, inappropriate or unacceptable.

1980’s to 1990’s

The 1980’s and 1990’s were decades in which human rights were prioritized to a greater extent throughout Canada. The OO of Concordia University was receiving more complex files that raised several questions without obvious answers. More specifically, files related to non-academic offences that concerned sexual conduct, or other disruptive behaviours.

In the past, fewer polices existed to protect women from sexual harassment, and where they did exist they were often unknown or hidden. From an Ombuds perspective, the broad definitions of what constituted sexual harassment were confusing, as this type of harassment could manifest itself in different forms: physical, verbal, and/or psychological. It could

²⁰ Honig, Bonnie, *The Georgian*, Friday, November 9 1978/3.

²¹ Young, Gail, *The Inept Professor, Jack The Ripper, The Reluctant*, Proceedings of the First Canadian Conference of College and University Ombudsmen, 1979.

²² Honig, Bonnie, “Code of ethics would clarify the sexual harassment puzzle”, *The Georgian*, 1978, p. 3.

²³ *Idem*.

²⁴ *Idem*.

take the form of suggestive remarks, and inappropriate gestures²⁵ such as pinching or leering, or it could escalate to more violent encounters.

Belson astutely summarized the difficulties by demonstrating that “the crucial element in sexual harassment is that the continuum always includes a power relationship.” In those years the police and courts were often not effectively resolving the unique and complex challenge of sexual harassment. In fact, Belson pointed out that law enforcement actions and legal options “were expensive, prone to lengthy delays” and “damaging to all concerned,” it was believed that change had to come from within the organisation by having a policy or statement to condemn sexual harassment. Organizational leadership needed a strong statement, to follow up with educational programmes, to allow members of the community to talk about it, and information sessions for members of the community.

Already in the early 1980s, societal tolerance for sexual harassment was waning and universities began to reflect the changes in social norms. In 1981, York University was the first in Canada to create such a policy. A year later, the OO widely distributed a brochure “formulated to try to combat a phenomenon which has its presence not only at Concordia, but throughout North America”²⁶. This was part of a large campaign to educate members of the community. The brochure was sent out to every “faculty member, both part time and full time”²⁷ and in student information kiosks all over the university. In the document, sexual harassment was defined “as the use of power or authority (real or presumed) in an attempt to gain sexual favours”²⁸. The pamphlet explained the steps to make a formal complaint. The OO had hoped this campaign would encourage persons to break their silence.

The OO continued to speak out against harassment for example, in its annual report of 1983-1984, the OO took a stand denouncing a newsletter called *The Bogge*, which was issued every term by student in the Faculty of Engineering and Computer Science. *The Bogge* contained images, cartoons and words that were belittling to women, offensive and insulting²⁹.

²⁵ Aron, Nina R., “Groping in the Ivy League led to the first sexual harassment suit—and nothing happened to the man”, *Timeline*, October 20, 2017, <https://timeline.com/carmichael-wood-sexual-harassment-f2c537a0e1e8>.

²⁶ “Sexual pests are dealt with in new university brochure”, *The Link*, 1981, p. 5.

²⁷ *Idem*.

²⁸ *Idem*.

²⁹ *Idem*.

Institutional attention to the problem continued to increase in the late 1980s. In 1985, an article in the student journal, *The Link*, stated that sexual harassment was still going “unreported”³⁰, and there was “no central registry for complaints of sexual harassment”³¹. The author suggested that a new separate policy should be adopted to handle sexual harassment. The OO did not disagree, but was not necessarily in favour of separating the policy for sexual harassment from the Code of Conduct on the grounds that it implied that “sexual harassment is somehow different from cases such as racial harassment or harassment on any basis”³². At the time the OO was starting to get more cases of students with a variety of harassment cases related to violent incidents of disruptive behaviour, and accusations of bullying. The OO wanted to ensure an equitable distribution of funds to combat all types of harassment such as racial harassment and so on.

In 1987, Concordia University had its first sexual harassment advisor. After York University, it adopted its first policy on sexual assault in the early 1990s³³. However, the tragic massacre of 14 women engineering students at École Polytechnique in Montreal on December 6 1989 underlined the OO concern that violence and disruptive behaviour, not just sexual assault, were far from being isolated acts and that “no campus was immune”³⁴.

The 1990's

As mentioned previously, in the mid 1980's, the OO was receiving more and more harassment complaints related to disruptive behaviour. Given the complexity of these complaints, the ombudsmen started to communicate informally with the Code Administrator and the Director of Health to develop a more comprehensive, multi-disciplinary and constructive approach. This “ad hoc” way forward was intended to ensure rapid consultation, exploration of options, and the development of a process that could more appropriately deal with any disruptive behaviour. This collaborative approach very much reflects the community-based reality of Concordia

³⁰ *Idem.*

³¹ *Idem.*

³² *Idem.*

³³ “Concordia releases report of its review of sexual assault policies”, *Concordia news*, August 26, 2015, <http://www.concordia.ca/cunews/main/stories/2015/08/26/sexual-assault-policy-review-working-group-report-released.html>.

³⁴ Keys, Suzanne, “Violence: no campus is immune”, *Concordia University Magazine*, 1990.

University. Complainants, in general, consented to this type of approach because they had confidence that their issues would be efficiently considered.

Over time, the “ad hoc” committee became known as the university’s “Intervention Team,” a model widely emulated in universities and colleges across North America. Its work led to a growing awareness that disruptive behaviour should not be tolerated. Issues could be equally raised by a professor, employee or student. Reasons that certain disruptive behaviours were difficult to address and seldom disclosed or denounced by members of the Concordia community were identified. These included challenges such as a lack of staff training to deal with disruptive behaviour, difficulties identifying what constituted disruptive behaviour, and front line staff thinking that it was part of their job to deal with disruptive behaviour³⁵.

Fear was also a possible factor in filing a complaint: some were afraid to escalate a conflict; new employees feared their jobs would be at risk, and students feared being called troublemakers. Professors worried they would be faulted for not being able to manage their classes. The OO felt that it was hard to keep tabs on disrupters who acted out in different places or departments with different people. Some members of the community felt helpless or did not know where to go for assistance. As Belson highlighted, even if a charge was placed against a disrupter, a resolution was difficult to reach when the person was still on campus.

In 1990, the OO at Concordia University hosted the first conference, “Dealing with Violent and Disruptive Behaviour on Campus.” Considering it was after the massacre at *École Polytechnique de l’Université de Montreal*: “the large turn-out was seen as an implicit admission of the existence of problems still denied or minimised by some as shameful and detrimental to an institution’s image”³⁶.

In the following years, the OO of Concordia University progressively developed procedures and put more emphasis on workshops and education tailored to the needs of staff, administration, faculty, and students. The message “You are not alone!” was promoted to create an opportunity to work in smaller groups and to share experiences in order to help the university community realise that disruptive behaviours were a “university wide problem”. These measures ensured that the university was involved

³⁵ Belson, Suzanne, “National Read Aloud Day”, presentation made in 1990’s.

³⁶ *Idem*.

in supportive action, ongoing educational efforts, and disciplinary measure reviews.

Belson one of the conference speakers at the Second Congress for Violence and Human Coexistence held on July 14, 1992, explained how this unique and informal way of addressing disruptive behaviour was one way to address the problem. Belson further emphasized that more still had to be done to improve processes and efficiency. Of course, Belson had no way of knowing that one month later a violent incident would take place on her own campus. Valery Fabrikant, a faculty member in engineering, killed four colleagues and wounded a department support staff member after a lengthy dispute about his appointment and credit for his research work.

This tragic incident led to a “re-evaluation of internal policies and procedures as well as the examination of larger questions, including the establishment of safe and civil university environment regulations”³⁷, following the reception of the Cowan Report’s recommendations. As a result, it was recommended that the Intervention Team be part of a policy working group to put together a policy to merge the recommendations from the Cowan report³⁸ as no formal process existed at that time to expel or suspend a disrupter prior to a court decision.

The OO at the time, stated that they did not feel comfortable with the recommendations because they implied that the OO would have to criticise or highlight flaws in a policy it would have helped to develop. Nevertheless, the Task Force to Review Policies was created in October 1993 in order to review the CRR and Responsibilities regulation and behaviour. The review of the CRR took two years of concerted effort and the main objective was to centralize resources³⁹.

In December 1995, the Code of Conduct (as it had been called in 1978) was withdrawn and the Code of Rights and Responsibilities (CRR) was adopted. It codified what the Intervention Team was already doing informally to create “one stop shopping”⁴⁰ for concerns and complaints: the Office of Rights and Responsibilities (ORR) became responsible for

³⁷ Code and rights and responsibilities brochure, online: <file:///C:/Users/jboncomp/AppData/Local/Microsoft/Windows/Temporary%20Internet%20Files/Content.Outlook/NAXAS3DJ/Code%20of%20Rights%20and%20Responsibilities%20booklet%20and%20SG-3%20policy%20October%201%201996.pdf>

³⁸ *Supra.* Note 39.

³⁹ Board of Governors, Minutes of the open session of the meeting Board of Governors, (1995) point 4, p. 3.

⁴⁰ *Supra.* Note 40.

non- academic conduct issues. The ORR was set up to be impartial and confidential. Definitions relating to non-academic conduct offences were clarified and defined in compliance with Quebec legislation. Standards of conduct for all members of the community were established because the University had a duty to provide a safe environment for all members of the community.

A director and advisor now handle concerns and complaints for ORR. The OO's role since the creation of the ORR has become one of referral unless the complaint or concern requires the involvement of both offices. Today, the OO at Concordia University no longer deals directly with harassment complaints. In those cases, we conduct a first assessment of the file, clearly identify key issues, refer to the ORR, the Sexual Assault Resource Centre, the Health Clinic or other relevant resource. We explain how they can gather evidence, and see if they can explore other avenues for informal resolution (especially if they do not want to make a formal complaint).

Comparative History of the OO of the University of Alberta and the Evolution of the University of Alberta's Response to Harassment Cases (1970s – present)

The University of Alberta (UofA) is a comprehensive academic research institution with approximately 38,000 students (more than 31,000 undergraduate and 7,000 graduate), and more than 15,000 employees who are distributed among 4 campuses—North Campus in Central Edmonton, Enterprise Square in Downtown Edmonton, Campus Saint-Jean (a French-language campus in Edmonton's francophone neighbourhood, which is the westernmost francophone campus in Canada), and Augustana (a liberal arts undergraduate campus located in Camrose, Alberta). Ranked in the Top 100 of QS World University Rankings, the UofA is Alberta's largest and most diverse research university with approximately 8,000 international students and another 4,000 who hail from other Canadian provinces⁴¹.

⁴¹ University of Alberta Facts 2017-2018: <https://www.ualberta.ca/https://cloudfront.ualberta.ca/-/media/ualberta/about/facts-brochure-2017-18-final-2-2.pdf>

The history of both ombudsman practice and approaches to dealing with harassment at the UofA is complex. In the 1970s, there was no term in university policies for what we now call harassment, even though practices that people would now refer to as sexual harassment, workplace harassment, or bullying certainly existed and were described in complaints to university administrators⁴². The first campus ombudsman and predecessor of the contemporary Office of the Student Ombuds (OSO) at the UofA was Professor Emeritus Don Scott. Dr. Scott's position was established in 1971, making it one of the first five university ombudsman positions in Canada⁴³. It was created the same year as the Ombuds Offices at Concordia, Carleton, and Dalhousie Universities, and preceded only by Simon Fraser University in 1965⁴⁴. The establishment of the first UofA ombudsman came at the impetus of the President's Office, following a letter from a private citizen to the President in 1969. As ombudsman, Dr. Scott was appointed to investigate the complaints and concerns of students, faculty, and staff with regard to academic and administrative procedures and decisions. He reported directly to the UofA Board of Governors from 1971-1975. After a faculty dispute and a subsequent review of the OO by the Board of Governors, Dr. Scott resigned in 1975⁴⁵.

The next iteration of an Ombuds-like function came when the first Dean of Students established the Student Advisor position in 1976. However, while formally neutral, the new Student Advisor position had as its sole mission the management of student grievances and complaints and reported to the Dean of Students. Thus, there was no office at that time charged with addressing faculty or staff grievances⁴⁶.

⁴² Schoeck, Ellen (former Information Officer on Appeals and Grievances and PACSH Coordinator), *In-person interview with Brent Epperson*, December 13, 2017, Edmonton, Alberta.

⁴³ Sharpe, Natalie, *Office of the Student Ombuds Handbook* (2015-2016).

⁴⁴ ACCUO 2013: <http://accuo.ca/wp-content/uploads/2017/07/ACCUO30En.pdf>

⁴⁵ Sharpe, Natalie, *Office of the Student...*, *op. cit.*; Report of the Advisory Review Committee on the Office of the University Ombudsman, Board of Governors, University of Alberta, Edmonton, University of Alberta archives, April 1973, <http://www.ualberta.ca/ARCHIVES>.

⁴⁶ Sharpe, Natalie, *Office of the Student...*, *op. cit.*; Report of the Ad Hoc Committee on Restructuring the Office of Student Affairs. GFC, University of Alberta, September 1976, W.A.G. Voss (Chair), p. 456. Also known as the "Voss Report"; Schoeck, Ellen, *In-person interview...*, *op. cit.*; Two of the earliest Student Advisors were Fran Trehearne and Ron Chilibek, followed by Natalie Sharpe, who later served as Director of the Student Ombudservice, and remains Director of the Office of the Student Ombuds (Sharpe, Natalie. Correspondence with Brent Epperson. December 12, 2017).

In 1982, the neutral position of Information Officer on Appeals and Grievances was established in the President's Office, and Ellen Schoeck was appointed for the new role. Taking inspiration in part from corporate ombudsman models in that era, the Information Officer on Appeals and Grievances simultaneously served as Secretary to General Faculties Council (GFC), and as Director of the University Secretariat. Schoeck dealt with academic and discipline appeals, and provided information on faculty and staff grievance processes, continuing to serve in UofA Governance leadership for twenty-seven years⁴⁷.

As had been the case in many Canadian universities, the institutional attempt to curtail sexual harassment was the gateway into dealing with all forms of harassment⁴⁸. When the Information Officer on Appeals and Grievances position was created in 1982, there was no definition in university policy for what we now call "sexual harassment." That same year, the Students' Union (the association representing undergraduate students at the UofA) went to the President's Office and lobbied with determination for the university to take action on matters of sexual harassment and misconduct. President Maier Horowitz met with the leaders of the four constituency associations—the Students' Union (SU), the Graduate Students' Association (GSA), the Academic Staff Association of the University of Alberta (AASUA), and the Non-Academic Staff Association (NASA)—to ensure their support in addressing the issue. The President's Office then established the President's Advisory Committee on Sexual Harassment (PACSH), an eight-person committee with one male and one female representative from each of the four constituency groups, and appointed Schoeck as the PACSH Coordinator. Starting in 1983, PACSH published an annual report in both the University's *Folio* magazine and *The Gateway* student newspaper, which included campus statistics on sexual harassment. The committee established a "Talk line" to which complainants could phone and obtain advice on policies and procedures from the PACSH Coordinator and Information Officer on Appeals and Grievances. PACSH existed until 1990, and received an average of approximately 40 cases per year⁴⁹.

⁴⁷ Schoeck, Ellen, *In-person interview...*, *op. cit.*; Sharpe, Natalie, *Office of the Student Ombuds...*, *op. cit.*

⁴⁸ Wade, King, (current Director of OSDHR), *In-person interview with Brent Epperson*, December 14, 2017, Edmonton, Alberta.

⁴⁹ Schoeck, Ellen, *In-person interview...*, *op. cit.*

The key missions of PACSH were to educate the university community on practices that constitute sexual harassment (based on the new definitions established by the Alberta Human Rights Commission and the Canadian Association of University Teachers). PACSH pamphlets distributed throughout student service offices and academic faculty offices defined sexual harassment and gave examples of harassing behaviour. The pamphlets instructed victims on how to rebuff unwanted sexual advances, provided the phone number for the confidential “TALK line” for advice, and suggested that victims maintain written records of instances in which unwanted, non-reciprocal sexualized behaviours occurred. Lastly, the pamphlets informed potential victims of their option to file a formal complaint of sexual harassment to PACSH⁵⁰.

Other offices were established within the university in the 1980s parallel to PACSH, as issues of administrative fairness, equity, and human rights took a more central role in campus politics. In 1983, the Students’ Union (SU) created its own Student Ombudservice and hired a part-time Director for Student Grievances. An Equity Office was established in 1985 to promote employment advancement opportunities for women and visible minorities and to monitor alleged employment discrimination. In 1989, the UofA’s Council on Student Life Standing Committee on Reports and Reviews completed the Report on Services Available for Student Appeals, Grievances, and Disciplinary Matters, which recommended the re-establishment of an ombudsman position⁵¹. That same year, in part as a response to the media wave that surrounded the 1987 Supreme Court decision in *Robichaud v. Canada (Treasury Board)*⁵², which incited many universities and other public institutions to critically examine their approaches to mitigating harassment, the UofA combined its Equity Office with PACSH to form the Office of Human Rights. The Office of Human Rights Office handled complaints and concerns related to employment equity, discrimination, and sexual harassment⁵³.

The institutional approaches to managing administrative fairness, equity, and harassment continued to evolve in the 1990s. During the early 1990s, the UofA established the Sexual Assault Centre under the Dean of

⁵⁰ *Idem*

⁵¹ Sharpe, Natalie, *Office of the Student Ombuds...*, *op. cit.*; “Report on Services Available for Student Appeals, Grievances, and Disciplinary Matters”, Council on Student Life Standing Committee on Reports and Reviews, Report no. 6, May 1989, p. 14.

⁵² *Robichaud Canada (Conseil du Trésor)*, 1987, 2 R.C.S. 84. <https://scc-csc.lexum.com/scc-csc/scc-csc/fr/item/236/index.do>.

⁵³ Sharpe, Natalie, *Office of the Student Ombuds...*, *op. cit.*

Students portfolio. In the same period, the Vice-President Academic of the Graduate Students' Association (GSA) began to assume quasi-ombuds duties, advising graduate students in academic disputes. In 1995, the Student Union's Student Ombudservice (SOS) approached the university to examine the possibility of creating a joint university-SU service. In 1997, the position of Student Advisor (still a university employee, reporting to the Dean of Students) and the two SU student ombuds (reporting to the SU Executive) formed the Student Ombudservice based on a memorandum of understanding. A year later, in 1998, the GSA created a part-time GSA Ombudsperson, reporting to the GSA Board⁵⁴.

Changes in ombuds services and human rights management persisted in the 2000s. With regard to ombuds services, it became increasingly apparent to university and student leaders that a more integrated ombuds model was necessary. In 2006, the GSA Ombudsperson position was transferred from the GSA to the university, and became the part-time Graduate Ombudsperson. In 2008, the university established a part-time Undergraduate Ombudsperson position as well⁵⁵. The Student Ombudservice at that time consisted of a full-time Director and two part-time ombudspersons who reported to the Director as university employees, as well as two interns in a dual reporting structure who reported both to a manager of the SU and to the Director of the Student Ombudservice.

In a controversial and contested move at the time, the UofA reorganized the Office of Human Rights in 2009, which led to a higher number of harassment and discrimination complaints in the Student Ombudservice. However, as part of the administrative reorganization, the UofA created the Office of Safe Disclosure and Human Rights (OSDHR) that year⁵⁶. Like the former Office of Human Rights, the new OSDHR served students, faculty, and staff. However, the new office focused more on its role as a place of confidential disclosures and policy guidance, and no longer provided mediation or conflict resolution services. The Board of Governors had concerns that whistleblowers would be discouraged without a greater focus on safe disclosure, hence the new office focused more on disclosure and was moved to the Audit portfolio of the university, reporting directly to Board of Governors. Instead of direct conflict resolution assistance like that offered in its predecessor office, the OSDHR referred students with

⁵⁴ *Idem*.

⁵⁵ *Idem*.

⁵⁶ Schoeck, Ellen, *In-person interview...*, *op. cit.*; Sharpe, Natalie, *Office of the Student Ombuds...*, *op. cit.*

harassment or discrimination complaints, or students seeking mediation or other alternative dispute resolution assistance, to the Student Ombuds-service for advice⁵⁷.

By 2013, the Undergraduate Ombudsperson and Graduate Ombudsperson were both full-time university employee positions, reporting directly to the Director of the Student Ombuds-service. In 2014, the Student Ombuds-service and the Students' Union initiated discussions to end the merged service model and to create a new internship program in which ombuds interns would be contract university employees, reporting directly and solely to the Director. Finally, in 2015, the new Office of the Student Ombuds (OSO) was established as a university service separate from the SU⁵⁸. Today, the OSO consists of three full-time ombudspersons (the Director, the Graduate Ombudsperson, and the Undergraduate Ombudsperson) as well as three interns (two full-time Undergraduate Ombuds Interns and one part-time Graduate Ombuds Intern). The OSO advises undergraduate students, graduate students, post-doctoral fellows, and medical residents in issues such as the informal resolution of interpersonal conflicts, academic appeals, Code of Student Behaviour cases, concerns and formal complaints of discrimination and harassment, and requests for referral to other university services. The OSO does not serve faculty or staff.

Societal pressures for change: Universities rethink their approaches to sexual harassment and assault

When considering the Canadian context, it is important to understand that there are different equity, fairness, and harassment issues that are prioritized regionally at different times. In recent years, for instance, Western universities have been more concerned with issues relating to indigenous peoples that have notably come to light through the Truth and Reconciliation Commission. Alternatively, in Ontario, the Black Lives Matter movement that began in the United States has gained a lot of traction on campuses and impacted policy discussions. Thus, regional politics and demographics influence the policy priorities in university harassment, discrimination, and fairness debates⁵⁹. The news cycle of course also plays an important role in policy shifts.

⁵⁷ Wade, King, *In-person interview with Brent...*, *op. cit.*; Sharpe, Natalie, *Office of the Student Ombuds...*, *op. cit.*

⁵⁸ Sharpe, Natalie, *Office of the Student Ombuds...*, *op. cit.*

⁵⁹ Wade, King, *In-person interview with Brent...*, *op. cit.*

Following the egregious allegations of sexual harassment and assault that emerged against Hollywood producer Harvey Weinstein⁶⁰ in October 2017, a media wave has followed countless disclosures of sexual misconduct against some of the most powerful men in North American and European entertainment, media, and politics. The academy has not been immune to the surge of reports and scandals, which have incited numerous dismissals and administrative leaves of influential researchers and professors⁶¹. It is therefore no surprise that risk management and legal teams throughout the West are painstakingly examining their policies on sexual harassment and assault. A generous interpretation of policy changes throughout the higher education sector would see the shift as a product of authentic care for victims on our campuses. A more cynical view may see a sector concerned with preserving university reputations and revenue streams, having taken lessons from higher education sexual assault scandals that preceded the Weinstein case, such as the notorious University of Montana cases in 2012⁶². Regardless of the motivations, universities are transforming their approaches to sexual assault and harassment. The University of Alberta is no exception.

In 2016, the UofA released its report from the Review of the University of Alberta's Response to Sexual Assault. Following the review, the University established both the Sexual Violence Policy Committee (SVPC) and the Sexual Assault Response Implementation Committee (SARIC) to implement and oversee forty-six recommendations. The new Sexual Violence Policy aims to educate the university community and ensure outreach on issues surrounding sexual violence. It further aims to improve both support and accountability. The policy applies to all members of the campus community (faculty, staff, and students). It is survivor-driven and has sought to clarify previously ambiguous definitions. Perhaps most interestingly, the UofA's Sexual Violence Policy clearly distinguishes between disclosures and complaints, and it allows for modifications to assist survi-

⁶⁰ Kantor, Jodi and Twohey, Megan, "Harvey Weinstein Paid Off Sexual Harassment Accusers for Decades", *The New York Times*, October 5, 2017, <https://www.nytimes.com/2017/10/05/us/harvey-weinstein-harassment-allegations.html>.

⁶¹ Goldhill, Olivia and Slobin, Sarah, "One spreadsheet reveals the horrifying ubiquity of sexual harassment in academia", *Quartz*, December 12, 2017, <https://qz.com/1153654/sexual-harassment-in-academia-a-crowdsourced-survey-reveals-the-scale-metoo/>; "Tariq Ramadan accusé de viol par la militante Henda Ayari", *Le Monde*, 20 octobre 2017, http://www.lemonde.fr/societe/article/2017/10/20/tariq-ramadan-accuse-de-viol-par-henda-ayari_5203987_3224.html.

⁶² Krakauer, Jon, *Missoula: Rape and the Justice System in a College Town*, New York, Doubleday, 2015.

vors and interim measures that apply to alleged perpetrators without formal complaints⁶³.

As professionals who have as our vocation the promotion of equity and fairness, ombudsmen welcome changes to harassment policies that help to create safer and healthier campuses for all members of our communities. We are nonetheless sensitive to risks inherent in substantial policy changes that follow trends in the higher education sector and recent media scandals. There is always a possibility that major increases of attention to one form of harassment—for instance, in the current era, sexual harassment—will overshadow the need for attention to other forms of disruptive behaviour, unfairness, and inequity. As ombudsmen carefully monitor policy shifts in our campus communities in a policy area that will undoubtedly continue to evolve in the coming years, it is useful to take stock of the variety of practices in the management of harassment in Canadian universities and colleges, as well as the roles of ombudsmen in shaping harassment policies and dealing with harassment complaints.

Results Survey ACCUO regarding practices at Higher Education (HE) establishments

The survey we administered for the purpose of this article was sent out to the 37 members of ACCUO⁶⁴ to gain an understanding of how harassment was being handled in Canadian Colleges and Universities. In total, 62% of the members responded to the survey. ACCUO began as the result of the Canadian Conference of College and University Ombudspersons, which was first held at the OO of Concordia University. Therefore, it is not surprising that one of its main missions is to promote and foster “an understanding and appreciation of the role of an ombudsperson within universities and colleges across Canada and to support its members through networking, education, and professional development opportunities”⁶⁵. Here are some of the characteristics of members’ offices:

⁶³ University of Alberta, USA, January 2016, <http://www.deanofstudents.ualberta.ca/CampusResources/~media/deanofstudents/Documents/Reports/UofASexualAssaultReview.pdf>; “Sexual Violence Policy”, University of Alberta, USA, Policies and Procedures On-Line (UAPPOL), June 23, 2017, <https://policiesonline.ualberta.ca/PoliciesProcedures/Policies/Sexual-Violence-Policy.pdf>; Eerkes, Deborah, “Responding to Sexual Violence on Campus”, *Lister Conference Centre*, The University of Alberta, Edmonton, December 6, 2017.

⁶⁴ Association of Canadian College and University Ombudspersons

⁶⁵ “A word about the Association”, Association of Canadian College and University Ombudspersons, <https://accuo.ca/about/a-word-about-the-association/>.

- 66% serve students only; the remainder serve faculty, staff, and students;
- Around 75% have their own Terms of reference and produce an annual report; and
- 30 % of the members have existed for more than 10 years.

Highlights from the Survey

In the following paragraphs, we outline the four main questions asked of the ACCUO members; their responses are illustrated in charts.

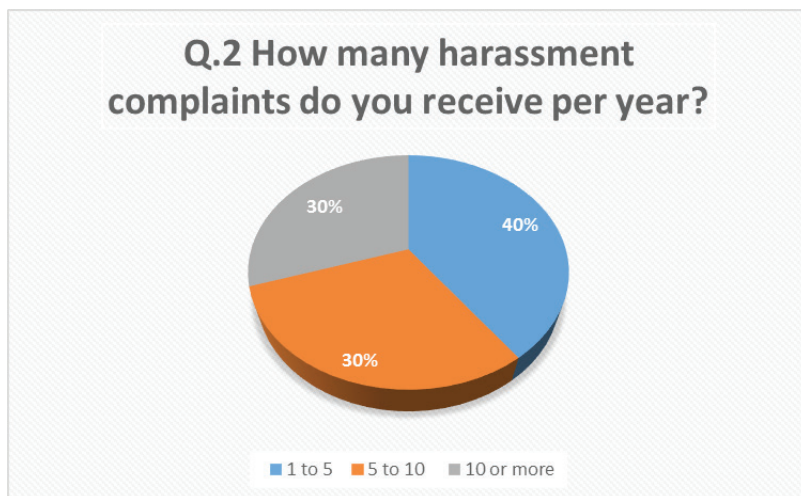


FUENTE: Association of Canadian College and University Ombudspersons.

A full 57% of the Association members do not directly deal with harassment complaints. Instead, they refer harassment complaints to either the secretary general (or equivalent) of the institution or an office that is charged with the responsibility of addressing all forms of harassment (or sometimes only one form) and disruptive behaviour. For instance, some universities have offices that deal uniquely with sexual harassment office. We observed that not one of the Quebec university offices which participated in the survey was in charge of addressing harassment complaints (even less with regard harassment stemming from the work environment or related to sexual harassment). This is a consequence of the provincial bylaws of Quebec, which very early on required employers to have a separate policy and procedures to address harassment complaints in the

work environment. Unlike in Quebec, the OO in the universities of Ontario are all subject to human rights legislation, which obliges them to comply. Therefore, the non-academic offences related to harassment are based on human rights legislation instead of a code elaborated by the institution.

One third of ACCUO members, such as the OO at the University of Alberta, deal directly with harassment complaints. In some cases, depending on the nature of the complaint, they may refer complaints to a designated authority or office.



FUENTE: Association of Canadian College and University Ombudspersons.

Over one third of the members who deal with harassment complaints receive one to 5 harassment complaints per year, while one third receive five to ten complaints per year.



FUENTE: Association of Canadian College and University Ombudspersons.

More than half of the cases that members handle are related to harassment on social media, one third are related to psychological harassment, and the rest are related to sexual harassment. None of the members receive workplace harassment complaints; instead, government policies and collective agreements usually regulate these complaints, which are not within the OO’s mandates. Summary of best practices suggested by the members of ACCUO starting with the most popular suggestions:

Best Practices
Refer harassment complaints diligently and confidentially to the appropriate office
Be empathetic and listen to all clients: let complainant tell their story
Urge the Complainant to complete a summary document of events and to keep you updated on the progress of events to ensure they understand process and delays
Offer support throughout the process , refer to relevant policies
Make sure the student understands the harassment process and harassment complaint process
Assist the student if they might need help in addressing other administrative issues : academic issues
Explain relevant policies
Follow-up on the complaint
Assist student in preparing a complaint

Lessons learned

- When assessing a possible harassment claim, be careful in evaluating information;
- When seeking information, be conscious of questions that might risk making the person feel uncomfortable—remember that this is not a court interrogation.
- Beware not to use “trigger words” or draw conclusions in an area in which you are not an expert; it is better to refer a person to the right resource or to work in collaboration.
- Do not accept unwritten rules or practices to be fair because “that is the way it has always been done.” Question and evaluate practices, and see what is being done elsewhere.
- Beware of charming and manipulative harassers.

Conclusion

After an overview of the history from the Ombuds Offices of Concordia University and the University of Alberta, we realised how each office played an important role in the evolution of policies and procedures to address harassment. Certainly the combination of sexual harassment, disruptive behaviours, and other non-academic conduct issues forced Canadian universities and colleges to do more for the members of their campus communities. These institutions have adopted a great number of policies and put in place separate offices that they can rely on to assist them with harassment and other types of cases. The OO role is to make sure they are carefully scrutinized, upheld after passing through governance procedures, and reviewed to ensure best practices.

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the evolution of managing harassment and human rights issues in the two institutions from the 1970's to 2000's. We are grateful for their generosity with their time and warm senses of humour. Concordia Archive Services offered tremendous assistance in recreating the evolution of policies. They are the gatekeepers of our memory.

We would like to offer a special thanks to the ACCUO members who, without their feedback, we would not have been able to present an accurate representation of the Canadian context.

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