



ANNUAL REPORT 2012-2013

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INTRODUCTION AND OVERVIEW

Each year, as mandated by article 16 of the Code of Rights and Responsibilities (the “Code”), an annual report covering the activities of the Office of Rights and Responsibilities (the “Office”) as well as recommendations, as necessary, with regard to either the Code or the operations of the Office is produced. The report is made available in the University's E-newsletter (NOW) and is submitted, for information purposes, to the Senate and Board of Governors.

The 2012-2013 Annual Report covers the activity and operations of the Office from May 1, 2012 to April 30, 2013. This designated time period coincides with both the University’s budget year and academic year.

The activities of the Office are directed by the Director and Senior Advisor, Rights and Responsibilities (the “Advisor”). The undersigned has held the position as of 2010 and is the third Advisor in the Office’s history at Concordia University, since the office was created and officially opened in 1996. The previous office (and corresponding position) was that of a Harassment Office (and Harassment Officer) dating back to 1991.

2012-2013 saw a considerable increase in activity which follows similarly the movement exhibited in the previous two annual reports. In addition to the increase in mainstream activity, the Office was presented with several issues and complaints being brought forward as a result of the student protest movement, commencing in March, 2012. While some of this activity and the challenges faced were discussed in the 2011-2012 Annual Report, most of the formal complaints were brought forward and handled starting in May, 2012 (warranting further commentary). As a result, the Office saw a record number of formal complaints initiated. Consequently, the report will make a differentiation in the statistics provided.

From year to year, there is understandably some repetition in describing such items as the Office’s mandate, services, description of applicable policies, etc. So as not to be repetitive, some descriptions and sections of the report have been condensed. Each report highlights any new developments and of course focuses on current data and activity. Previous reports are available on the Office [website](#) for reference and comparison.

MANDATE/SERVICES OFFERED

The Office assists all University members (faculty, staff, and students) in addressing behavioural incidents and resolving conflicts on campus in an effective and constructive manner. This includes members who believe they have been subjected to conduct violations and those with supervisory authority who are called upon to respond to incidents. Any University member may consult the Office when a problem arises relating to someone’s behavior on campus. The Advisor is impartial and initial consultations are confidential. The Office is independent in carrying out its duties.

The Office is mandated with administering the [Code of Rights and Responsibilities](#) (the “Code”) as well as other related University policies. Other policies of the Office include: the [Protocol on the Coordination of Urgent Cases of Threatening or Violent Conduct](#) (the “Protocol”), the [Policy on Student Involuntary Leave of Absence](#) (“POSILA”), and the [Policy On Harassment, Sexual Harassment and Psychological Harassment](#).

The Office’s functions include:

- Advising members who are experiencing a problem related to another member’s behaviour on campus
- Assisting members in addressing behavioural incidents and conflicts on campus (Responses may range from the use of informal dispute resolution methods to formal procedures for adjudicating complaints. Remedies and sanctions attempt to restore harmony, collegiality, and cooperation.)
- Coordinating a procedure for identifying and managing behaviour that may pose a danger and directing the University’s response to urgent cases

- Promoting through education and direct intervention the values of the Code as well as members' rights and responsibilities
- Making recommendations regarding situations which have the general effect of violating the rights of members

A range of responses exist to deal with alleged behavioural violations, with the preferred approach towards informal methods of conflict resolution. Formal procedures for addressing complaints are available (adjudication, hearing tribunals, investigations, sanctions, etc.). In all cases, a great emphasis is placed on fairness and natural justice. Remedies and sanctions attempt to restore harmony, collegiality, and cooperation. When behavioural issues occur on campus, the Office can help evaluate options and assist an individual in making an informed choice of what steps to take.

Advice can be sought for situations that are happening off campus. Although the University customarily cannot intervene in these situations, the Advisor may attempt to provide information, advice and support and/or refer the matter to a more suitable place for resolution.

POLICIES OF THE OFFICE

THE CODE OF RIGHTS AND RESPONSIBILITIES, BD-3

The Code is the main policy administered by the Office, promoting respect within the Concordia community. The Code sets standards of conduct for all University members (students, faculty, and staff). Unlike many other Universities which have a separate code of conduct for students, Concordia's Code applies to all members. "Members" consists of students, faculty, and staff (including both unionized and non-unionized employees). For 2012-2013, Concordia's Institutional Planning Office reports a total population of 53,472 which includes a student enrollment of 46,242 and an employee population of 7230. While some of the procedural elements may vary depending on the combination of Complainant and Respondent, the policy and its principles apply to everyone.

As such, the rights of faculty, staff, fellows, students, interns, etc., are protected. Likewise, all members bear the responsibility of upholding the Code's principles (civility, equity, respect, non-discrimination and an appreciation of diversity) in order to maintain a safe and civil environment. All members are expected to refrain from violating the Code and those who have a supervisory authority over others bear a particular responsibility to act in a timely and effective manner when they become aware of any alleged violation of the Code.

When behavioural-based infractions occur, the Code provides guidelines for the University and its members to respond effectively. The Code includes a complaint resolution process with both formal and informal mechanisms for resolutions, adheres to the principles of natural justice, contains clear sanctions, and offers an opportunity for appeal when appropriate. By providing a constructive response to a variety of offences and conflicts, including means for internal recourse and remedies, a healthy work and academic environment is supported.

The Code also contains provisions for emergency measures to be taken when necessary, such as temporary exclusion orders from campus; however, other measures and/or longer term interventions are usually required in such urgent situations. Other relevant policies are utilized when identifying, assessing, and responding to potential threats. Coordinating a procedure for identifying and managing behaviour that may pose a danger may include administering the Protocol or POSILA.

Whether or not the Protocol or POSILA was activated, the Office has seen an increase in students-of-concern and requests for threat assessments. Depending on the severity of the situation and specifics of a case, such internal assessments may be conducted in conjunction with security and/or mental health personnel. The range of incidents include: verbal and written threats, threatening/violent conduct, disruptive conduct, suicidal expression, observable mental health issues, and missing students. On some occasions law enforcement and/or external resources have been implicated.

PROTOCOL ON THE COORDINATION OF URGENT CASES OF THREATENING OR VIOLENT CONDUCT, AS PER BD-3

The Protocol covers incidents of threatening or violent conduct or conduct deemed potentially dangerous, as described in the Code. Serving as an addendum to the Code, the Protocol is activated in exceptional situations by the decision of the Advisor whose function is to coordinate a well-organized, effective, and prompt response with the work of an Ad-Hoc Case Management Team (when appropriate) in situations deemed to be imminent and dangerous. Various forms of intervention and follow-up may be required as part of the process.

POLICY ON STUDENT INVOLUNTARY LEAVE OF ABSENCE, PRVPAA-15 (FORMERLY VPS-15)

POSILA is a framework for assistance to students in need (“students-of-concern”) and provides guidelines and procedures to effectively and responsibly respond to students who are in a crisis situation. The policy is proactive and supportive in nature and recognizes that a student for either his/her own well-being or that of other members of the University may require care and support which may include a leave of absence from their studies. A “student-of-concern means any student whose apparent physical and/or mental state and/or related conduct is such that he/she may be or has become a threat to themselves, others, the educational process, or the University community in general.” Concurrently, a student may also have pending allegations of non-academic misconduct in which case both situations would have to be addressed.

The policy is unique in that incidents occurring off-campus can be considered if the potential consequences of an incident have a direct impact on the University and/or the safety and security of its members. When assessing students-of-concern and subsequently making decisions, balance is sought between respecting the individual rights of the student in question and the rights of other members, with safety concerns at the forefront. POSILA is only invoked in extraordinary circumstances. Before an involuntary leave of absence is considered, efforts are made to assist a student in getting the help he/she needs and/or encouraging the student-of-concern to voluntarily leave the University, if appropriate. Restricted access or conditional attendance may also be considered as an option.

A student on an involuntary leave of absence is not permitted on campus, nor may he/she communicate with University personnel, except for the Advisor or with permission granted by the Advisor; therefore, all requests and any subsequent follow-up must occur through the Office. In addition, the return to campus requires a considerable amount of communication and monitoring. Most students who return to the University following a leave of absence under POSILA are required to have specific conditions. These conditions take into account the well-being of the University community as well as fostering success for the returning student-of-concern. Often internal partners and external resources are implicated in the reintegration process.

It can sometimes be a little confusing as to when the Advisor activates the Protocol versus POSILA. The Protocol can be activated for any incidents involving one or more individuals, and POSILA is restricted to usage with students. Both are only activated in urgent and/or extreme situations. In cases involving students, the Protocol may initially be activated and then through further investigation or information, it might be deemed that the situation warrants procedures and assessment under POSILA. In most cases throughout the year, perceived threats were predominantly determined to be at a low risk level.

POLICY ON HARASSMENT, SEXUAL HARASSMENT AND PSYCHOLOGICAL HARASSMENT, HR-38

This proactive policy applies to all employees of the University as does the Code. In addition to the recognition of informal and formal procedures that are available to both unionized and non-unionized employees, it specifies the places where an employee may go for assistance with harassment issues (the Office of Rights and Responsibilities; the Department of Human Resources, specifically, the Employment and Organizational Effectiveness unit or Employee and Labour Relations unit; and/or a union representative if applicable).

The purpose of HR-38 is to assist the University in taking all reasonable steps to maintain a climate at work which is devoid of harassment and to ensure that each staff and faculty member's right to dignity and respect is protected; to contribute to the sensitization, the education and the training of all staff and faculty members to prevent harassing behaviour; and to provide the necessary support and redress to staff and faculty members who believe that they have been subjected to harassing behaviour by outlining a clear and expeditious complaint resolution process. Situations of harassment should be dealt with and remedied as soon as possible so that recurrences are prevented. The Policy incorporates prevention and education as well as support and redress when harassment violations occur. An [HR-38 FAQ](#) document is readily available.

ROLE OF THE ADVISOR

The role and responsibilities of the Advisor include the following:

- Administering the Code and/or other related University policies
- Advising and assisting University members who are experiencing a problem related to another member's behaviour (emphasis on informal procedures)
- Receiving and expediting formal complaints
- Coordinating informal resolution, when appropriate (This may include facilitating meetings or possible solutions, mediation, shuttle diplomacy negotiations, arranging settlement agreements, etc.)
- Actively promoting, through education and direct intervention, the values of the Code as well as members' rights and responsibilities
- Providing training, information, and strategies to University groups and members on a variety of topics and issues related to the Office
- Coordinating the University's response to urgent cases (The Advisor has the mandate to oversee provisions in the Code, Protocol, and POSILA and is designated to prevent, monitor, and take coordinated and effective action against threatening and violent conduct on campus)
- Making recommendations regarding situations which have the general effect of violating the rights of members to pursue work, study, and other University activities in a safe and civil manner

The Advisor is not a behavioral watchdog but rather a resource to help prevent and resolve behavioural issues. The following are some common misperceptions of the Advisor's role:

- Advisor charges students with infractions
- Advisor investigates formal complaints and decides outcomes
- Advisor issues sanctions
- Sanctions can be given without a formal process

The following are characteristic of consulting the Advisor:

- Consultations are confidential
- The primary goal of a consultation is to assist the Complainant (or other party) in making an informed choice as to the most appropriate method of resolution
- The Advisor is impartial in the exercise of her duties
- The Advisor remains non-judgmental
- The Advisor can help evaluate options
- The Advisor may provide strategies to deal with an undesirable situation
- The Advisor can offer strategies that may prevent or de-escalate unwanted behaviours
- There cannot be any reprisals for seeking services, filing a complaint, or cooperating with the Advisor

When an issue or problem arises associated with someone's behaviour, the Advisor can help evaluate options and provide assistance in making an informed choice as to what steps to take. A formal complaint does not have to be launched in order to get information or advice. In most cases informal resolution is both possible and desirable. When appropriate, alternative options external to the Office or referrals are provided.

STAFFING

Staffing consisted of the Director and Senior Advisor (also referred to as the "Advisor" in University policies and this report) and a full-time Department Assistant (previously a secretary/receptionist), shared with the Ombuds Office. This position was filled in October, 2012. A temporary, shared position of Project Assistant concluded in October, 2012.

With the increased demands for services and complex cases, staffing needs continued to be assessed and a job description was developed for an Associate Advisor. A search to fill this new position began in March, 2013. The position was eventually filled (commencing in the fall semester, 2013). More information on this new addition and role may be provided in the 2013-2014 Annual Report.

PHYSICAL SPACE, LOCATION, AND RECORDS

The Office of Rights and Responsibilities is located on the 11th floor of the GM building, sharing suite 1120 with the Ombuds Office.

When meeting with sometimes challenging clientele, as well as conducting threat assessments as per the mandate of the Office, adequate space and office setup are considerations for optimal security, confidentiality, meeting dynamics, and effective operations. A permanent move is planned for both offices in summer, 2014 that is expected to meet space needs (allowing all staff to be in the same location) and prioritize security recommendations.

The Office's files are confidential and are only accessible to Rights and Responsibilities staff or as required by law. The newest retention rule came into effect receiving final approval of Bibliothèque et Archives nationales du Québec. The retention period for the Office is 10 years after the last activity in the file, followed by its destruction (Records Management and Archives Department, 2012).

EDUCATION, OUTREACH AND PROMOTION

Education, outreach programming, and promotion take place continuously throughout the year. Some workshops take place on an annual (cyclical) basis, while other workshops are by request. Some workshops and trainings are topic specific, while others are more general in nature focusing on the Office's functions and various policies. Such training provides practical strategies to students, faculty, and staff and encourages a healthy and respectful environment for all.

The following were some events/fairs attended and presentations given in 2012-2013:

- School of Extended Learning - Staff, (May 17, 2012)
- Orientation for Newly Appointed Department Chairs, College Principals, and Librarians (June 6, 2012)
- Discover Concordia New Student Undergraduate Orientation (August 28, 29, and 30, 2012)
- New Faculty Orientation, Engineering and Computer Science (August 31, 2012)
- Graduate Students Orientation (September 7, 2012)
- President's Exchange Meeting - Sector Directors and Dr. Shepard (September 11, 2012)
- Teaching Assistant Orientation - Arts & Science/Fine Arts/JMSB (September 14, 2012)
- Office of General Counsel (September 27, 2012 and October 1, 2012)
- Re-Discover Concordia Fair 2012, hosted by Counselling & Development (January 24, 2013)

- School of Extended Learning - Faculty and Administration, (February 18, 2013)
- Centre for Academic Leadership - Presentation on Concordia's Policy on Harassment, Sexual Harassment & Psychological Harassment (April 11, 2013)

With the adoption of HR-38, the Advisor in conjunction with the Department of Human Resources, developed training for managers and supervisors with respect to the provisions of the Act Respecting Labour Standards as it relates to workplace harassment, the terms of HR-38, and the Code. The first such workshop was offered through the Centre for Academic Leadership in April, 2013 with additional trainings continuing into the next academic year.

The Advisor is often requested to sit on committees or be a guest at meetings within the University, as a resource on relevant topics to the community. Additionally, other Universities have consulted the Office in dealing with behavioural situations at their institutions. It is expected that this will continue as other Universities who currently do not have similar guidelines and procedures to meet their own needs may use as a model or emulate what is seen as a progressive standard of practice at Concordia.

The Office also distributes, throughout the University and at events, a variety of publications including brochures of services available through the Office and posters pertaining to respect in the workplace. Materials are regularly redesigned/revised as needed or as supplies become depleted. A variety of publication and promotional advertisements can be found in University publications such as the Bridge magazine, University calendars, the graduate and undergraduate handbooks, and digital screens throughout campus.

2013 began the revamping of the Office's website. In April, 2013 the new site, concordia.ca/rights was launched. Now more user-friendly, reports and clearer information can be found on the Office's webpage. (Note: Concordia launched an entire new web design in August, 2013; thus, the Rights and Responsibilities webpage had to once again be redesigned slightly in September, 2013 to fit within the new framework).

As part of the University's policy awareness campaign, the following articles related to the Office and relevant policies have appeared throughout the year in Concordia's on-line newsletter, NOW:

[*Shining a light on harassment, University policy highlights education and prevention of unwanted behaviour*](#) (Posted on October 15, 2012 by Isabel Rut)

[*Code exists to protect, Concordia's Code of Rights and Responsibilities governs behaviour and protects individuals' rights on campus*](#) (Posted on September 12, 2012 by Tom Peacock)

PROFESSIONAL DEVELOPMENT

Professional development continued to be limited this year primarily due to time constraints. As well, with the Advisor being responsible for responding to behavioural issues and urgent matters, she has been compelled to remain on campus. As such, the workshops/training attended (with the exception of one) consisted of short-duration, in-house opportunities, usually through other departments. Supplemental training and educational opportunities to stay current with best practices as well as increased networking are certainly valued and desired in the future. As time permits, future professional development opportunities should include continued education in the areas of conflict resolution and mediation, as well as risk assessment and dangerousness management (within post-secondary institutions). Hosting professional development opportunities potentially with other internal and external partners will also be considered at a later date.

Workshops attended were:

- Managing Psychotic, Manic & Delusional Students: How To Reduce Legal Risk & Increase Student Safety – webinar by Innovative Educators, December 13, 2013 (Advocacy and Support Services)
- Specialized Training in Threat Assessment Interviewing, December 19-20, 2012 (Loyalist College)
- Trans-identified individuals: Developing Cultural Competence and Counselling Strategies, April 8th, 2013 (Counselling & Development)
- Concordia / Globe & Mail National Conversation Series: mental health and the workplace, April 18, 2013 (Office of Advancement & Alumni Relations)

The Advisor remains a member of CAPDHHE, the Canadian Association for the Prevention of Discrimination and Harassment in Higher Education.

DATA ANALYSIS AND REVIEW OF REQUESTS FOR SERVICES/ASSISTANCE

ACTIVITY SUMMARY AND BREAKDOWN OF REQUESTS FOR ASSISTANCE

Requests for assistance and/or complaints may come from any member(s) of the University and any area of the University. External parties generally do not have access to the services of the Office and they are usually redirected or referred accordingly. Contacts with the Office that reach the Advisor are categorized as either a “case” or a “consultation.” Usually consultations involve meeting or contacting the Advisor for information and/or guidance concerning particular situations. Consultations generally do not require extensive follow-up and the Advisor refrains from taking a more active or on-going role in reaching a resolution. Alternatively, cases typically require direct intervention by the Advisor and/or review of direct evidence. Accordingly, the Advisor will take an active and/or on-going role in providing advice, assistance and/or facilitating measures on a matter related to the Code or other policy. Depending on the complaint, cases will be classified as “formal” or “informal”. Formal cases are only designated as such when a Complainant files a formal complaint in writing with the Advisor. The outcome does not change how a formal case is classified (i.e., if a formal complaint is later withdrawn by the complainant, dismissed by the Advisor, or resolved through informal means before the formal process has taken place, the complaint/case is still counted as formal in the data). Outcomes of formal complaints including those that were dismissed by the Advisor, founded, or unfounded are listed in Table 4.

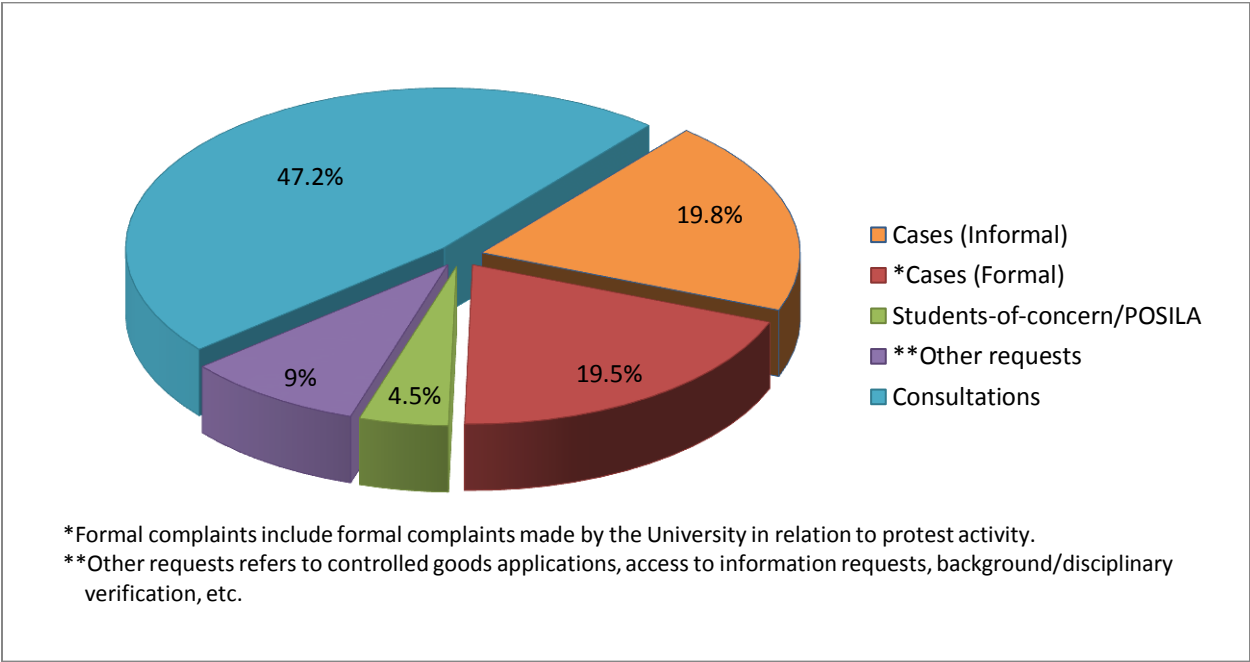
Although most cases begin as a consultation, in the reporting of data, a case is only counted once. Cases (and consultations) are generally categorized as behavioural issues under the Code and/or the Protocol, or as students-of-concern under POSILA. “Other” most often refers to administrative follow-up, a non-jurisdictional complaint, or another matter that cannot be classified using the infractions specified in the Code. For reporting of data, there can be several issues or infractions reported in one case/dossier; yet, the case file will only be counted once. As such, one file may contain multiple infractions or even different categories present.

Concordia Security will most often notify the Office when an incident of a behavioural nature takes place on campus (i.e., reports related to threats, vandalism, harassment, assault, and other infractions of the Code). Only incidents requiring follow-up from the Office (i.e., the complaint is brought forward by a Complainant) will manifest into a consultation or case and are only then included in the data.

In addition to classification of assistance and complaints as cases and consultations, the Office also provides other routine services (“other requests”) such as security assessments/clearance for applications for authorization to access controlled goods (for work and/or study). This involves the verification of the absence of Code infractions. The Office also receives several requests per year to verify a student’s behavioural history and disciplinary/judicial file. These requests are made by other departments or offices, with permission of the student to release this information to an external institution (usually for an application of some type). For consistent reporting (as in previous years), these types of requests are neither classified in the data as cases or consultations, nor are they included in calculating any annual increase in activity (i.e., as

reported in Tables 1 and 2). Requests for assistance during 2012-2013 totaled 420 (cases, consultations, and other requests). The breakdown by percentage is displayed below in Chart A.

CHART A: DISTRIBUTION OF SERVICES (2012-2013)



Consultations and lesser interventions account for nearly half of all services. This corresponds with the Office’s philosophy of informal resolution being the preferred approach to address conflict. It also supports a prevention/promotion approach. Both formal and informal cases/complaints accounted for nearly 40% of the total cases, split evenly. Having an almost equal number of formal complaints to informal cases is highly unusual. Normally, the Office sees approximately 15 to 20 formal complaints in a year; however, this year the Office accepted 82 formal complaints. This dramatic increase was situational, as a result of activity related to the Quebec Student Protest Movement (commencing in March, 2012).

Many of those dissatisfied with the government’s proposal to raise university tuition fees made their opinions known using a variety of tactics. At Concordia, some of these tactics included alleged violations of the Code. While last year’s annual report described the beginnings of the student protest movement and complaints related to such activity in the form of increased consultations, the continuation of the protests resulted in an unusual number of formal complaints being filed through the Office in 2012-2013. Although one does not wish to rehash the details of what could be described as a conflictual time period, much of the activity within the Office related to this conflict took place during the 2012-2013 academic year and it must be reported on once more. More details and discussion of these complaints and their outcomes will be provided below in the *Analysis of the Formal Complaints*.

While cases involving students-of-concern and threat assessments under POSILA account for less than 5% of total activity, these types of cases are often the most time consuming and require comprehensive coordination of a variety of personnel. Due to their urgent nature, they require immediate intervention. The follow-up may last for extended periods and files tend to remain open longer.

TABLE 1: REQUESTS FOR ASSISTANCE (2012-2013)

2012-2013 Academic Year	Cases	Consultations	Total
May 1, 2012 - April 30, 2013	184 ¹	198	382/420 ²
¹ The Office recorded a record number of formal complaints filed in 2012-2013, due to the student protest activity. Specifically, 58 formal complaints were issued by the University. ² Includes "other requests" as described in the aforementioned text			

TABLE 2: ANNUAL COMPARISON

Yearly Comparison	Months	Cases	Consultations	Total	Approximate Annual Change
2008-2009 Academic Year	12	119	65	184	n/a
2009-2010 Academic Year	12	121	72	193	+4.9%
2010-2011 Academic Year	11	107	105 ¹	212	+47.6% ²
2011-2012 Academic Year	12	121	112/209 ³	233/330 ³	+10%/55.7% ³
2012-2013 Academic Year	12	126/184 ⁴	198	324/382 ⁴	+39% ⁵ /15.8% ⁶
¹ The number of consultations were only recorded during the last 7 ½-months of the year ² Percent change reflects statistics corrected to a 12-month period; therefore, the increase is only an estimate ³ Includes additional consultations/complaints related to protest activity received in March and April, 2012 ⁴ Includes additional 58 formal complaints related to protest activity filed by the University in May and June, 2012 ⁵ Percentage increase calculated without additional protest related activity ⁶ Percentage increase calculated using total activity					

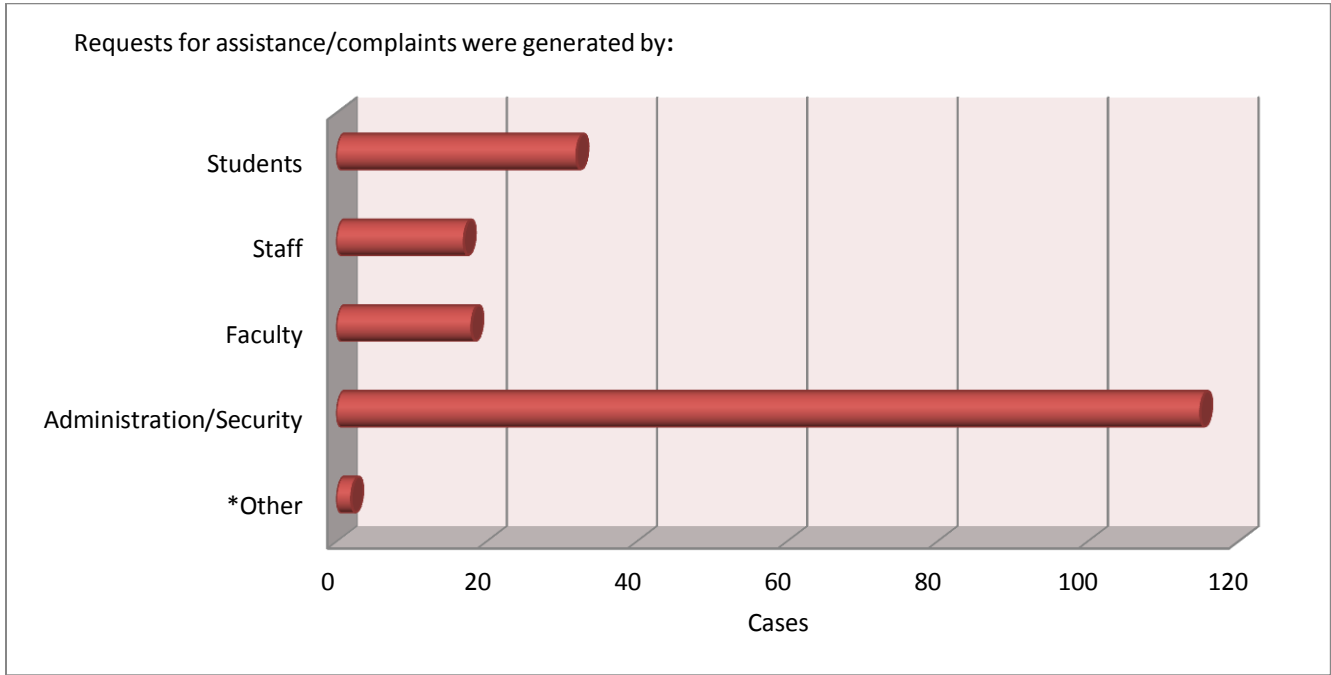
Requests for assistance (cases and consultations) totalled 382 during 2012-2013. Once again, this is a significant annual increase (up from 330 the previous year). Including the addition of 38 other requests, the total number of requests for assistance was 420. Both 2011-2012 and 2012-2013 also had situational increases due to Code complaints stemming from activity related to the student protest movement. While 2011-2012 saw an elevation in consultations directly related to the student protests (97), 2012-2013 had an increase in formal complaints being filed. In fact, the Office received a record number of 82 formal complaints (61 stemming from protest activity, with 58 of those being filed against students by the University). If we discount this situational activity in each year, there has been approximately a 39% increase in cases and consultations in 2012-2013 from the previous year, with the biggest increase in consultations (at approximately 77%). With the protest related allegations included in the calculations (additional consultations in 2011-2012 and additional formal complaints in 2012-2013), the total annual increase is approximately 16%.

The steady increases in activity (discounting situational increases) may be attributed to increased visibility of the Office, including more trainings being offered. As has been conveyed in previous reports, the addition of policies, specifically POSILA and HR-38, has increased the mandate of the Office and Advisor, thereby increasing the overall activity.

Who is seeking assistance?

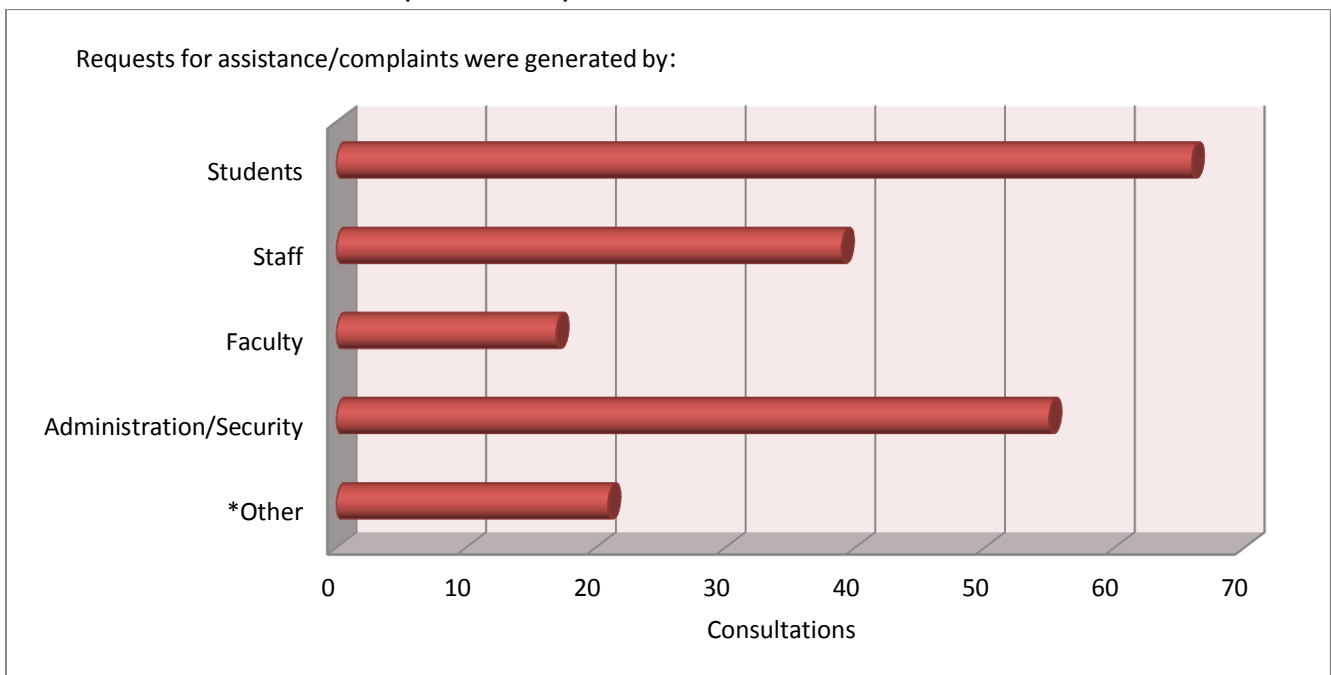
The term “Complainant” is used to refer to any member of the University community who is directly affected by someone’s behaviour and raises a concern with the Office of Rights and Responsibilities. The conduct in question should be within the scope of the Code of Rights and Responsibilities. If warranted, a case file is opened regardless of whether informal resolution was sought or a formal complaint launched.

CHART B: COMPLAINANT DEMOGRAPHICS (CASES)



*“Other” refers to non-members, Alumni, etc.

CHART C: COMPLAINANT DEMOGRAPHICS (CONSULTATIONS)

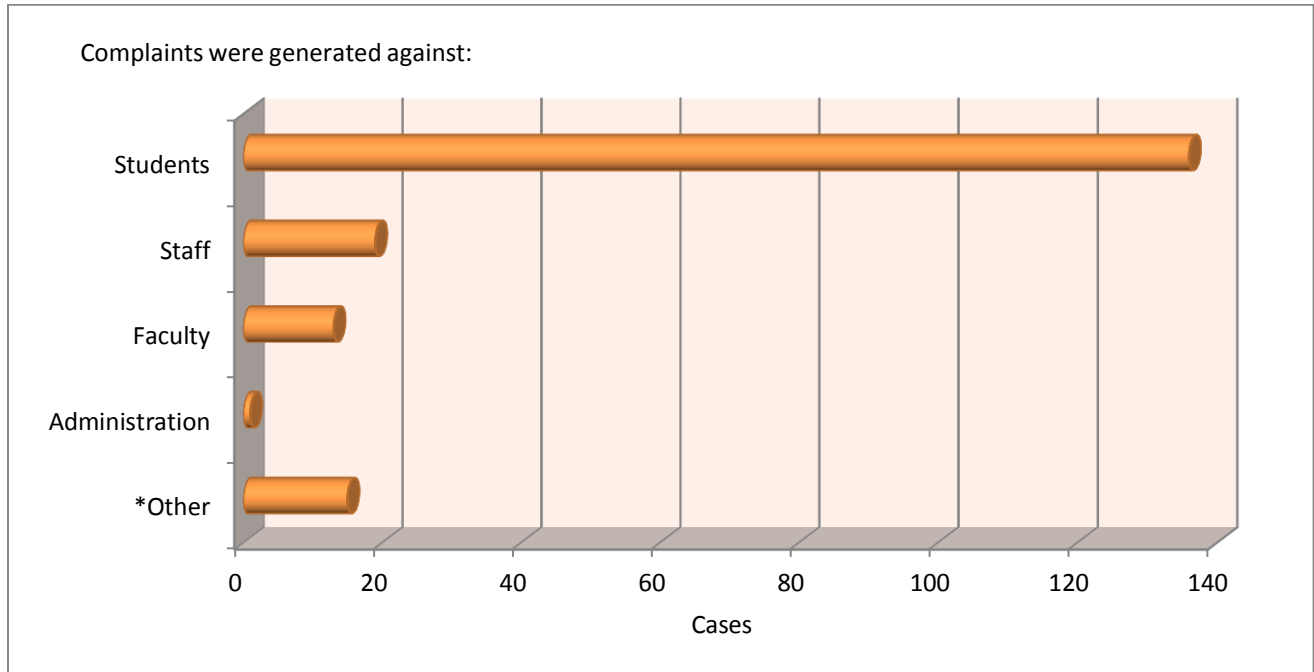


*“Other” refers to non-members, Alumni, etc.

Who are complaints being made against?

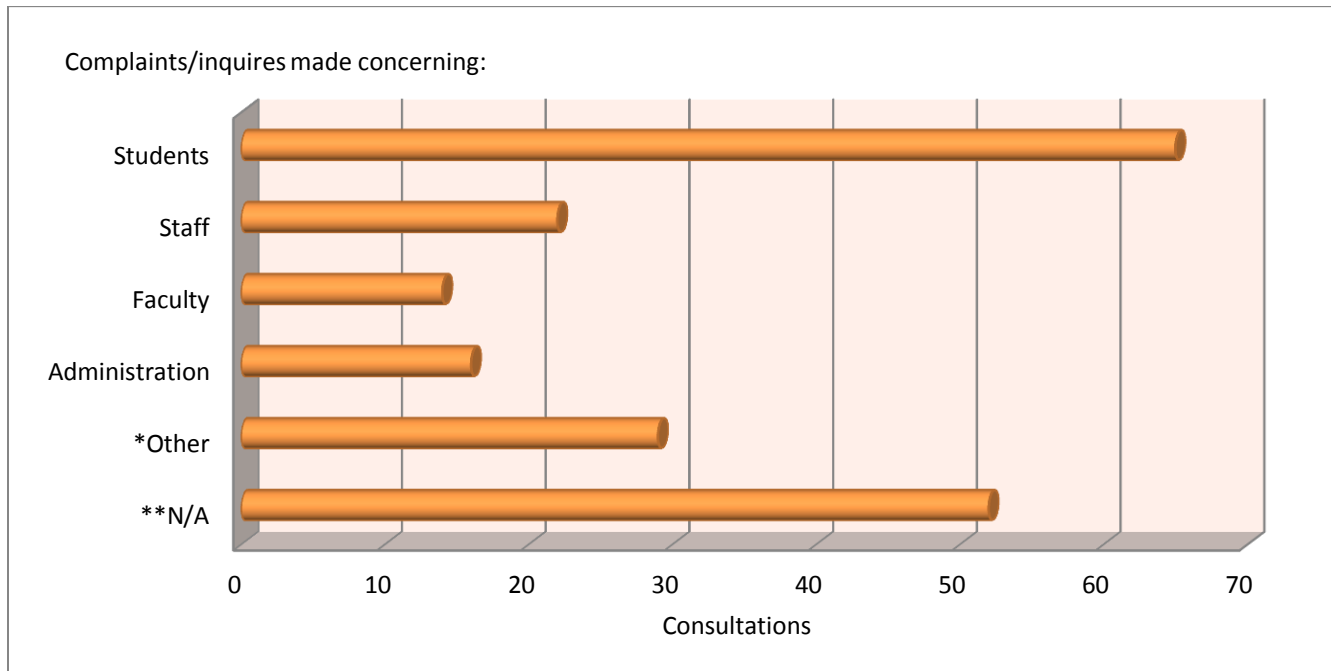
The term “Respondent” is used to refer to the person against whom a complaint is made. It may concern any member who is seen as allegedly responsible for undesirable behaviour as described as an offense/infraction under the Code of Rights and Responsibilities, thereby instigating a Complainant to seek resolution within the scope of the Code.

CHART D: RESPONDENT DEMOGRAPHICS (CASES)



*“Other” refers to non-members, Alumni, and unknown Respondents

CHART E: RESPONDENT DEMOGRAPHICS (CONSULTATIONS)



*“Other” refers to non-members, Alumni, and unknown Respondents

**“N/A” refers to consultations where there was not a Respondent specified

Note: The numbers of administration members as Complainants (in Chart B) and students as Respondents (in Chart D) are both elevated due to complaints made during the student protests.

TABLE 3: BREAKDOWN OF CASES (184) AND CONSULTATIONS (198) BY INFRACTIONS

OFFENCE	CODE ARTICLE	CASE TOTAL	CONSULTS TOTAL	TOTAL INFRACTIONS
HARASSMENT	28a	35	24	59
SEXUAL HARASSMENT	28b	7	9	16
PSYCHOLOGICAL HARASSMENT	28c	23	8	31
DISCRIMINATION	28d	6	9	15
COMMUNICATION OF DISCRIMINATORY MATTER	28e	9	2	11
THREATENING OR VIOLENT CONDUCT	28f	25	13	38
OFFENCES AGAINST PROPERTY	29a	7	3	10
FURNISHING FALSE INFORMATION/ACCUSATION/EMERGENCY	29b	1	2	3
MALICIOUSLY ACTIVATING FIRE ALARMS	29c	0	0	0
BOMB THREATS	29d	0	0	0
THEFT OR ABUSE OF COMPUTING FACILITIES OR COMPUTER TIME	29e	4	3	7
UNAUTHORIZED ENTRY INTO UNIVERSITY PROPERTY	29f	1	0	1
OBSTRUCTION OR DISRUPTION OF WORK OR STUDIES	29g	69	4	73
CAMPING OR LODGING ON UNIVERSITY PROPERTY	29h	0	1	1
FORGING OR ALTERING UNIVERSITY DOCUMENTS	29i	3	1	4
HAZING	29j	0	0	0
UNLAWFUL USE, SALE, DISTRIBUTION, ETC. OF CONTROLLED SUBSTANCES	29k	3	3	6
POSSESSION OR USE OF EXPLOSIVES OR DESTRUCTIVE DEVICES	29l	0	0	0
POSSESSION OR USE OF FIREARMS, CHEMICALS, OR OTHER WEAPONS	29m	0	0	0
UNAUTHORIZED OR DUPLICATION OF UNIVERSITY'S NAME, LOGOS, ETC.	29n	2	0	2
UNLAWFUL OFFENSE IN THE UNIVERSITY CONTEXT	29o	3	1	4
STUDENT-OF-CONCERN/THREAT ASSESSMENT/POSILA	(N/A)	19	3	22
*OTHER	(N/A)	14	132	146
TOTAL		231	218	449

**OTHER REFERS TO FILES/ISSUES THAT MAY INVOLVE PROBLEMATIC BEHAVIOUR NOT CLASSIFIED UNDER THE CODE, SITUATIONS OF ADMINISTRATIVE FOLLOW-UP, OR MATTERS IN WHICH THE OFFICE HAS LIMITED JURISDICTION, ETC.*

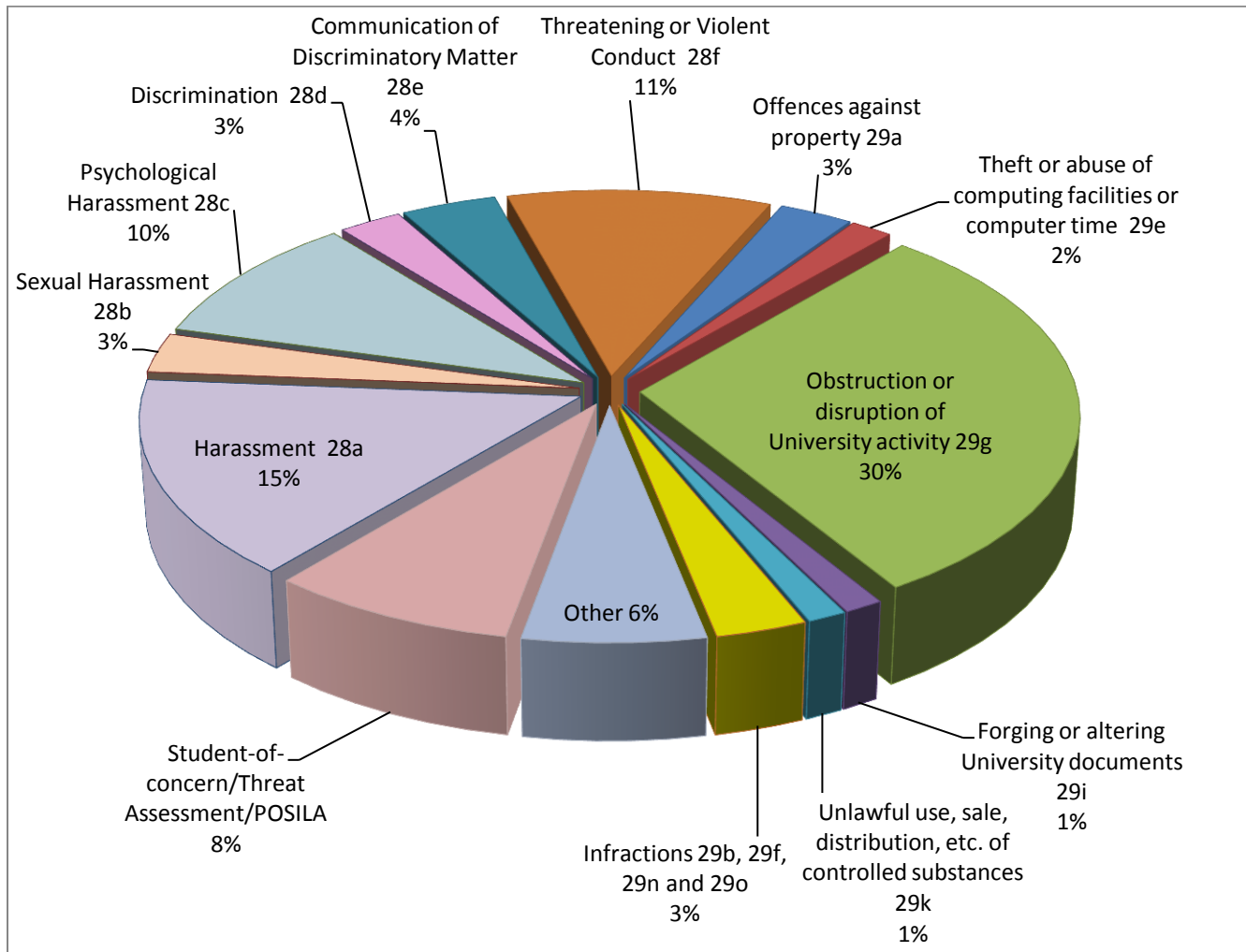
Some complaints allege more than one Code infraction, yet are still counted as a single complaint/case file, regardless of the number of offences cited. Cross complaints though rare, do occur and are counted as separate cases. Comparing the total cases in Tables 1 and 3, there were 184 cases alleging 231 infractions and 198 consultations alleging 218 infractions or other issues. Consultations more often than cases will not allege a complaint or issue that neatly falls under the Code's infractions and provisions. As such, these situations, often requiring information and advice, do not manifest into cases and account for the high number in the "other" category.

Chart F (below) provides an overview and breakdown of the types of cases retained by the Office and the type of offences reported. Tables and charts obviously do not reflect the amount of time spent in consultation, gathering information, reviewing evidence, resolving issues, etc., or how long a case remained active. Most cases were resolved through some informal means (strategies, mediated settlements, behaviour contracts/agreements, etc.). A breakdown of the formal cases and their outcomes is provided in Table 4.

As mentioned, situational occurrences can radically affect the data, thus, making it difficult to compare percentages from year to year. In 2011-2012, the number of consults was substantially increased by a situational event. In 2012-2013, with the elevated number of formal complaints solely due to the continued activity related to the student protests, the division

of the presenting issues has been affected. Last year (2011-2012), general harassment and threatening/violent conduct were the offences reported most often at 21% followed by psychological harassment at 13%. While these infractions still remain amongst the most prevalent reported in 2012-2013 and the numbers of complaints are close to the previous year, article 29g was the complaint most often reported in 2012-2013: (“obstruction or disruption of teaching, research, administration, study, student disciplinary procedures or other University activity...”) at 30%, up from a previous 4% the year before.

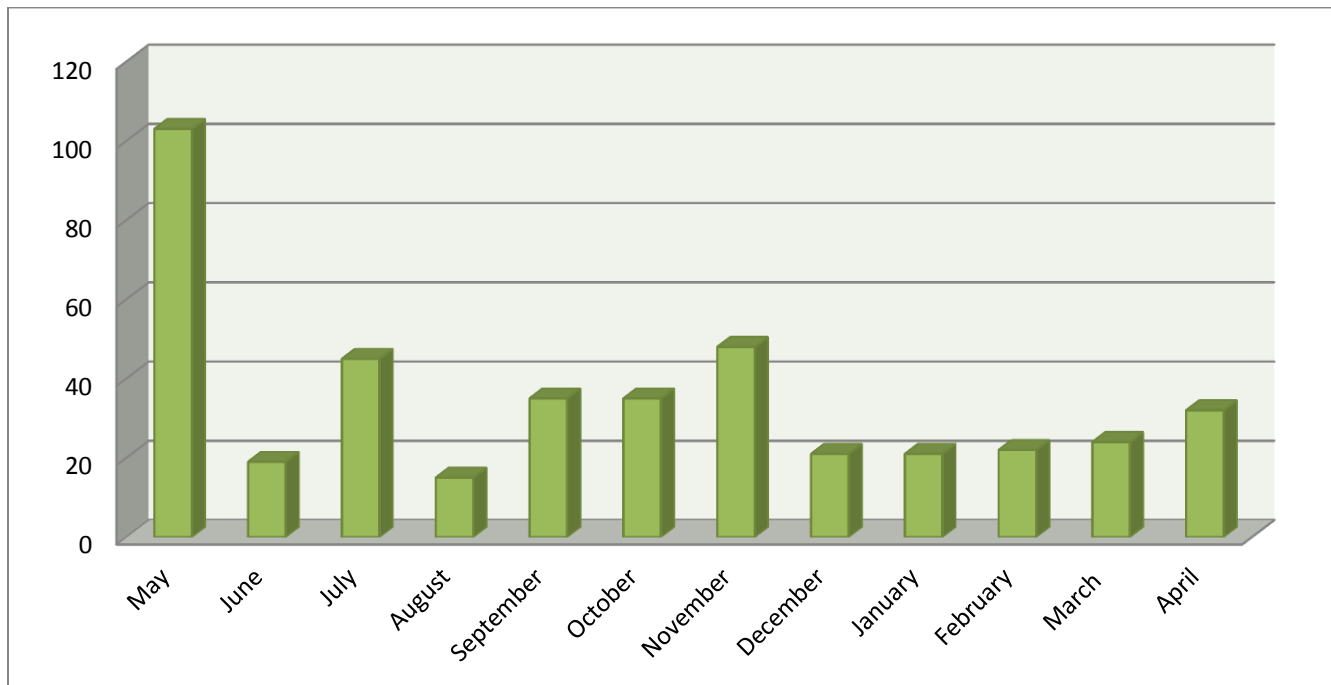
CHART F: PRESENTING ISSUES (CASES) 2012-2013



A working example is the number of cases involving students-of-concerns at 19. While the number was identical both last year and this year, the percentage of these cases decreased from 11% to 8%. As such, it is important to remember such variances when evaluating the data.

Reported infractions may vary somewhat from year to year. The unreported offences in 2012-2013 as displayed in Table 3 (29 c, d, h, j, l, and m) are not represented in Chart F. In addition to the situational increase in complaints of 29g, there were other notable but slight increases in cases involving the following infractions: 28d – discrimination, 29a – offences against property, 29i – forging or altering University documents, and 29n – unauthorized use or duplication of the University’s name or logo. The most notable decrease in reported infractions was that of 28f – threatening or violent conduct (down from 37 to 25).

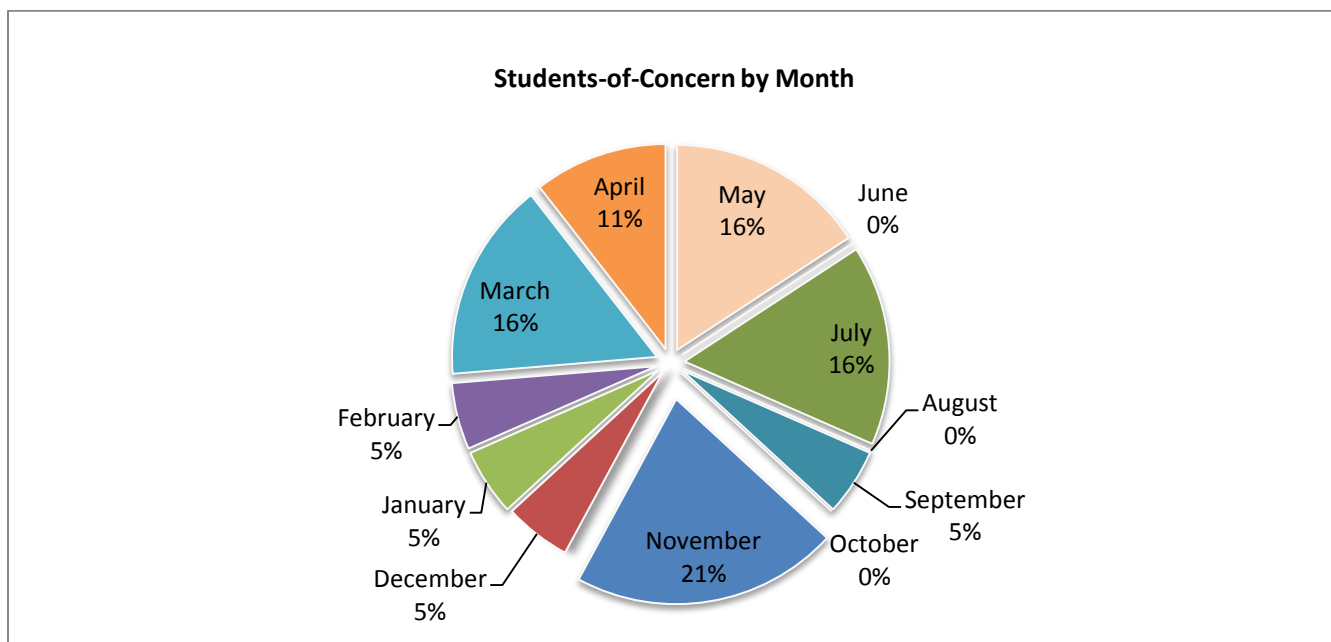
CHART E: MONTHLY DISTRIBUTION OF REQUESTS FOR ASSISTANCE (420)



NOTE: INCLUDES CASES (184), CONSULTS (198) AND OTHER REQUESTS (38)

May, 2012 (due to complaints related to the student protest movement) exhibited the most activity in the form of formal complaints received (similar to April, 2012 in the previous academic year with consults being augmented). November, 2012 was the next most active period of the Office, in terms of most requests for assistance. November has been anecdotally reported to be a very stressful time of the year for students. With winter approaching and daylight scarcer, final assignments and in-class exams are taking place before the final exam period. While only speculation, there may be a link with the highest number of students-of-concern being reported to the Office and situations assessed also taking place this year in November (as shown below in Chart F). In addition to the high number, the severity of incidents during this period is noteworthy.

CHART F: STUDENTS-OF-CONCERN DISTRIBUTION



Keeping in mind that POSILA has only been officially in effect and part of the Office's mandate since 2010-2011, previous data does not reveal any patterns or support any legitimate hypotheses. Summer months seem relatively quiet for reception of new cases and assessments but involve substantial follow-up activity including requests for readmission, decisions, and reintegration measures being planned at the beginning of the semester (which the chart does not take into account).

As previously mentioned, students-of-concern dossiers may include issues such as disturbing behaviour, missing persons, suicidal ideation, threatening statements, etc. These situations require assessment and subsequent intervention if it is deemed that a student has become a threat to themselves or others, is unable to seek appropriate help on their own, and is unable to pursue their studies. There are usually underlying issues for the behaviour (mental health issues, psychosis, drugs, etc.) and the Office attempts to address the undesired conduct and have the student receive the needed assistance while attempting to protect the community at large. In reaching out to students-of-concern, most are receptive in working with the appropriate professionals and voluntarily accessing the needed assistance. As such, not all identifications of a student-of-concern require consultation with the entire POSILA case team. In fact, an even smaller number of students require direct intervention under POSILA. When this occurs, it is usually because the presenting behaviour or condition is so extreme and he/she is not capable of making reasonable decisions. In such a situation, having the person on campus frequently presents a safety issue to one or more members. In almost all cases where POSILA was invoked, threatening or violent conduct had occurred, sometimes concurrently with other behavioural infractions. Often in these cases, there was police intervention and/or criminal charges laid. In all cases to date, mental health issues were identified.

In 2012-2013, of the 19 student-of-concern cases assessed, two were mandated to take an involuntary leave of absence and another student was deregistered from the University (for other academic and/or financial reasons). Police were involved at one point in all three cases and all had pending charges under the Code. Of the two students on a leave of absence, prior to the leave being invoked following a full assessment, urgent measures under the Protocol and Code were taken, specifically, temporary exclusions from the University. One student following treatment has successfully returned to the University.

Worth noting, and what the data does not specify, is that other perceived threats (not within the jurisdiction of POSILA) are brought to the attention of the Office, requiring assessment (often in conjunction with Security and/or other members of the Protocol or POSILA case team). These incidents usually involve threatening and/or violent conduct where the Respondent is a non-student and there is a perceived threat to another member of the community. Measures may be taken under the Code and/or Protocol. In 2012-2013, there were 10 such additional cases requiring assessment and/or intervention.

ANALYSIS OF FORMAL COMPLAINTS AND THEIR OUTCOMES

In 2012-2013, there were 82 formal complaints. Such a high number is unusual and solely attributed to formal complaints being filed as a result of alleged offences during the student protests. Of the 82 formal complaints filed with the Office, 58 were filed by the University/Security against students. It should be noted that while there were more incidents and allegations brought to the attention of the Office, there were 58 cases selected to proceed (based on evidence available, identity of Respondents known, etc.). Of the remaining 24 formal complaints filed, three were also attributed to allegations of misconduct during the student protests but were filed by individual members of the University. Table 4 provides a detailed breakdown of these 24 formal complaints and their outcomes. The 58 formal complaints filed by the University are not displayed, as the offences were all under 29g, the Complainant in each case was the University, and the outcome was the same for all cases (with a few variances). As such, a brief discussion/summary will be provided below, but a data or information table would be redundant.

FORMAL COMPLAINTS (RELATED TO THE STUDENT PROTEST MOVEMENT FILED ON BEHALF OF THE UNIVERSITY - COMMENCING MAY, 2012)

The student protest movement had a significant presence at Concordia University as well as many educational institutions throughout Quebec. The heart of the conflict was the Quebec Government's intention as indicated in the provincial budget to raise university tuition fees. Subsequently, the Office and the University as a whole faced several challenges in dealing with conduct issues related to the student protest movement. While respecting the freedom of students to express their views, it was the expectation that protest activities would not disrupt the functioning of the University as provided by the Code of Rights and Responsibilities. The Code allows for "...peaceful and orderly protest, demonstration, and picketing that do not disrupt the functions of the University." Despite this expectation, the Office received numerous reports from students, faculty, and staff complaining of the on-going situation and members expressed frustration with individual and collective rights being violated. While many of the complaints were brought to the attention of the Office in March and April, 2012 (as reported in last year's annual report), formal complaints were only processed starting in May, 2012.

The Code safeguards that students have the right to attend their classes and pursue their academic activities and that faculty members and staff have the right to carry out their professional duties. As such, the University was obligated to respond when impediments in some areas persisted. The University issued several communiqués to students, faculty, and staff clearly expressing the consequences related to any further action that violated the Code and the rights of others. The University stated that while they had not done so previously, they would begin to lay charges against those who violated University policies. In consultation with the Administration, Security and the Advisor, the University decided to postpone laying any formal charges until exams of the winter semester were completed. As such complaints were submitted by University officials and notifications to Respondents were issued in May and June of 2012.

The 58 formal complaints were all for allegations of 29g of the Code: "obstruction or disruption of teaching, research, administration, study, student disciplinary procedures or other University activity..." The 58 complaints filed were against a total of 25 students, meaning each of these students had between one and seven complaints filed against them. The number of incidents which manifested into these complaints was 15 (i.e., most incidents involved several of the same students). As such, joint hearings (for Respondents allegedly involved in the same incident) were being scheduled by the Office of Student Tribunals, in order to effectively facilitate the numerous complaints. Such joint procedures had no precedence and revised hearing procedures were created. If Respondents had objections to a joint hearing they were permitted to have a singular hearing at a later date.

Following the complaints being submitted to the Office of Student Tribunals (as is the process for hearing dates to be scheduled), two complaints were subsequently withdrawn (in consultation with the Advisor) due to a lack of sufficient evidence. Amongst the other Respondents were three students who graduated (with a total of six complaints against them collectively), thereby their proceedings were suspended as stipulated in the Code. Although all formal complaints were eventually withdrawn by the University President, what has not been reported to date is that informal resolutions were being negotiated for several of these complaints. In the spirit of the Code, facilitated by the Advisor, the University was working with student Respondents and their respective advocates to resolve the complaints and pending issues. In fact, seven Respondents (with 22 corresponding formal complaints against them) had already begun an informal process and it was anticipated that more proposed resolutions would follow. The Code prescribes how one must behave and the available responses to conflicts, ultimately with the desire to settle them in an effective and constructive manner.

On September 18, 2012 with the start of the new fall semester underway, the recently appointed University President, Alan Shepard communicated to the community his decision to withdraw all Code complaints filed on behalf of the University stemming from student behaviour during protests earlier in the year. He expressed the desire to "turn the page and focus on the future together," while acknowledging that not everyone would agree with this decision (Shepard, 2012).

Notwithstanding this withdrawal of the formal complaints made on behalf of the University, complaints initiated by individual members in 2011-2012 continued into the following year. There were originally three formal complaints launched by individual members as a result of protest activity; however, one Complainant had deferred to a University made complaint and withdrew what was considered a duplicate complaint (against the same Respondent, for the same alleged incident). Instead, this individual Complainant agreed to be a witness in the formal process initiated by the University. When the University complaints were withdrawn, this complaint became a point of contention and warrants some further discussion. The original Complainant requested that the original complaint now be resubmitted and reconsidered. Although this was possible, by the time the process was re-initiated, the Respondent had already graduated; thus, as stipulated in the Code, the formal process was suspended indefinitely, leaving little possibility that the formal complaint would be addressed in a timely fashion, if ever. Understandably, this Complainant was displeased with many aspects of the process. Recommendations in last year's annual report were made to include a review of procedures for students on the verge of graduation charged under the Code.

The policies and procedures that govern the Office are working documents and are reviewed and modified/improved every few years. Recommendations often come about as a result of specific cases or situations. Incidents during the student protest movement raised procedural questions and even caused some technical difficulties. Although article 21 implies that fairness guides some of the decision-making process when the provisions of the Code or related policy don't "fit," some of these exceptional situations may require review in making appropriate future amendments to the Code, either in the form of clarifications or revisions. While this situational conflict can be described as divisive and taxing, this period also highlighted some unique challenges in regards to the application of the Code. As such, the undersigned made several recommendations (in the 2011-2012 Annual Report) to be examined during the next Code review as well as suggestions as to how certain Code articles should be interpreted. Some issues requiring review included:

- Joint hearings when multiple Respondents are charged with the same infraction for the same incident
- Pending complaints and proceedings against graduating students and the fairness of how such complaints are handled
- Student Respondents who (perhaps strategically) request a hearing postponement as registered students and then graduate before the formal process can be concluded – consideration of reciprocal postponement of degree conferment

FORMAL COMPLAINTS (REGULAR)

When a complaint is initiated or behavioural issue arises, the Office can assist with corrective measures, usually through informal means of resolution. Formal complaints are initiated for a variety of reasons including: failure of mediation, Complainant and/or Respondent does not agree to attempt informal resolution, a breach in a settlement reached, or the Complainant feels that only a formal complaint procedure can address the seriousness and nature of the complaint. Only formal complaints made in writing (as stipulated in the Code) are recorded as such in the data. Formal complaints can be resolved informally or withdrawn at any time prior to the start of a hearing or investigation.

Not including the 58 formal complaints filed against students by the University for allegations related to student protest activity (previously discussed), Table 4 (below) displays a detailed breakdown of the 2012-2013 formal complaints received by the Office and their respective outcomes.

Of the 24 filed, seven had been carried over from the previous year, making the total number of new formal complaints exactly on par with that of last year, totalling 17. Three of the complaints were related to student protest activity (two carried over from the previous year) filed by faculty against students. For the two that proceeded, a joint hearing took place (for the first time), with no objections. The charges under Article 29g were upheld but because all other charges against other students were previously dropped, it was felt that a mild sanction amongst what is permitted (in article 65 of the Code) was the only fair option. No Appeals were filed by either party, following the decisions of the Hearing Panel. In addition to these two founded complaints, the carried over complaints resulted in the following outcomes: one unfounded, one settled, two processes suspended due to the Respondents' student status, and one outcome is still unknown. Of the 17 new formal complaints, more were filed against students than in the previous year. Notably, 13 were filed against students, three were filed against employees, and one was filed against a non-member by another non-member. The complaint filed between non-members had to be dismissed by the Advisor for lack of jurisdiction and was redirected elsewhere.

Section IV of the Code (articles 22-25) covers "Jurisdiction." Despite explanations contained in the Code, there is sometimes confusion amongst members regarding their status as Complainants or Respondents. The status of a Respondent determines what formal process if any will ensue following a formal complaint being filed. As some Respondents and Complainants can have dual status (e.g., as students and employees) within the University, the Advisor is obliged to only consider the capacity under which both the Complainants and Respondents are acting in relation to the specified complaint. The Code is clear in that Respondents must be members (e.g., fee-levy groups and student associations must seek redress elsewhere, as the Advisor does not have jurisdiction with such groups or members of such groups). Similarly, if a Complainant's status changes during the course of opening a file with the Advisor, the Office may lose jurisdiction, thereby requiring the Complainant to be redirected elsewhere. Each case is looked at individually when deciding if the Office has jurisdiction.

Complaints made against student Respondents consisted of the following division of Complainants: 10 administration members, two faculty members, and one student. Formal complaints made against University employees consisted of one staff and two administration members as Respondents. These three formal complaints were filed by staff Complainants. For reporting purposes, "administration" includes any employee holding an administrative position or Security filing a complaint on behalf of the University. This report is limited to activity taking place during the 2012-2013 year despite some of the "pending" results only being finalized prior to the release of this report. As the outcomes were only decided in 2013-2014, the results will be reported in next year's annual report. Results below include outcomes (if the process was completed) and whether or not informal resolution was attempted.

Table 4: 2012-2013 Formal Cases¹

Date	Infraction	Respondent	Complainant	Hearing/ Investigation	Outcome	Action Taken	Informal Attempted
May/12	29e, 29o	Staff	Student	Investigation ²	Unfounded	None	N
May/12	28c	Staff	Faculty	Investigation ²	Settled Externally	N/A	N
May/12	28c	Faculty	Staff	Investigation ²	Pending Decision Unknown	TBD	N
May/12	29g	Student	Faculty	Hearing ^{2,5}	Founded	Sanction	N
May/12	29g	Student	Faculty	Hearing ^{2,5}	Founded	Sanction	N
May/12	28a, 28f	Student	Administration	N/A ^{4,8}	N/A	N/A	N
Sep/12	29a	Student	Administration	Hearing Postponed ^{2,4}	N/A	Mediated Settlement (breached)	Y
Sep/12	29g	Student	Faculty	Hearing Suspended ^{4,5}	N/A	N/A	N
Oct/12	29a	Student	Administration	Hearing Suspended ^{2,4}	N/A	N/A	Y
Nov/12	29i, 29n, 29o	Student	Administration	Hearing Suspended ⁴	N/A	N/A	N
Nov/12	28c, 28d, 28e	Student	Student	Hearing	Unfounded	None	N
Nov/12	28a, 28c	Other ⁷	Other ⁷	N/A	Dismissed/Advisor Referral ⁶	N/A	N/A
Nov/12	28a, f	Student	Faculty	Hearing Suspended ^{4,8}	N/A	N/A	N
Nov/12	28f, 29g	Student	Administration	Hearing Suspended ^{3,8}	N/A	N/A	N/A
Dec/12	28c, 28f	Administration	Staff	Investigation ³	Pending	TBD	N
Jan/13	28c	Staff	Staff	N/A	Dismissed/Advisor Referral ⁶	N/A	Y
Jan/13	28c, 28f	Administration	Staff	N/A	Dismissed/Advisor Referral ⁶	N/A	N/A
Feb/13	29k	Student	Administration	Hearing Pending ³	Pending	N/A	Y
Feb/13	29k	Student	Administration	Hearing Pending ³	Pending	N/A	Y
Feb/13	29k	Student	Administration	Hearing Pending ³	Pending	N/A	Y
Apr/13	29i	Student	Administration	Hearing Pending ³	Pending	N/A	N
Apr/13	29a	Student	Administration	Hearing Pending ³	Pending	N/A	N
Apr/13	29a	Student	Administration	Hearing Pending ³	Pending	N/A	Y
Apr/13	29a	Student	Administration	Hearing Pending ³	Pending	N/A	Y

¹ Table does not include 58 complaints of 29g filed by the University for offences related to the student protests

² Case was carried over from 2011-2012

³ Case continued into 2013-2014

⁴ Student no longer registered or withdrawn

⁵ Complaint related to student protest activity filed by individual members

⁶ Non-jurisdiction

⁷ Refers to non-member

⁸ Student-of-concern

RECOMMENDATIONS

As stipulated in articles 15-16 of the Code, the Advisor may, when warranted, make recommendations. Throughout the year, this can include suggestions regarding situations within a unit, department, faculty, or the University as a whole. As well, the Advisor may make recommendations, as necessary, with regard to either the Code, other related policy associated with the Office and/or operations of the Office. Recommendations, clarifications, and proposed revisions generally come about as a result of specific cases or situations. Due to several unique challenges, the 2011-2012 Annual Report identified several areas for review and had the most recommendations to date. Proposed recommendations related to the Code in the annual reports will be compiled for the next review and revision of the Code (tentatively set for 2015-2016). Recommendations made to other policies (e.g., POSILA) are also retained for a next review which is usually five years from the most recent adoption. Recommendations and revisions are continually proposed to safeguard best practices.

The Code also stipulates in article 21 that “wherever there is doubt or ambiguity regarding any provision of the Code or the procedure to be followed that interpretation or procedure which appears to be most equitable and consistent with the general purposes and philosophy of the Code shall be adopted.” Within the recommendations below are examples of interpretations made or considered when uncertainty occurred.

The following are the recommendations of 2012-2013 for consideration:

CODE RECOMMENDATIONS (TO BE CONSIDERED DURING THE NEXT FORMAL REVIEW OF THE CODE):

- In article 20, a student is defined as:
any person registered in any academic program on a full-time or part-time basis; any person admitted as an independent student, during the semester in which the person is registered in at least one course as well as the semester immediately following; any person registered in a non-credit course for the duration of the course only; any person registered as an Auditor in a credit or non-credit course for the duration of the course only; any person registered as a student at another university who has written approval from his/her home university to take courses at the University for the semester during which the person is registered in at least one course at the University.

One ceases to be a student:

upon graduation; or three consecutive semesters after he/she was last registered in at least one (1) course; or at the end of the semester during which such person is declared in failed standing and is no longer entitled to register in any course at the University.

Although students in failed standing cannot in theory register for classes, an exception to this can occur. Students declared in failed standing at the end of the spring semester may have already registered for summer courses in the new academic year. When this happens, they are in fact permitted to complete these courses. By definition under the Code, one could be considered a student as well as a non-student in this situation. In fact, a student in failed standing who registers for a summer course and then subsequently discontinues that course could face a hearing if charged with a formal complaint versus a student in failed standing who opts not to register for a summer session (who would have their proceedings suspended as per article 23). The definitions therefore need to be better clarified so contradictions are resolved and applications are fair and not based on mere technicalities.

- It is also noteworthy that the definition of a student as being “registered in any academic program on a full-time or part-time basis” does not necessarily mean being registered in classes. This is highlighted by the specification when one ceases to be a student “three consecutive semesters after he/she was last registered in at least one course.” A situation arose where two students were charged for the same Code complaint at the same time. Neither student had been registered for courses for two semesters; however, one student had been declared in failed standing. Subsequently, the student in failed standing had his proceedings suspended indefinitely and the student (still registered in a program) with the satisfactory academic record will be brought before a Hearing Panel. The fairness of this technicality needs to be reviewed in the application of articles 23 which stipulates:

In cases involving a Student's conduct, the person need only have been a Student at the time of the alleged violation of the Code. If any proceedings under the Code cannot be initiated or completed because a Student has graduated or ceases to be a Student in accordance with the definition contained in Section III of the Code, the proceedings shall continue if the person registers again...

(For a further discussion on recommendations regarding article 23, please consult the 2011-2012 Annual Report).

- Members, by definition in article 20 include employees. All employees may consult the Advisor. In order to file a formal complaint, one must remain an employee. There were cases where an employee's status changed either due to termination or resignation. Last year's annual report specified the need to better clarify when one ceased to be a "member," which in turn would eliminate the Office's jurisdiction. It is also now recommended that clarification be made as to when a member's status changes from member to non-member following consultation with the Office or filing a formal complaint. In such a situation, the Office may no longer have jurisdiction in which case a different/new entry point would be required for a complaint to be addressed (e.g., Union, Labour Relations, external tribunal body, etc.).
- In section IV, concerning jurisdiction of the Office and Advisor, article 22 states:
Complaints with respect to a violation of the Code may be made by Members in relation to the conduct of other Members where the Member complaining ("the Complainant") is directly affected by the conduct in question. As well, the University, through its Disciplinary Officers, may make a complaint on its own behalf against a Member in relation to conduct against another Member or non-Member. The alleged violation must have taken place on University premises, either rented or owned, or on other premises in the course of any University-sponsored activity or event.

In other words, the alleged infraction must have taken place on campus or in the course of a designated University event in order for the Office/Advisor to have jurisdiction with the matter. In previous annual reports, such issues as e-space infractions, cyberbullying, and infractions committed by unknown Respondents were brought forth, warranting additional discussion. Further reflection following particular cases as well as discussions with others in the area of conduct and behavioural management suggested that language which is somewhat restrictive to a physical campus might be "passé." While it is important to limit the jurisdiction of the Office so it pertains to relevant activity (and not extend to personal matters because a Complainant and Respondent happen to be members of the University), consideration should be given to include other activities off campus if they have a "real and substantive link to University activity."

- Sexual assault is currently listed as an offence in the Code under the heading of sexual harassment (article 28b). Differing opinions have been expressed by a few concerning whether or not a distinction should be made between sexual assault and sexual harassment in the Code. Some feel sexual assault should be separate, necessitating its own provision. Others have expressed a concern that such a distinction and/or separate definition of sexual assault might be restricting and in turn could be a deterrent to some by limiting the choice of a Complainant as to how he/she would like the complaint classified. In instances of sexual assault, when one chooses to file a complaint and seek redress through the Office for such an allegation, the Complainant who chooses to do so will classify the complaint as such and label the offense as "sexual assault," when submitting the complaint. In such situations, the complaint is usually also filed under 28f, "threatening or violent conduct," specifying two concurrent charges. In other instances (for varying reasons), some Complainants are not comfortable labelling their complaint as "sexual assault" and prefer to come forward with the allegation of "sexual harassment."

The last review of the Code intentionally provided a wide definition of sexual harassment which includes all forms of harassment of a sexual nature and can include sexual assault and/or threats of a sexual nature. Including sexual assault under the heading of sexual harassment does not diminish the seriousness or impact of such an offence and does not limit the scope or severity of possible sanctions that could be imposed on a Respondent where a complaint of sexual assault is founded. An imposed sanction will normally reflect the severity of the charges upheld along with all of the relevant circumstances. It is important to note (as previously mentioned) that any assault, sexual or otherwise, can also constitute "threatening or violent conduct" under the Code. The issue should be examined further in the next Code review to determine if any revision is warranted.

- Article 29i specifies the infraction of: “forging or, without authority, knowingly altering, using, receiving or possessing University supplies or documents (including without limitation, records, keys, electronic devices or identifications).” When a member had forged transcripts from another University and submitted them to Concordia, it was deemed that these items were considered “University documents” once they were in the possession of the University. In the next Code review, what is considered University documents should be discussed to determine if further clarification is required.
- Article 33 deals specifically with the four grounds under which the Advisor would refuse to assist in informal resolution and/or proceed with a formal complaint, including a lack of jurisdiction. Usually jurisdiction refers to the infractions specified in the Code. There are also time delays specified in the Code (article 32 and 102). Expiration of a time-delay could prohibit proceeding with a formal complaint. A more comprehensive definition of what constitutes non-jurisdiction should be considered. Alternatively, information concerning expiration of time delays affecting jurisdiction could be included in “Section IV Jurisdiction.”
- Section VI discusses “Informal Resolution.” More specifically, articles 36-40 specify procedures for informal resolution. Some educational institutions are using the term “restorative justice” and “restorative practices.” Restorative practices are gaining popularity as an alternative to “zero-tolerance policies” that promote suspension or expulsion with student behavioural issues. While the definitions and programs vary, restorative justice is a cooperative response to incidents that seeks inclusion of all stakeholders in an effort to meaningfully address harm and foster renewed relationships (Restorative Justice Online, 2014). Indeed, some of the conflict resolution that takes place through the Office can be considered as a form of restorative justice. The term is certainly aligned with the spirit of the Code which emphasizes informal resolution as the preferred method, when appropriate, and should be considered as an example of informal resolution in this section.
- Article 65 specifies the sanctions that a Hearing Panel may impose following a decision of a complaint being founded. Suspension or expulsion can be recommended by the Hearing Panel but are subject to confirmation by the President. The question was asked (by a student advocate): if suspension or expulsion is recommended could a student Respondent present supporting information directly to the President. While the President reviews the case before making a decision and will request more information if needed, there is nothing in the Code that precludes a student Respondent and/or advocate on the student’s behalf from making a submission in support of a request for a sanction to be altered.
- Article 93 states:

the Advisor shall terminate any attempt at informal resolution or formal resolution should either party initiate a process such as, but not limited to, a grievance or other formal internal procedure, or any external procedure such as a complaint or action before a commission, board or tribunal.

The undersigned raises the question as to why the article specifies “either party,” referring to a Complainant or Respondent. A Complainant certainly cannot initiate a parallel process for the same complaint with the Office (without having the Advisor terminating involvement) but a complaint under the Code does not prevent a Respondent from initiating another procedure if warranted (e.g., grievance, external tribunal, cross complaint, etc.). Notwithstanding, cross complaints made through the Office cannot be “trivial, frivolous, vexatious or made in bad faith” and must be “supported by sufficient evidence,” as stipulated in article 33. As such, revision of the wording of article 93 is recommended. (Note: another recommendation was made concerning article 93 in the 2011-2012 Annual Report).

- Article 107b specifies that in formal complaints against employees, the Authority may “have access to all official files and information as required, the whole subject to the applicable legislation.” While the Advisor provides the necessary information pertaining to such formal complaints, the Office’s file is not provided. In fact, any evidence is provided by the parties involved in the investigation. More explicitly article 133 stipulates that files of the Office “...shall be accessible only to the staff of the Office of Rights and Responsibilities or as required by law.” As such, the wording of article 107b should be subject to review, including what constitutes an “official file.”

- It has been suggested to the Advisor that the Code contain a provision that prevents disparaging the institution, more specifically prohibiting defamation that is not defensible. While this could be controversial, touching on issues such as freedom of speech, it should nevertheless be discussed during the next Code review.
- It is recommended that language which describes outcomes of formal complaints be examined. Various parties (the Student Tribunals, Human Resources/Labour Relations, Unions, etc.) all seem to use different terminology and the Code lacks consistency. In article 24, the Code refers to complaints against students as “upheld” and in article 28 as “unfounded”. The undersigned usually refers to complaints as “founded” or “unfounded” for consistency. The term “upheld” is more often used when referring to a decision made following an Appeals process or to “charges”. In article 111, the Code refers to an unfounded complaint against an employee as one that has been “dismissed.” The Student Hearing Panels will refer to an outcome either as having “upheld the charge...” or having “dismissed the present charges.” Some authorities in reporting the outcomes of their investigations have used the terms “founded” or “unfounded” while others have referred to complaints as “concluding” certain allegations or complaints being dismissed (when not founded). The undersigned uses the term “dismiss” to describe a complaint that has not been retained due to any grounds specified in article 33 but once a complaint has been retained and a formal process initiated, “dismissed” does not seem correct in describing the actual complaint but adequate if describing “charges.” It is recommended that a list of accepted terms be included in the Code and/or University offices strive to incorporate consistent language. It has also been suggested that consideration be given to using the same language as the Academic Code of Conduct, which refers to charges as being “upheld” or “dismissed.” While this could be considered, the Code currently refers solely to “complaints” and not “charges.”
- Previously, there was a sole “Advisor” directing the operations of the Office. In 2011-2012, the Advisor became the “Director and Senior Advisor” to reflect additional responsibilities and level with similar positions in the field, as well as eliminating confusion with numerous University personnel who carry the title of “Advisor.” Subsequently, with the establishment of an Associate Advisor position and hiring in 2013, the term “Advisor” in the Code and other related policies/publications should be reviewed and perhaps better defined to mean one or both of the above current positions. Any description or clarification should consider any future staffing changes as possibilities (i.e., addition or reduction of positions). Under the supervision of the Director and Senior Advisor, the Associate Advisor receives and handles complaints. Additionally, in the Director’s absence, the Associate Advisor may be asked to replace the Director and Senior Advisor during urgent matters. As the new position is filled, more can be discussed in the next annual report.

POSILA RECOMMENDATIONS:

- When a student-of-concern is identified to the Office, feedback (academic and behavioural) may be required from the student’s professors. The individual(s) requesting this feedback should take caution not to identify the student as a “student-of-concern.” When requesting feedback, it is important not to create undue influence by labelling a student. Alternatively, there are instances when a student-of-concern should be identified, for example, when specific behaviour needs to be monitored in determining the need for intervention.
- The term “student-of-concern” has come to be used interchangeably to indicate a student having potential risk to themselves or others whether or not POSILA is activated and/or corresponding provisions utilized (Shiller, 2011). The term “student-of-concern” under POSILA should not be used to describe students having academic difficulty, unmotivated students, students with high absentee rates, or those who don’t complete assignments, etc., as they are not considered students-of-concern under the University policy. Of course any student not performing well can be troubling, but not in the same way as one who presents with issues as described in POSILA.
- Official reports about a student-of-concern made to the Office must come from University officials. Concerns and/or claims made by fellow students should be taken seriously but must be verified and looked into before the Office can officially address a matter under POSILA. If a student-of-concern report is written by a University official, causing measures to be taken under POSILA, the student-of-concern should receive a redacted version of the report if another student’s name is identified.

- POSILA, formally coded as VPS-15, is now coded as PRVPAA-15. This reflects a change in sector from where the policy originates, specifically from the Office of the Vice-President, Services (previous) to the Office of the Provost and Vice-President, Academic Affairs (current). Due to changes in reporting structure, minor changes may need to be made concerning the designation of Appeals and the administration of the policy review. The changes are expected to take place in 2013-2014 and will be clarified in the next annual report.

GENERAL RECOMMENDATIONS (RELATED TO THE OPERATIONS OF THE OFFICE AND/OR UNIVERSITY):

Note: University-wide recommendations specific to departments, units, etc. that are deemed confidential are not provided in the annual reports.

- Under provisions of the Code, POSILA, and the PROTOCOL, threat assessments are conducted and analyzed through the Office, often taking place with designated individuals in other departments (Health Services, Counselling & Development, Security, Office of General Counsel, etc.). In the future, the Office intends to look at recognized assessment tools being used in the field, so as to maintain best practices. One being considered is the NaBITA threat assessment tool.
- The Advisor recommends caution when sending emails, including paying attention to the recipients in the cc field and being careful to not inadvertently hit “reply all” when unnecessary. This is extremely important when departments send out general correspondence to students. Addresses should be hidden in the bcc field and not necessarily distributed to a student body. Similarly, (as was brought to the Advisor’s attention) when Professors use Moodle, it is recommended that the option to turn off the visibility of students’ emails be enabled.
- University officials are not permitted to disclose any information regarding a student (unless under the age of 18) to parents or to external parties without the consent of the student, except if required by law (e.g., risk of suicide, subpoena, etc.). Only general information regarding the University operations, procedures, etc. can be provided. There are times, however, when it is beneficial or necessary to involve a parent or external party. In these exceptional situations, consent can be granted by having the student sign an “authorization to the release of information.” It is important to also first verify the identity of the parent or external party. The Office of Rights and Responsibilities, in consultation with the Office of General Counsel, has provided generic consent forms to other departments which can be modified to include the specified departmental information. Having such a form available on the Office of Rights and Responsibilities webpage will be considered.
- The Office is sometimes asked to comment on procedures or guidelines initiated by individual departments. The Office wishes to remind the community that any internal guidelines established to resolve conflict must conform to University policies, including the Code. At any time, a member is free to consult the Office for advice and review options when a conflict arises.

CLOSING REMARKS

While there are always political events taking place within society alongside controversial topics being debated, the last two years saw some unique conflicts which have touched Concordia. Certainly not the first time situated amidst a politically charged conflict, the Office of Rights and Responsibilities assisted throughout the student protests in 2012. As the situation became more divided, so came an increase in the demands for action. Although, there is usually not total satisfaction when opinions differ, eventually resolution was reached.

In any large institution such as Concordia University, it would be unheard of to not have any problems arise, specifically problems of a behavioural nature as identified in the Code of Rights and Responsibilities. Quite simply, we do our best to prevent incidents as well as support and facilitate redress when violations occur. With the Office's mantra of "promoting respect on campus" our mandate is quite vast, given Concordia's diversity and large population. The Office is committed to safeguarding a healthy environment for its members. The policies administered by the Office guide the University's practice in resolving any issues that may transpire. When reading the Code, it is easy to get caught up in the various infractions and procedural elements. It is important to recognize and understand the philosophy behind the Code in addition to the practical application. In concluding this year's annual report, it seems fitting to remind the Concordia community about the statement of principles that introduces the Code of Rights and Responsibilities:

1. The Code of Rights and Responsibilities ("the Code") has, as its grounding principles, the values of civility, equity, respect, non-discrimination and an appreciation of diversity as manifested within Concordia University ("the University") and within society-at-large.

Rights promoted and protected by the Code

2. All Members of the University, as defined in Section III of the Code, may reasonably expect to pursue their work, studies and other activities related to University life in a safe and civil environment. As such, neither the University nor any of its Members shall condone any conduct which adversely affects the University or any of its Members.

3. All Members have the freedom of conscience and religion; freedom of thought, belief, opinion and expression; freedom of peaceful assembly and freedom of association, the whole subject to the limits recognized by law and University policies and procedures.

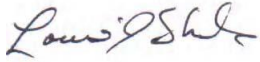
Values are part of our everyday actions, including our interactions with each other and our decision-making. The Code and its corresponding principles apply to all members of the Concordia community, regardless of religious affiliation, personal beliefs, opinions and/or expression. While remaining impartial in the performance of my duties, I am guided by principles as those stated above.

The Office continues to promote through education and direct intervention the values of the Code including respect and what I consider relationship-building. When a behavioural violation occurs, the Office can assist in restoring balance. Principles of natural justice, fairness, consistency and due process are respected.

While the Office is independent, I appreciate the assistance and support of internal partners, including those who compose the readily available POSILA case team. I wish to thank Advocacy & Support Services, Counselling & Development, the Dean of Students, Employee & Labour Relations, Health Services, Office of General Counsel, Ombuds Office, Registrar's Office, the Secretary General, and Security as well as other departments within the University for their collaboration. Additionally, I would like to welcome Concordia's Sexual Assault Resource Centre (SARC) which recently opened. With a more centralized way of delivering support, service, and education to the Concordia community, the Office of Rights and Responsibilities anticipates continued collaboration with SARC. Finally, I would like to welcome Ms. Lisa White to the Office of Rights and Responsibilities as my new Associate Advisor and thank her for her assistance in the preparation of this annual report.

As a University, may we continue to act with vision, integrity, and respect in striving for excellence.

Respectfully submitted,



Louise J. Shiller, M.Ed.
Director and Senior Advisor, Rights and Responsibilities



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