

In accordance with the Ombuds Office terms of reference, this annual report is submitted to the President of the College and the Ombuds Advisory Committee. The report covers the period from July 1, 2007 to June 30, 2008, and is available to any member of the Fanshawe College Community.

## OMBUDS OFFICE MANDATE

The Ombuds Office was established in October 1993 through a joint agreement between the College and the Student Union. The budget for the office is shared between the College and student union. The Office is overseen by the Ombuds Advisory Committee. In 2003, the mandate was revised. The mandate of the Ombuds Office is to:

1. Receive, investigate, and seek to resolve, at the request of any member of the college community, or upon the Ombuds' own motion, any problems, or complaints with regard to any aspect of college life.
2. Provide general information about College resources, procedures and rules, and advise visitors of their rights and responsibilities in situations where problems or questions may arise.
3. Make recommendations to those in authority with a view to remedying the situation of individuals, and recommend changes in rules or procedures, which would have the effect of making the College, or Student Union more fair in their operations.

For the full text of the mandate, please refer to the Ombuds Office website ([www.fanshawec.ca/ombuds](http://www.fanshawec.ca/ombuds)).



### *In This Issue:*

Ombuds Mandate .....	1
Annual Report Message & Recommendations.....	1

### 2007-2008

Discussion of Cases.....	6
Case Studies.....	12
Thanks .....	15
Fairness Checklist .....	16

# Annual Report Message & Recommendations

***The annual report message is used to identify themes and challenges facing the college, and make recommendations to address them.***

This year's annual report message focuses on three aspects where the college needs to improve its policy and practice. When the Ombuds Office considers fairness questions, it assesses a situation and compares it to a fairness checklist. This checklist (which is appended to this report) articulates the importance of ensuring access to information, clear and consistent decision-making and fair treatment via fair appeal, review and complaint procedures. It is with these principles in mind that I draw the college's attention to the following concerns related to: student rights, upgrading and credit applications.

## DECLARATION OF STUDENT RIGHTS AND RESPONSIBILITIES

One of the changes that greeted the start of the school year was the implementation of a new Student Code of Conduct. The Student Code of conduct was reviewed over the summer of 2007, and approved in November 2007. The new policy came into effect August 1, 2008. The revised code of conduct is geared toward promoting a respectful and safe campus community. It is also focused on ensuring consistent and fair treatment of students when there is a violation of the code of conduct.

During the process of drafting the revised policy, a section entitled "Student Rights" was removed. It was felt that the principles outlined in the policy were important, but they did not fit in the context of the revised policy. The student rights section established foundational principles and context for rights and responsibilities outlined in other policies. These included rights related to:

- Fair treatment, including protection of natural justice and procedural fairness
- Safety and security rights (including freedom from harassment and discrimination);
- Freedom of information and protection of personal information
- Fair evaluation, and the right to appeal grades
- Right to appeal and complain, without fear of reprisal

The student rights section also outlined important concepts which are not reflected in other policies. These include the right:

- To program and course information, which would allow students to make informed choices
- To retain ownership of work produced by students (in cases where the college does not provide the materials)
- To study in an environment which is free from disruption
- To access college policies

The first group of rights inform other policies, whereas the second category contains essential concepts which do not easily fit into other policies. It is important that these statements are not lost.

In order to ensure these valuable concepts are not lost, I recommend that the college create a new declaration of Student Rights and Responsibilities. This could serve as an umbrella policy which establishes the context for the other rights and responsibilities policies. It would serve as an introduction to other policies which deal with student rights, and would refer to other relevant policies (Safe campus, Respectful Campus Community and the Harassment and Discrimination

→ continued on page 3

Prevention policy) and place them in context. This statement would also capture the essential elements from the former Student Rights section.

## FAIR ACCESS TO UPGRADING

In 2004 the college revised the course grade system policy (2-C-04). This policy establishes the college-wide grading system. The Course grade system policy, in conjunction with Academic Standing and Graduation from Approved College Programs policies establish the requirement that students must achieve a 2.0 Grade Point Average (GPA) in order to graduate. With these revisions, the course grade system policy established a process to upgrade courses. Students can upgrade either to improve their cumulative GPA, or to change failing grades. From the perspective of the Ombuds Office, I



am concerned with the equity of how the upgrading process functions. The policy states that upgrade a failing grade, certain conditions need to be present:

### 3.3.1. General Principles

3.3.1.1. Not all courses are eligible for upgrading opportunities. Designation of Upgrading eligibility will be stated on the course information sheet.

### 3.3.2. Improve a failing grade

3.3.2.1. The failing grade must be within 10% below the minimum passing grade.

3.3.2.2. The failing grade can be upgraded by one full letter grade only (e.g. D+ to C+ or F to D)

3.3.2.3. Normally no more than 2 failing grades can be upgraded in one term.

3.3.2.4. Students will be allowed to progress and attend classes pending the outcome of the upgrading opportunity.

3.3.2.5. Upgrading opportunities will normally be provided within 14 calendar days, excluding holidays as defined in the academic calendar of the award of the failing grade.

Essentially, the policy states that if a student fails a course by less than 10% they should be allowed to upgrade the class, unless the course has been specifically excluded from upgrading.

The policy clearly articulates the requirements for upgrading; however, it has been implemented inconsistently. Some programs have fully integrated upgrading into the program. In these programs, Faculty facilitate the process by contacting students who qualify for upgrading, notifying them of their right to upgrade, and overseeing the evaluation. In other programs, teachers will only offer upgrading when students specifically request it. In some cases, teachers have refused to allow students to upgrade failing marks, because they feel the original grade should stand.

→ continued on page 4



These conditions are unfair because students do not have equal access to upgrading. It is inequitable when two students in the same situation are treated differently. When upgrading opportunities are not offered (or are wrongly denied), students are forced to use the appeal process to request upgrading. This is a waste of time and resources. It is also unfair because some students remain unaware that there is opportunity to upgrade. If the college's desire is to allow students who qualify an opportunity to upgrade, then there should be a consistent approach to notifying students of the existence of the policy, and when they qualify for upgrading.

The Course Grade System policy allows for courses to be exempted from upgrading, but does not establish any parameters for which classes should be excluded. This results in widely differing interpretations of which classes are eligible to be upgraded. In some programs, only core courses are exempt, whereas in others it is a more significant proportion. This lack of transparency undermines the perceived fairness of the policy. The absence of clear criteria for exemption creates the potential for programs to undermine the principles in the Course Grade System policy.

Therefore, I recommend that the college develop and implement a clear and consistent process to contact students who are eligible for upgrading. I also recommend that the college clearly articulate and apply criteria for which courses are eligible for upgrading, and which can be excluded.

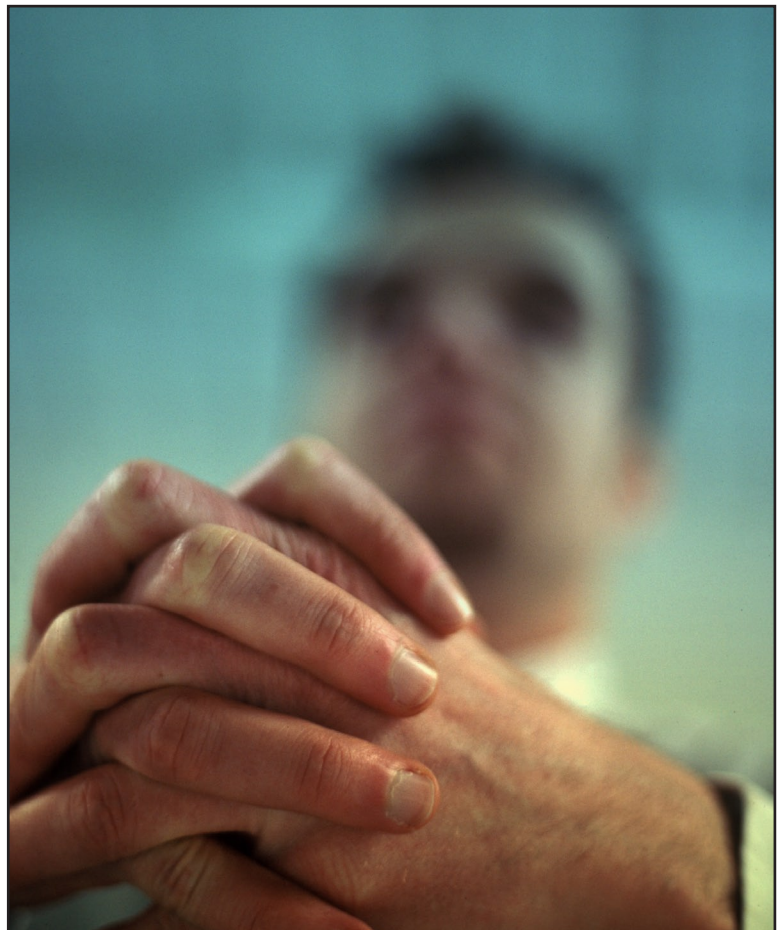
## INTERNAL/EXTERNAL CREDIT PROCESS AND TIMELINES

Every year the Ombuds office receives complaints about the internal and external credit and advanced standing application process. The College website defines these as:

*Internal credit is credit granted by Fanshawe College for a Fanshawe College course on the basis of previous credit achieved in a different Fanshawe College course(s). ... External credit is credit granted by Fanshawe College for a Fanshawe College course on the basis of previous credit achieved at another institution. ...*

*Advanced standing (transferring from another post secondary institution) ... is credit granted by Fanshawe College for all or most of the courses of a program level(s) on the basis of previous academic achievement at another institution - thus qualifying the applicant for direct entry to the second or higher level of the program without jeopardizing the opportunity to be successful in that level.<sup>1</sup>*

→ continued on page 5



<sup>1</sup> [http://www.fanshawec.ca/EN/registrar/17642/17783/25212/coursecredit.asp?zoom\\_highlight=internal+credit](http://www.fanshawec.ca/EN/registrar/17642/17783/25212/coursecredit.asp?zoom_highlight=internal+credit), Accessed September, 2008.

The complaints received about internal and external credits and advanced standing applications typically relate to problems with predictability and transparency of the application process.

In complaints to the Ombuds Office, students have expressed concerns about unreasonable delays in receiving responses to their applications. Students must submit their applications within the first 14 Calendar days of the term; however there are no specific timelines for the college to respond. The School of Language and Liberal Studies has established a benchmark and process for assessment of General Education credits applications to be complete within 10 days. This has increased the transparency of the process and reduced complaints. In other cases it can take several months for students to receive a decision on their application. Investigations, of complaints received by the Ombuds Office, have revealed that these delays have been caused by difficulty getting appropriate documentation, tardiness in responding, or due to the fact that different schools are responsible for assessing different elements of an advanced standing application.

The Ombuds office has also received complaints from students who failed classes when an application was denied, because they did not attend the class when the application was being assessed. It is clear that in the latter case, the student bears the responsibility because they chose not to attend the class; however the college can mitigate these cases by improving the timeliness of the responses.

In other cases, students have also called to disagree with the decisions. Upon review it is clear that the college is making decisions that are consistent with the criteria for assessing the applications – however those criteria are not always available to students. The Course Grade system policy states that for internal and external credits, “courses will have at least 75% comparable content/learning outcomes”. The policy also states that a minimum grade of C must be achieved in order to be granted an external credit. At the same time, the college website states:

*Approval of course credit: Each Course Division is responsible for establishing and making known to students its policies and procedures for evaluating applications for internal/external credit. The course division Chairperson is responsible for approving or not approving an application for Internal/external credit and conveying this decision to the students.<sup>2</sup>*

This information is confusing as it leads to the impression that there is not a standard college-wide criteria used to assess these credits. Students should be informed of what criteria will be used to make the assessment. This will help them make more informed decisions about the likelihood that the application will be approved.

Based on these experiences, I recommend that the college work to improve the transparency and predictability of the credit application process, by articulating clear criteria upon which decisions will be based, and by developing a clear, predictable and transparent application process. ♦



<sup>2</sup> Ibid.

## THE CASE SPECIFIC RECOMMENDATIONS

During 2007-8, I submitted several formal and informal recommendations, and advised departments of opportunities for improvement. These recommendations tend to be case-specific, directed toward remedying an unfair situation, or preventing further complaints. I am pleased to report that I have seen positive changes result from these recommendations.

I trust that the consideration and implementation of these recommendations will improve the College's capacity to respond to complaints, and serve to promote fairness in the College community.◆

## 2007-2008 Discussion Of Cases

This section provides a statistical breakdown and analysis of this year's caseload. 748 members of the College community were in contact with the Ombuds office this year, regarding 391 files. This is an increase of 47 cases over last year, and is by far the highest caseload ever for the Ombuds Office. It took an average of 4.4 days to conclude each case, which is consistent with the previous five years. ◆

### CASES BY ACTION

The first area of discussion, illustrated in Table 1, illustrates what action was undertaken by the Ombudsperson upon receipt of a complaint. This can include providing information or advice, or some form of intervention. When I provided case-specific information to the client, the case was recorded as providing information. Cases are classified as advice when we discussed a visitor's concern, identified possible paths toward resolution, and helped the visitor to assess which path was most appropriate to their circumstances. Intervention refers to cases where the Ombudsperson took an active role in the resolution of a complaint. Table 2 provides more information about the different types of intervention. Whenever possible, I attempt to empower visitors to pursue their own solutions in an informed and appropriate manner. By spending time discussing expectations, fairness and options, individuals are better prepared to make choices to take effective action on their own.

Cases where the Ombudsperson intervenes are the smallest proportion of the caseload, but require the most work. Table 2 reports the five types of intervention, including: Clarification; Negotiate and Facilitate Solutions; Mediation; Review and Recommendation; and Investigation and Recommendation. "Clarification" is when the Ombudsperson sought information with the

→ continued on page 7

**Table 1. Cases by action 2002-2008**

	2007-8		2006-7		2005-6		2004-5		2003-4		2002-3	
	#	%	#	%	#	%	#	%	#	%	#	%
Advice	286	73	257	76.9	253	74	242	72.2	259	77.8	222	82.5
Information	56	14	47	14.1	52	15.2	42	12.5	48	14.4	26	9.7
Intervention	49	13	30	9.0	37	10.8	51	15.2	26	7.8	21	7.8
<b>Total Cases</b>	<b>391</b>	<b>100</b>	<b>334</b>	<b>100</b>	<b>342</b>	<b>100</b>	<b>335</b>	<b>100</b>	<b>333</b>	<b>100</b>	<b>269</b>	<b>100</b>



purpose of assisting the resolution of a complaint. For example, to clarify rules or policies, or to request reasons for a decision. Cases classified as “Negotiates and Facilitates Resolution” involved a more direct intervention. In these instances, the Ombudsperson alerted College employees of problems; employed shuttle diplomacy; identified issues to be resolved; identified solutions to problems; and provided process advice to parties as they attempt to achieve resolution. “Mediation”

refers to formal mediation, where the Ombudsperson facilitated a face to face negotiation between two or more parties. Review and Recommendation, refers to cases where the Ombudsperson conducted a review of the case, and provided an informal recommendation or conclusion based on the evidence available. The recommendation or conclusion was then used to resolve the complaint. “Investigation and Recommendation” refers to cases which required a formal investigation and written recommendations. This table demonstrates that even when an intervention is required, the preferred approach is to encourage informal resolutions at the lowest level.

**Table 2. Intervention by type 2007-8**

Intervention type	Number
Clarification	26
Negotiate and Facilitate solutions	7
Mediation	4
Review and Recommendation	9
Investigation and Recommendation	3
Total	49



## CASELOAD BY ISSUE

Table 3 (page 8) shows categories of complaints, and the number of complaints about each issue. At times, the nature of complaints and inquiries are difficult to categorize if they overlap or are unclear. In some cases there are multiple issues involved in a complaint. While both primary and secondary issues are recorded, for the sake of brevity, only the primary issues (recorded according to the best matching issue description) are contained in this report.

Academic complaints account for the greatest number of cases. Table 4 (page 8) shows the underlying issue in detail. The largest single academic issue bringing visitors to the Ombuds office relates to academic appeals.

**Table 3. Caseload by Issue 2003-2008**

	2007-8		2006-7		2005-6		2004-5		2003-4	
	#	%	#	%	#	%	#	%	#	%
Academic	244	62.4	193	57.8	194	56.7	178	53.1	179	53.8
Admission	8	2	4	1.2	13	3.8	19	5.7	2	0.6
Conduct	19	4.9	31	9.3	27	7.9	21	6.3	31	9.3
Harassment & Discrimination	8	2	8	2.8	5	1.5	11	3.3	13	3.9
Employee Case	15	3.8	10	3.0	12	3.5	11	3.3	6	1.8
Financial Aid	7	1.8	17	5.1	10	2.9	11	3.3	15	4.5
Fees	13	3.3	13	3.9	10	2.9	8	2.4	17	5.1
Other	5	1.3	2	0.6	4	1.2	6	1.8	22	6.6
Other Student	1	0.3	0	0	1	0.3	2	0.6	4	1.2
Outside Mandate	8	2	11	3.3	4	1.2	9	2.7	7	2.1
Inter-Personal Relations	0	0	0	0	2	0.6	6	1.8	5	1.5
College Policy	23	5.9	12	3.6	20	5.8	16	4.8	4	1.2
College Service	21	5.4	13	3.9	11	3.2	9	2.7	NA	NA
Registration & Withdrawal	4	1	5	1.5	14	4.1	14	4.2	16	4.8
Residence	2	0.5	7	2.1	5	1.5	3	0.9	1	0.3
Disability	8	2	6	1.8	9	2.6	7	2.1	11	3.3
Student union	5	1.3	2	0.6	1	0.3	4	1.2	6	2.1
<b>Total Cases</b>	<b>391</b>	<b>100</b>	<b>334</b>	<b>100</b>	<b>342</b>	<b>100</b>	<b>335</b>	<b>100</b>	<b>333</b>	<b>100</b>

**Table 4. Breakdown of Academic Issues 2003-8**

Issue	2007-8		2006-7		2005-6		2004-5		2003-4	
	#	%	#	%	#	%	#	%	#	%
Academic Appeals	63	25.8	57	29.5	52	26.8	39	21.9	66	36.8
Academic Dishonesty	19	7.8	21	10.8	17	8.8	11	6.2	17	9.5
Evaluation concerns	25	10.2	18	9.3	19	9.8	26	14.6	18	4.5
Inter-personal relations	15	6.1	11	5.7	3	1.5	10	5.6	12	6.7
Other (Academic)	2	0.8	4	2	3	1.5	6	3.4	30	16.7
Practicum/Placement/Co-op	12	4.9	13	6.7	13	6.7	15	8.4	15	8.4
Program Policies	4	1.6	3	1.5	3	1.5	2	1.1	6	3.3
Program structure/ operation	27	11.1	18	9.3	7	3.6	10	5.6	6	3.3
Readmission	7	2.9	2	1	5	2.6	1	0.5	7	3.9
Teaching style concerns	10	4.1	3	1.5	14	7.2	4	2.2	2	1.1
Specific issue unidentified	60	24.6	43	22.3	58	27.5	54	30	NA	NA
<b>Total Cases</b>	<b>244</b>	<b>100</b>	<b>193</b>	<b>100</b>	<b>194</b>	<b>100</b>	<b>178</b>	<b>100</b>	<b>179</b>	<b>100</b>



## WHO VISITS THE OFFICE?

Table 5 illustrates the distribution of files into constituent areas. Table 5 shows that the majority of complainants are full-time students, but employees and other groups also initiate complaints and inquiries.

Table 6 (see page 10) reports the number of files relating to the area about which the complaint is made. Table 7 shows which constituent group respondents belong. The majority of respondents are employees, but other groups are also the subject of complaints. When no specific individual is subject of a complaint, complaints are recorded in a manner to avoid incorrectly attributing complaints about departmental policies or unknown staff members to individuals. The number of complaints outnumbers respondents for three reasons. There are cases where the complainant expresses a concern without identifying the respondent in question. In other cases, it stems from a concern to ensure anonymity. The final reason is that several cases each year are outside of the mandate for the office. In these cases, I try to refer complainants to appropriate community resources.

→ continued on page 11

**Table 5 Complainants by Group Status 2007-8**

Group	# of Clients	% of Total
<b>EMPLOYEE</b>		
Administration	15	3.5
Faculty	25	5.8
Support	11	2.6
<b>Group Total</b>	<b>51</b>	<b>11.9</b>
<b>OTHER</b>		
Alumni	4	0.9%
Other	19	4.4%
Student Union	7	1.6%
<b>Group Total</b>	<b>30</b>	<b>7.0%</b>
<b>STUDENT</b>		
Continuing Education	10	2.3%
Full-Time	320	74.6%
Other	12	2.8%
Part-Time	6	1.4%
<b>Group Total</b>	<b>348</b>	<b>81.1%</b>
<b>Total Number of Complainants</b>	<b>429</b>	<b>100</b>

**Table 7 Respondents By Group Status 2007-8**

Group	# of Clients	% of Total
<b>EMPLOYEE</b>		
Administration	100	31.3
Faculty	167	52.4
Support	14	4.4
<b>Group Total</b>	<b>281</b>	<b>88.1</b>
<b>OTHER</b>		
Division	26	8.2
Student Union	7	2.2
Other	1	0.3
<b>Group Total</b>	<b>34</b>	<b>10.7</b>
<b>STUDENT</b>		
Full-Time	4	1.3
<b>Group Total</b>	<b>4</b>	<b>1.3</b>
<b>Total Number of Respondents</b>	<b>319</b>	<b>100</b>

**Table 6 Clients by Division of Respondent 2003-2008**

	2007-8		2006-7		2005-6		2004-5		2003-4	
	#	%	#	%	#	%	#	%	#	%
<b>ACADEMIC AREAS</b>										
Academic Services	0	0	0	0	1	0.3	2	0.6	2	0.6
Art And Design	19	4.9	12	3.6	8	2.3	13	3.9	12	3.6
Building Technology	7	1.8	12	3.6	1	0.3	3	0.9	8	2.4
Business & Management	17	4.3	11	3.3	15	4.4	21	6.3	13	3.9
Contemporary Media	15	3.8	11	3.3	8	2.3	8	2.4	18	5.4
Co-op Education	6	1.5	NA	NA	NA	NA	NA	NA	NA	NA
Language & Liberal Studies	25	6.4	15	4.5	24	7.0	20	6.0	20	6.0
Health Sciences	15	3.8	8	2.4	15	4.4	17	5.1	25	7.5
Human Services	47	12	34	10.1	25	7.3	29	8.6	25	7.5
Information Technology (Academic)	6	1.5	12	3.6	9	2.6	11	3.3	10	3.0
James N. Allan Campus	4	1.0	4	1.2	1	0.3	2	0.6	1	0.3
Manufacturing Sciences	33	8.4	24	7.2	27	7.9	20	6.0	23	6.9
Motive Power Technology	3	0.8	1	0.3	5	1.5	1	0.3	1	0.3
Nursing	18	4.6	14	4.2	9	2.6	15	4.5	12	3.6
Oxford County Campus	4	1.0	8	2.4	10	2.9	2	0.6	2	0.6
School Of Continuing Education	14	3.6	16	4.8	23	6.7	18	5.4	6	1.8
St. Thomas/Elgin Campus	0	0	1	0.3	3	0.9	1	0.3	2	0.6
Tourism & Hospitality	4	1.0	3	0.9	2	0.6	5	1.5	4	1.2
<b>SERVICE AREAS</b>										
Athletics	1	0.3	1	0.3	0	0	1	0.3	0	0
Awards & Scholarships	1	0.3	0	0	1	0.3	1	0.3	0	0
Career Services	0	0	0	0	0	0	0	0	0	0
Centre For Student Success	1	0.3	NA	NA	NA	NA	NA	NA	NA	NA
Counselling And Student Life Services	2	0.5	3	0.9	3	0.9	2	0.6	7	2.1
Environmental Health & Safety Service	1	0.3	0	0	0	0	0	0	0	0
Facilities Maintenance	3	0.8	1	0.3	0	0	0	0	2	0.6
Facilities Management	0	0	0	0	0	0	2	0.6	1	0.3
Facilities Support Services	1	0.3	3	0.9	4	1.1	3	0.9	3	0.9
Finance & Corporate Services	0	0	1	0.3	3	0.9	0	0	0	0
Financial Aid Services	7	1.8	17	5.1	10	3.9	11	3.3	20	6.0
Fitness Centre	0	0	0	0	0	0	0	0	0	0
Human Resources	2	0.5	1	0.3	3	0.9	1	0.3	3	0.9
Information Technology Service	1	0.3	1	0.3	0	0	1	0.3	2	0.6
Learning Support Services	1	0.3	0	0	0	0	0	0	0	0
Library & Media Services	2	0.5	0	0	4	1.1	1	0.3	1	0.3
Office Of The President	0	0	1	0.3	1	0.3	0	0	0	0
Ombudsman	0	0	0	0	0	0	0	0	1	0.3
Partnerships	2	0.5	0	0	0	0	1	0.3	0	0
Institutional Research and Planning	0	0	1	0.3	0	0	0	0	2	0.6
Registrar's Office	29	7.4	23	6.9	29	8.5	34	10.1	28	8.4
Retail Services	4	1.0	0	0	1	0.3	2	0.6	0	0
Residence	2	0.5	9	2.7	5	1.5	4	1.2	0	0
Security	7	1.8	15	4.5	2	0.6	1	0.3	0	0
Student & Staff Services	0	0	0	0	1	0.3	0	0	0	0
<b>OTHER</b>										
Student Union	7	1.8	2	0.6	1	0.3	4	1.2	6	1.8
Respondents Without Division	8	2.0	2	0.6	5	1.5	0	0	7	2.1
<b>Total Cases without Respondent</b>	<b>72</b>	<b>18.4</b>	<b>67</b>	<b>20.0</b>	<b>84</b>	<b>24.6</b>	<b>78</b>	<b>23</b>	<b>72</b>	<b>21.6</b>
<b>Total Cases</b>	<b>391</b>	<b>100</b>	<b>334</b>	<b>100</b>	<b>342</b>	<b>100</b>	<b>335</b>	<b>100</b>	<b>333</b>	<b>100</b>

# Outcome of Cases

The effectiveness of the Ombuds Office is often measured by its ability to facilitate the resolution of complaints. Table 8 shows the outcomes of cases in 2007-8. In the 2006-7 Ombuds Annual report I stated that a wide range of case resolutions were recorded as providing information. This presents a difficulty because “providing information” in the Ombuds context can be as simple as describing an appeal process or it may entail a comprehensive conversation about how to approach resolving a concern. In 2006-7 I expressed that in subsequent reports, I would have more specific information to clarify this outcome. With this in mind, I have created a new outcome category called “Coaching conversation.”

What is a coaching conversation? Jones and Brinkert define conflict coaching as “a process in which a coach and client communicate one-on-one for the purpose of developing the client’s conflict-related understanding, interaction strategies and interaction skills ”<sup>3</sup> I have chosen this designation because in many cases the interaction between visitor and Ombuds focuses on understanding the conflict, how it is affecting the individuals involved and developing and practicing the skills necessary to achieve the resolution of the conflict. Upon completion of the conflict coaching process, the complaint is better able to resolve the matter at hand. This designation better reflects how the Ombuds Office can assist in the resolution of complaints on an individual basis, without necessarily intervening in a dispute.

**Table 8 Cases by Outcome 2003-2008**

	2007-8		2006-7		2005-6		2004-5		2003-4	
	#	%	#	%	#	%	#	%	#	%
Appeal	47	12	51	15.3	50	14.6	44	13.1	59	17.7
Complaint Filed	22	5.6	13	3.9	19	5.6	19	5.7	36	10.8
Coaching Conversation	56	14.3	NA	NA	NA	NA	NA	NA	NA	NA
Compromise	45	11.5	36	10.8	49	14.3	52	15.5	36	10.8
Complaint Withdrawn	32	8.2	33	9.9	28	8.2	54	16.1	46	13.8
Favoured Complainant	12	3.1	13	3.9	6	1.8	7	2.1	5	1.5
Favoured Respondent	23	5.9	20	6.0	20	5.8	28	8.3	29	8.7
No resolution	0	0	0	0	1	0.3	0	0	0	0
Ombuds Withdrew	4	1	9	2.7	11	3.2	13	3.9	5	1.5
Provided Information	102	26.1	112	33.5	119	34.8	81	24.2	98	29.4
Referral	48	12.3	47	14.1	39	11.4	37	11.0	18	5.4
Unknown	0	0	0	0	0	0	0	0	1	0.3
<b>Total Cases</b>	<b>391</b>	<b>100</b>	<b>334</b>	<b>100</b>	<b>342</b>	<b>100</b>	<b>335</b>	<b>100</b>	<b>333</b>	<b>100</b>

## Case Studies:

*The following case studies are offered to illustrate the principles of natural justice and to give readers a more detailed view of the work of the Ombudsperson. Each features a brief summary of the case with some comments. These cases are fictionalized accounts of actual cases. Details have been modified or omitted to protect the identity of individuals and departments. The cases are chosen for their interest and educational value.*

<sup>3</sup> Jones, Tricia S and Ross Brinkert. 2008. Conflict Coaching. Los Angeles: Sage Publications at 4.



## AN EVOLVING PROBLEM, A RESPONSIVE SOLUTION

Joseph, a student with a registered disability visited the Ombuds office to complain about unfair treatment by a teacher. Joseph was particularly concerned about a rude comment made in class. Joseph was unsure how to express his concern to the teacher, and was reluctant to complain because he was concerned about the possibility of reprisals. We discussed the problem and possible solutions. I also assured Joseph that when students complain, appeal or participate in a similar process, they are protected from reprisals by college policy. We met on several occasions to discuss how to approach the teacher, about Joseph's concerns with the teacher's conduct, and assignments and due dates. Joseph was able to resolve some of the issues as they arose, however, despite these smaller successes, the relationship between Joseph and the teacher continued to deteriorate throughout the term.

Joseph approached the Ombuds Office again after the final grades were released. The teacher had assigned an incomplete (I) grade, because Joseph was sick in the last week of classes, and was unable to hand in the final assignment. Joseph thought he should have been able to pass the course without handing in the assignment. He was confused about what work was outstanding, and when the work was due. Joseph had attempted to clarify the issue with the teacher via a series of e-mails, but the dialogue had deteriorated to the point of Joseph accusing the teacher of discrimination, and the teacher refusing to respond to e-mails. It was necessary for the teacher and Joseph to meet to discuss the outstanding work, but they had reached an impasse. Both parties asked that I attend the meeting to help facilitate the conversation.

Later that week, acting as mediator, I convened a meeting amongst the teacher, Joseph and the

Coordinator. During the meeting we discussed the shared goal of ensuring that Joseph could successfully complete the program, and secure employment following graduation. We identified, and worked to eliminate the barriers to communication between the student and teacher. We also discussed how Joseph could complete the outstanding coursework, and established deadlines for its submission. We concluded the conversation by discussing the working relationship between Joseph and the teacher in subsequent semesters. Several weeks later, Joseph reported that was able to use this meeting as the foundation to successfully complete the course.

### **Discussion:**

This case is an example of the shifting roles of an Ombudsperson when dealing with a complaint. When Joseph first presented to the Ombuds office, we engaged in a series of coaching conversations about the nature of the conflict with his teacher, and attempted to develop skills to resolve these types of problems. It was early enough in the term that there was ample opportunity for Joseph to resolve the problems without any direct intervention. At the end of the term, the situation had reached the point of an acute conflict, where both sides indicated that they were unable to resolve things on their own. It was therefore appropriate for more direct intervention by the Ombudsperson. Once I intervened in the conflict, my role shifted from informal coaching to mediator. In this case, I assisted in de-escalating the conflict, identifying issues to negotiate, negotiating a resolution, implementing the solution and follow-up. In these cases the role of the Ombudsperson as an independent party is important, because the Ombudsperson is able to guide the process of resolving the issues, while allowing the disputing parties to focus on resolving the substantive issues in dispute.





## PREMATURE GRADUATION

Monica attended the Ombuds office in late March to complain that the college was unreasonable in stating that she could not graduate from her program. Monica stated that she was in a 1 year certificate program with 10 mandatory courses worth 33.5 credits. Monica indicated that she expected to pass 9 of the 10 courses. Monica had withdrawn from one course because she did not like her teacher. Monica was frustrated because she had just learned that she would not be able to graduate without completing all ten classes in the program.

During our discussion Monica stated that before she withdrew from the course, she looked at the program guide for information. She read that in order to graduate from the college a student had to complete a minimum 9 credits at Fanshawe to meet the residency requirement. The Residency requirement allows students to transfer from other colleges, but ensures that a minimum number of courses are obtained at Fanshawe. Monica stated that her desired resolution was for the Ombudsperson to investigate and rule that she was misled by the publication, and that she should be able to graduate.

During the meeting, I interviewed Monica with the intent of fully understanding her perspective. We reviewed the program guide. It was clear that Monica has misread the

guide. Following the meeting I reviewed the program material Monica provided in order to see if they were ambiguous, or unclear. This was not the case. I concluded that Monica had no basis for her complaint. We concluded our final meeting by discussing how she could go about getting final course to graduate.

### **Discussion:**

Although an important component of Ombuds office is to assist in resolving complaints through compromise and negotiation, there are times when the facts of the situation dictate the outcome. In this case, after a review of all the relevant information, the Ombudsperson found in favour of the college. This case is significant because it points to the importance of independent review. In this case the Ombudsperson found in favour of the college.

It is important to emphasise that even though the finding was in favour of the college, Monica and I discussed options for her to complete her program. The investigation also looked to assess if there was ambiguity in the college publications. This was part of an attempt to identify if there were underlying or root causes in order to prevent further problems.◆

## DENIAL OF REWRITE

Gertrude attended the Ombuds Office to discuss a concern with her final grade. She also expressed a concern that she was unfairly denied a rewrite. Prior to attending the Ombuds Office, Gertrude met with her teacher to discuss the final grade for the course. They were unable to resolve the problem. During our meeting we discussed the course content and evaluation. Gertrude felt that the decision to deny her a rewrite was unfair. When asked to share the teacher's rationale for refusing the rewrite, Gertrude was unable to explain the teacher's perspective. A review of college and program policies did not provide any helpful information. It was decided that it would be appropriate for the Ombudsperson to contact the teacher to gather further information.

The teacher explained that the course in question was one with both a theoretical and practical component. The final evaluation was based on a written exam and a practical test. Gertrude's final grade was within 10% of passing the course, but she had failed both the practical exam and the theoretical test. The teacher also stated that Gertrude had already been granted (and failed) a re-test on the practical exam. The process to deal with these contingencies was described in the course information sheet. It was clear from this discussion that Gertrude had been treated fairly, and that another test would not be appropriate.

Following the meeting with the teacher, I shared the information with Gertrude. We discussed the rationale for the teacher's decision and helped her understand why the decision had been made. Following our discussion, she was able to explain why the teacher had refused a rewrite. We also discussed options for Gertrude to pursue in order to complete her program, and the process to appeal the grade if she felt the decision was unfair. Following our meeting Gertrude decided to retake the course. After concluding my discussions with Gertrude I suggested to the teacher that he may want to revise how the rules for rewrites are made available to students. It was clear

that the rules were applied fairly, however it took some time to understand what the rules actually were.

### **Discussion:**

When assessing fairness, the fairness checklist criteria (Appendix 1) stipulates that students should be aware of the rules and policies which guide how their courses operate. It also suggests that students should be given reasons for decisions. When students visit the Ombuds office to complain, I often ask students to explain their understanding of a rule or decision. When they cannot provide an explanation, it can be indicative of a problem – for instance, that the rules themselves are unclear, or that the student has not been given reasons for a decision. In these cases, I look to help the student understand the rules in question, and attempt to provide the college with some feedback about the manner in which the information is presented, with the objective of preventing further problems.

In other cases, after clarification discussion with college I report reasons and rules to students. These reports are often sufficient to resolve the problem because it provides an independent review of policy and practice. In other cases, students have been told the rules or rationale for a decision, but clarity is provided when they hear the reasons for a decision from a new voice. This can have a profound effect on the student's acceptance of the rationale for a decision. These roles are similar to fact-finding and conciliation in the Alternative Dispute Resolution field.

The mandate for the Ombuds Office gives the Ombudsperson wide ranging authority to investigate complaints and make recommendations to resolve concerns; however most of the work of the Ombudsperson is conducted informally. This case study demonstrates where an intervention results in clarification of the reasons for a decision, identification of issues in dispute and possible solutions. In these cases the parties are able to take the information provided and use it to and resolve things on their own. ♦



# Thanks

I thank those people who supported the Ombuds office this past year, including: the Ombuds Advisory Committee. The members of the Ombuds Advisory Committee during this report period were: Dean Coutu (Local 109 Representative); Whitney Hoth (Chairperson General Studies); Travis Mazereeuw (Student Union President); Joy Warkentin (Academic Vice-President); Lois Wey (Manager of Counselling and Student Life Services); Kay Wigle (Local 110 Representative) and John Young (Student Union Operations Manager). The Committee is co-chaired by the Manager of Counselling and Student Life Services and the Student Union President.

Thank you to the many people who have found fair solutions to difficult problems; the Student Union personnel; the College personnel with whom the Ombuds deals regularly - including, Counselling and Student Life Services, Office of the Registrar, Financial Aid, The President's Office; Chairs, Co-ordinators, Faculty members and Support staff who have worked to resolve a variety of student complaints. Finally, I thank the visitors who have used the Ombuds Office.

***Ian Darling,  
Fanshawe College Ombudsperson,  
September 2008.***



# FANSHAWE COLLEGE OMBUDS OFFICE

## FAIRNESS CHECKLIST

### 1. Organization, Information & Communication

- Public information is available and understandable
- Forms are in plain language
- Students, and Employees are given all the information they need
- Staff are given clear titles for the functions they perform
- College rules and procedures are available and implemented appropriately
- Divisions cooperate with one another to provide better service
- Individuals are treated with courtesy

### 2. Facilities and Services

- Telephones, voicemail and correspondence are answered promptly
- College identifies, removes and prevents barriers to people with disabilities
- The environment is safe and healthy for workers and the general public
- Student and Employee privacy rights are respected

### 3. Decision Procedures

- Members of the College community are invited to participate in planning
- Those affected by a decision have a chance to give information and evidence to support their position
- Those affected by a decision have a chance to hear and respond to information presented by others that the decision maker will consider
- Decisions are made within a reasonable time
- Criteria used for decision making are available
- Reasons are given for decisions

### 4. Appeal, Review, and Complaint Procedures

- At the time of decisions, people are told of any existing appeal or review procedures
- Complaint and appeal procedures are clearly defined
- Appeal and complaint procedures adhere to the rules of procedural fairness and natural justice.

*Adapted with permission from British Columbia Ombudsman Fairness Checklist*