

**Report of the
College Ombudsperson**
For the period
January 1, 2011 to December 30, 2011

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Executive Summary

This report outlines the mandate and describes the activities of the Ombudsperson for the year 2011. It covers the number and types of issues that were presented to the Ombudsperson and the areas in the College that were associated with the concerns. Two cases are summarized to offer insight into the role of the Ombudsperson and to demonstrate the learning for the College that can come from hearing complaints and helping to resolve them. Concluding comments are made with respect to the evolving process of the Dispute/Conflict Resolution process at the College.

Introduction

This Annual Report is an opportunity for the Ombudsperson to share a review of the activities of his first 12 months in the role of Ombudsperson at Seneca commencing in January 2011. Because of the timing of the retirement of Liz MacLennan, the former Ombudsperson and the submission date of her final Annual Report, this report will include the activity of three semesters during the 2011 calendar year, rather than three semesters that would normally comprise an academic year. The report gives information about the types of issues that are brought to the Ombuds Office and the means that are used to address those issues in the interest of promoting and ensuring fairness in the day-to-day application of College policies, procedures and practices.

The report is intended to be a learning resource for the Seneca community. All Senecans have a responsibility for contributing to consistent fairness in College operations. Reading a sample of issues that have been brought to the Ombudsperson gives insight into the necessity of ensuring that the right to be heard and understood is respected at all levels in the College. Furthermore, the cases demonstrate that support for student learning or effective employee performance should be the foremost consideration in the application of College policies and procedures.

Mandate

In the interest of ensuring a fair and equitable environment for learning and working at Seneca, the Office of the Ombudsperson was established by the College in 1996. Currently its mandate is to provide a final option within the College offering help when the regular channels of appeal have been exhausted and there is still a need to review a complaint, conflict or problem to ensure fairness in the application of College Policies and Procedures. The Ombuds Office, from its inception, has addressed issues presented by students and employees, although members of the bargaining units also have alternative external avenues available to them.

The Ombudsperson's involvement is limited to a review of the application of College Policies and/or Procedures and that is only after all other internal avenues for resolution have been exhausted and the outcome is still perceived by a client as unsatisfactory. It is a credit to Seneca that most concerns or disputes are resolved through the regular channels and few concerns require involvement by the Ombudsperson.

The Ombudsperson seeks to resolve issues through an informal approach that may involve listening and clarification, explanation and advisement, or mediation. In a few instances, a formal investigation may be required in order to draw conclusions and make recommendations. Seneca employees have, without exception, always been generous with their time, information and insights when the Ombudsperson has sought clarification and information related to various issues.

The hallmarks of an Ombudsperson's practice are fairness, impartiality, independence and confidentiality. The Ombudsperson reports to the President for the purpose of funding and to present recommendations to the College with a view to remedying unfairness in a particular situation or in general procedures, practices, policies or rules. Otherwise the Ombuds Office is independent in order to be impartial.

Terms of Reference for the Ombuds Office continue to be under review. Seneca's Ombudsperson is an active member of the Association of Canadian College and University Ombudspersons (ACCUO). This national association has been working diligently over the past year to update the ACCUO Standards of Practice document. Once this review has been finalized, this document will become a cornerstone reference point for finalizing the Terms of Reference for the Ombuds Office at Seneca. A key item that will be central to the proposed Terms of Reference relates to impartiality as noted in the following statement:

The Ombudsperson acts in consideration of and with respect for the legitimate interests and concerns of all affected parties. He/she advocates neither for the client, nor for the College in relation to disputes. Rather, the Ombudsperson maintains a neutral position between/among parties with a view to achieving fair resolution.

The Ombudsperson is engaged primarily in hearing concerns, assessing approaches, advising clients and mediating resolution. In very few cases, formal investigations require formal reports. The Ombudsperson does not make decisions for the College; rather he shares his assessments of fairness and recommends remedies in the interests of fairness and accountability.

Who Uses the Ombuds Office Service

The Ombuds service is used primarily by students and occasionally by employees, mostly part-time or administrative employees, who do not have recourse to union representation. Other post-secondary institutions and government offices and agencies contact the office from time to time seeking general information or referring specific clients to the service. (See Table 1)

Table 1

Ombuds Office - Categories of Clients Serviced in 2011

Category	% of Total *
Seneca Admissions Candidates	7.0%
Full-Time Students	73.75%
Part-Time Students	9.5%
Former Students	4.25%
Part-Time Staff	1.75%
Part-Time Faculty	2.25%
Other	1.5%

* Note: Percentages have been rounded up to the nearest .25%

There continues to be dynamic fluctuations in demand for the service over the past three years. The number of requests for Ombuds Office service dropped by a third in 2009-10 when compared to 2008-09. However, Fall 2010 showed a reversal of the downward trend of the past two years with a two-thirds increase in contacts over the same period in the previous year – from 18 requests in Fall 2009 to 30 contacts in Fall 2010. This trend for increased numbers continued to grow by another 38.7% during the Fall of 2011. (See Table 2)

Table 2

Comparison of 2010 vs. 2011 - Fall Term Services Provided

Service	Number in Fall 2010	%	Number in Fall 2011	%
Referral	10	33%	10	23%
Advisement (including listening)	19	60%	27	63%
Investigation/Intervention	2	7%	6	14%
Total	31	100%	43	100%

Even when factoring the notable increase during the Fall of 2010, there was a 49% increase in the number of Ombuds Office cases for 2011 compared to 2010. (See Table 3)

There are possible explanations for the fluctuations of the past three years; however, no analysis through consultation has been done. The increase in year-over-year “traffic” noted for 2011 might be attributed to the College’s published announcement of the appointment of a new Ombudsperson thus raising a broader awareness of this service. Furthermore, as recent former long term full-time Senecan, many employees may have encouraged possible clients to seek assistance of the Ombuds Office because they were familiar with the new Ombudsperson. The published announcement of the piloted scheduled Ombuds Office Hours may have also resulted in an increased awareness of the Ombuds Office resource for conflict resolution. Finally, the increase in requests in 2011 might be directly attributed to the overall increase in enrolment at the College.

The following Table 3 illustrates the breakdown by the related area of the College for concerns identified by those who contacted the Ombuds Office.

Table 3

Concerns – by Department or Faculty showing a 3 semester summary in years: 2008-2009, 2009-2010 & 2011

Department or Faculty	Number for 2008 - 2009	Number for 2009- 2010	Number for 2011
Business, Arts and Commerce	6	8	21
Continuing Education and Training	11	5	18
Applied Arts and Health Sciences	16	8	8
Applied Science and Engineering Technology	2	2	7
Information Arts and Technology	3	1	8
Registrar’s Office including Financial Aid	11	6	19
Other College Services	9	8	23
College Management / Supervision (of employees)	4	2	7
Information Requests by other agencies (e.g., government offices/agencies, other postsecondary institutions, other departments)	9	5	3
Total	71	45	114

Types of Service Provided by the Ombudsperson

Most contacts or clients to the Ombuds Office seek advice about resolving an issue, often before they have sought assistance through all the existing channels that have been established. For example, in the case of some student clients, the Ombudsperson frequently referred them to the Resolution, Equity and Diversity Centre (REDC) according to the current mandate of the Ombuds Office. However, if students provide sufficient information to determine that the issue is clearly related to their academic operations, they are referred to the appropriate personnel in the academic department. Sometimes students simply need someone to hear and understand their issue and provide an explanation of College practices or policies and then they move on to resolve the issue directly with the department or individual concerned. In such cases, they are not required to report back to the Ombudsperson and as a result this office rarely hears the ultimate outcome. Therefore, one could assume it was remedied satisfactorily. In other cases, the clients have already pursued assistance through other channels without satisfaction. In those situations, the Ombudsperson meets with them to hear their concerns, gather information and decide with them the best course of action. This may include Ombuds Office intervention to facilitate discussion, or to mediate a resolution with the area concerned. The following Table 4 illustrates the breakdown by category of the clients serviced during the past three years.

Table 4

Ombuds Office Cases

3 Year Comparison of Frequency of Types of Service Provided

Service	Number for Sept. 2008 to August 2009	%	Number for Sept. 2009 to August 2010	%	Number for Jan. 2011 to Dec, 2011	%
Referral	41	57%	20	44%	46	40%
Advisement (including listening)	16	23%	18	40%	52	46%
Investigation/Intervention	14	20%	7	16%	16	14%
Total	71	100%	45	100%	114	100%

Two cases will be described below to provide a picture of the types of issues brought to the Ombuds Office. These cases which I investigated within the past 12 months are relevant examples for providing insight and learning for the College. However, to maintain confidentiality of the party/parties involved, the descriptions of the issues have been compressed.

The cases that were brought to the Ombuds Office were for the most part very specific rather than representative of general systemic concerns. The continuing evolution and fine tuning of the College Policies, Procedures and Practices as a result of the experiences learned during the past 45 years have resulted in fewer instances of confusion, or lack of clarity for all participants. More typical kinds of concerns brought to the Ombuds Office include:

- Issues with grades awarded
- Eligibility to continue studies
- Fees charged
- Admissions decisions
- Classroom Instructional concerns
- Seneca part-time employment issues

Case 1

Individual "A" had recently changed a student part-time job from one department to another at the College. A few months after being trained and commencing in the new position, the student had exercised bad judgment in a task she had been requested to perform. The department supervisor after consulting with HR elected to terminate the individual. The student did try to appeal the decision but was unsuccessful. Individual "A" went back to the previous department to seek re-employment in her former part-time student position. Based on the previous work

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record, this area was prepared to re-hire the student into her former part-time role. However, as this department began the process of documentation to re-hire the student, the hiring supervisor was informed by HR that the individual could not be re-hired because of her termination from the previous position. After the department informally queried into the reasons why the student was not to be re-hired, the individual was encouraged to seek assistance from the Ombuds Office.

The student informed the Ombuds Office that she could accept the decision not to be reinstated into the position she had been terminated from, however, she did not understand why she was no longer eligible to work for her former department. She was particularly concerned because she felt that her future studies could be jeopardized if she was unable to work part-time while attending College. Like many students, she needed the income from her part-time work to help offset some of her college education expenses.

The Ombuds Office investigation and review of these circumstances raised a number of questions about how the College should be treating its own students who work part-time for Seneca while attending school. In this case, there was a perceived gap between the level of job training provided to the new part-time student employee by the Department and how prepared the individual felt as she undertook to perform her part-time job duties. The Ombuds Office also wanted to clarify the basis of the HR position that this individual was not to be re-hired because of her previous termination.

A progressive educational experience for the students at Seneca is by no means limited to what happens in the academic curriculum. Many valuable lessons can be learned from the College's part-time work environment. As an institution of higher learning, Seneca has an opportunity to provide positive examples of good job design, progressive job orientation and training and model forms of effective supervision and employee/employer communications. Eliminating future part-time working opportunities for students who make mistakes, removes the chance for valuable learning that could help prepare Seneca's future graduates to succeed and thrive in their chosen careers.

Therefore, the Ombuds Office issued a formal report with the following recommendations:

- Removal of the 'Do Not Hire' restriction on this individual.
- Seneca departments who employ students in part-time positions should ensure clarity of duties and limits of responsibilities with comprehensive and appropriate training of the duties and responsibilities of the position.
- The Departments should provide formative supervision of their part-time student employees.
- The College as a learning institution needs to consider more carefully how the part-time students are treated. If mistakes are made, when possible these opportunities should be turned into teaching moments.
- Serious breaches of part-time student employee conduct and/or performance should be reviewed by a panel of Senior College officials including representation from the Academic area. Future part-time employment restrictions should only be at the discretion of this panel.

The end result was the student was re-employed by the former department and allowed to work part-time while completing her studies.

Case 2

Individual "B", had been a part-time employee in one of the service departments at the College for a few years. Although the individual previously had a part-time contract renewed several times, this individual was given appropriate notice by the area supervisor that she would not be receiving a new contract renewal at the beginning of 2011. The reason given was the budgetary need for the department to reduce the part-time staffing complement. Therefore, the department had selected their reduced complement based on past employee performance. This individual felt that she had been discriminated against and she had not been given fair consideration for being selected to fill one of the fewer part-time positions available.

The Ombuds Office investigation of this issue revealed that this part-time employee had a repeated chronic history of failing to arrive on time at the beginning of this individual's scheduled assigned work shift. Furthermore, this individual had made no effort to call ahead to inform the immediate supervisor of her inability to arrive on time for the start of the shift. The area supervisor had maintained detailed records of the number of times this part-time employee had failed to arrive for work on time. These records included a notation of a specific date where the individual was given a verbal warning by the supervisor that further tardiness without reasonable explanation would not be tolerated. The area Employee Attendance Tacking System confirmed that in spite of this warning, the part-time employee had been late more than a dozen times subsequent to receiving the warning. Therefore, the department selected more dependable part-time employees to continue as members of its reduced part-time staffing complement in 2011.

Based on its findings, the Ombuds Office was more than satisfied to recommend that the College uphold the decision of this department not to renew this individual's part-time contract for 2011. It is important to note that detailed records maintained by the immediate supervisor provided solid evidence of sound supervisory practices. Even after being given a verbal warning, the individual failed to grasp the importance of punctuality as an employee. As a result the individual must accept the consequences of her actions. Optimistically, the individual will have learned an important lesson and will act accordingly with respect to the importance of punctuality in future employment situations.

Office Operation

The Ombuds Office is a one-person operation; the Ombudsperson, a contracted part-timer, is accessible with regular scheduled posted Office Hours 2 days/week. The Ombudsperson is also readily accessible by phone and email and can arrange for meetings outside the normal office hours schedule. Meetings commonly take place in the Ombuds Office location at the Newnham Campus, but the Ombudsperson is also available to meet to hear concerns at other campus locations that are more convenient to the contacts/clients.

My Observations

The Dispute Resolution Process at Seneca

As part of the dynamic and ongoing evolution at the College, this past year has seen a number of organizational changes with subsequent realignment of several College departments that form part of the initial stages of the dispute/conflict resolution process. In an effort to improve the process, the new Dean of Students was tasked to Chair a committee with the mandate to 'Review the Dispute Resolution Process at Seneca. The broad College community was invited to make submissions on this topic to the Review Committee. As one of the key participants in the dispute resolution process, the Ombuds Office was pleased to make a submission to the Review Committee. At the time of preparing this annual Ombuds Office report, the Dispute Resolution Review Committee's findings had not been released. However, I am confident that the process will have been a healthy introspection into how well the dispute resolution processes are working at Seneca and what improvements can be made to better address and resolve disputes/conflicts that occur.

My First Year

In closing I would like to comment on my first full year in the role of College Ombudsperson. As was the case for my predecessor, my many previous years of experience working in a variety of positions at the College provided a definite advantage when it came to understanding the larger Seneca community and the numerous challenges that can result in an individual becoming a client of the services of the Ombuds Office. There was and continues to be a large learning curve for effective dispute and conflict resolution. The need for the Ombuds Office to be independent in order to be impartial can significantly limit options for the Ombudsperson to seek advice and counsel when addressing client concerns. However, the Ombudsperson's membership in the Association of Canadian College and University Ombudspersons, ACCUO, has been a valuable resource where the Ombudsperson can consult with complete assurance of confidentiality with other fellow Ombudspersons. When appropriate, other Ombudsperson colleagues can become an effective resource for consultation and advice on possible resolution remedies.

I look forward to continuing in my role as Seneca's Ombudsperson.

George Fry
May, 2012