



Ms. Georgina Moore, Secretary of the Senate
University Secretariat
Room 153, Richardson Hall
Queen's University

RE: Response of the SEEC to the 2011 referral from the USAB

March 13, 2012

Dear Ms. Moore:

On behalf of the Senate Educational Equity Committee (SEEC), I am pleased to provide the response to the 2011 referral of the University Student Appeal Board (USAB) report.

In May 2011, the Senate referred the USAB Report to the SEEC to consider and decide whether any changes are required to University policies and practices. Following a comprehensive review and discussion of the matter, the SEEC is providing its recommendations and proposing the requirement of equity training for the members of the unit level appeal boards.

The Senate Educational Equity Committee requests that the response and its attachments, including the proposed pertinent motion for the Senate, be presented at the March 27, 2012 Senate meeting. The SEEC appreciates having an opportunity to provide input in this regard.

If you have any questions or concerns, you can reach me by email at notash@me.queensu.ca or by phone at extension 36778.

Sincerely,

A handwritten signature in black ink that reads "Leila Notash".

Leila Notash, Ph.D., P.Eng.
Chair, Senate Educational Equity Committee

Motion Submitted by Senator Leila Notash for the March 27 Senate meeting

Equity Training for the Unit Level Appeal Boards

The 2011 referral of the University Student Appeal Board (USAB) to the Senate Educational Equity Committee (SEEC), at the May 2011 Senate meeting, was discussed comprehensively by the SEEC. The Committee is urging the Senate to require that all unit (e.g., department, school, faculty) level appeal (and complaint) policies and processes be reviewed in order to appropriately incorporate and reference educational equity and human rights considerations (including accommodations). As well, educational equity and human rights considerations should be included when the Senate related policies of the University are considered for regular review. Because all unit level appeal policies must be consistent with the Senate policies, including the *Student Appeals, Rights and Discipline Policy*, this will emphasize that the cumulative effect of the educational equity and human rights considerations cannot be overlooked at the unit level academic appeals.

The Senate Educational Equity Committee notes the importance of awareness of university members (students, staff, faculty), as well as the department and faculty level key individuals involved with the appeal processes and appeal boards, about the university equity and human rights policies and the grounds of discrimination. In addition to providing well-documented department/faculty/university level appeal policies, successful application of these policies will depend on the capacity of appeal board members to identify and respond to equity and human rights related appeals. SEEC proposes

Motion: Every individual in the position to make a decision on student appeals have training on educational equity and human rights matters.

Depending on the context, the training could be provided when members receive an orientation to relevant policies and resources, during a standalone workshop, and so on.

**Response of the Senate Educational Equity Committee
to the referral of the University Student Appeal Board (USAB) Report**

March 12, 2012

Background

In March 2011, in accordance with Sections 19(c) and 46(c) of the *Queen's University Senate Policy on Student Appeals, Rights and Discipline* (SARD), the University Student Appeal Board (USAB) directed that their Report, which involved a student appeal to USAB regarding the decision of the Board of Studies of the Faculty of Arts and Science (dated December 7, 2010) upholding the decision of the Associate Dean (Studies) of the Faculty of Arts and Science, be sent to Senate for its consideration. In May 2011, the Senate referred this Report to the Senate Educational Equity Committee (SEEC) to consider "the potential implications of a decision such as this one for the conduct of academic responsibilities as these may be seen to require or contemplate incorporation of principles of Educational Equity".

The SEEC discussed the case with enthusiasm as the referral raises great concerns on matters related to educational equity, including measures to be taken to ensure that appeals are completed in a timely manner and that appeals such as this one are granted by the unit level appeal boards without proceeding to the USAB. Some of the following recommendations were previously suggested in the December 14, 2010 SEEC response to another USAB referral. At that time, SEEC reviewed the current *Harassment/Discrimination Complaint Policy and Procedure* (approved by Senate on March 30, 2000) and the *Queen's University Human Rights Policy and Procedure: Harassment, Discrimination and Accommodation* (draft VII) document, and provided input on the revised Policy. These recommendations are based on the goal of maintaining Queen's integrity, reducing academic delays, and addressing the risk for systemic discrimination through alignment of relevant policies, improved awareness, and clear communication and knowledge transfer.

Recommendations and Concerns

1. Incorporating Educational Equity and Human Rights in Senate Policies

- In December 2010, in its response, the SEEC suggested that the Coordinator of the Dispute Resolution Mechanisms (DRM) advocate that all unit level appeal policies incorporate human rights issues such that these are consistent with judicial interpretation of the requirements of administrative decision makers. The Committee is now urging the Senate to require that all unit (e.g., department, school, faculty) level appeal (and complaint) policies and processes be reviewed in order to incorporate educational equity and human rights considerations (including accommodations) as was requested last year. As well, educational equity and human rights considerations should be included when the Senate related policies of the University, including the *Queen's University Senate Policy on Student Appeals, Rights and Discipline Policy* (dated February 26, 2004), are considered for regular review. Issues related to identifying and addressing systemic discrimination concerns need to be specifically highlighted.

As a result of consultation with the Chair of USAB, Professor Nick Bala, the Committee will be reviewing the Senate Educational Equity Policy regarding the rights of the students and their evaluation, pertaining to guidelines for the academic appeal process. SEEC notes that specific language should be added to the *Student Appeals, Rights and Discipline Policy* to incorporate and highlight the equity and human rights matters. For example, Section 21 - Grounds for Appeal of the SARD policy could be amended and an explicit reference to the Educational Equity Policy could be included under the jurisdiction of USAB such as “(c) a violation of University policies, e.g., failure to adequately address the educational equity and human rights considerations”. In future, when the SARD policy is reviewed, a section on educational equity and human rights matters could also be introduced. Because all unit level appeal policies must be consistent with the Senate policies, including the *Student Appeals, Rights and Discipline Policy*, this will emphasize that the cumulative effect of the educational equity and human rights considerations cannot be overlooked at the unit level academic appeals.

2. Improving Awareness about Educational Equity and Human Rights Policies

- The Committee would like to emphasize the importance of awareness of university members (students, staff, faculty), as well as the department and faculty level key individuals involved with the appeal processes and appeal boards, about the equity and human rights policies and the grounds of discrimination. The senior administration of the University has a leadership role to play in order to ensure opportunities and to promote awareness about educational equity and human rights issues, as well as grounds of discrimination. As it was noted in the March 31, 2011 letter of the SEEC to Associate Vice-Principal Dixon, the Committee highly recommends that, similar to the legislated mandatory accessibility training, the senior administration provide support and resources for developing a mandatory training (e.g., an online tool) that addresses equity, anti-racist and anti-oppression issues for all members of the university community, including faculty, students, and staff, particularly those involved with the departmental and faculty level appeal boards.

In addition, SEEC proposes that each faculty level appeal board include a designated member/advisor with extensive knowledge on and sensitively to the educational equity and human rights matters. The Committee notes that while taking 1-2 workshops on equity and human rights issues should be a necessary (minimum) requirement for membership on the appeal boards, it cannot be a sufficient criterion for being appointed as the advisor.

The Committee would like to reiterate that no matter how well-documented the department/faculty/university level appeal policies may come to be, the level of “awareness” that the university community has regarding these issues will prescribe the success of the policies. As pointed out by the SEEC in December 2010, “Every member of Queen’s has a responsibility to be aware of the University human rights policies and the grounds of discrimination”.

3. Clarifying Communication and Knowledge Transfer

- The Committee encourages awareness and communication of resources on campus, and recognizes the impact and seriousness of severe medical, personal, and family issues. Apparent in the appeal was the limited awareness at the department level of the severity of medical/personal/family issues that a student might be facing when his/her academic performance appears to be very poor. These

issues could be further exacerbated in cases such as this one when an international student or recent immigrant to Canada does not have the support of her parents/family to manage the challenges of being in a new country with unfamiliar educational culture and expectations while also providing assistance to her parents with their medical case. As well, the departmental staff members in direct contact with the students, such as the program assistants, should inform students about the Health, Counselling and Disability Services, as well as other resources on campus. Furthermore, discussions are recommended about how to best inform instructors across several courses when a student requires extensions or other considerations so that the student is not penalized for any approved late submissions.

The Committee, in seeking improved knowledge transfer of resources and documentation, encourages recognition of student diversity and the consideration of equity when communicating with students. As it is noted in the *Identifying and Responding to Students in Distress* brochure by Health, Counselling and Disability Services, “Be Open by having a culturally worldview. Remember, there are differences in students’ communication styles, personal and family situations, experiences with living independently, help-seeking styles, comfort with referral to counselling, etc. Students sometimes find it difficult to admit to problems and may present them in an indirect way. It is wise to respond to stated concerns while listening actively for others which may be more difficult for the student to express.”

- The Committee seeks clarification on and improved communication to students of the types of approved and acceptable documentation that should be presented in appeal cases to validate family responsibilities, personal or mental health issues. The Committee would also like to express its concern regarding disproportionate emphasis on the requirement for a medical note and professional opinion despite the fact that the case met the grounds for appeal based on the evidence of equity issues. Discussions within the Committee revealed concerns about the medical note requirement and its intended purpose, apparent lack of clear communication to the student of the document requirements, and uncertainty around who is qualified to provide a note regarding the impact of caring for one's parents, particularly when the initial incident occurred earlier in the year. It is noted that in a past isolated case a medical note was provided but was ignored by a unit level appeal board.
- The Committee suggests that a list of sources of information and resources for assistance with the equity and human rights issues, such as the Human rights Office (HRO), DRM, student societies (AMS, SGPS), faculty/staff unions/associations (QUFA, QUSA, CUPE), as well as resources such as the Student Counseling Services and Queen’s University International Centre be provided in department/faculty/university level appeal policies, as well as on their webpages by a properly labeled link, e.g., “Need Help”.

4. Avoiding Unnecessary Delays in Appeal Processes

- The Committee urges the unit and university level appeal boards to address appeals in a timely manner as this is necessary to maintain the integrity of the proceedings. Unnecessary delays in the appeal process could significantly affect the health and well-being of the university members (students, staff, faculty), as well as their academic/employment progress and duties. It is the understanding of the Committee, through consultation with the Coordinator of DRM, that under Section 35 of the *Queen’s University Senate Policy on Student Appeals, Rights and Discipline Policy*,

for some programs the students are allowed to register in their program and take courses once the student appeals the unit level academic decision to withdraw. However, this is not allowed in other professional programs, such as medicine and nursing, where public safety is a concern.

The Senate Educational Equity Committee entrusts that if all unit level appeal policies and processes incorporate educational equity and human rights considerations, the appeal process will be completed in a timely manner and the appeals such as this one will be granted by the units without proceeding to the USAB for a final decision.

SEEC Members (2011-2012)

- I. Bujara, Human Rights Office
- D. D. Aquije, Undergraduate representative
- N. Deshpande, School of Rehabilitation Therapy
- A. Foo, NCIC Clinical Trials Group (2011)
- A. Girgrah, Office of the Vice-Provost and Dean of Student Affairs
- A. Husain, Office of the Provost and Vice Principal (Academic)
- C. Hoessler, Graduate representative
- C. Morrison, Ban Righ Centre
- L. Notash, Mechanical and Materials Engineering (Chair)
- T.K. Prichard, AMS representative
- N. Saleh, Engineering/Science Library
- E. Singh, Equity Office
- M. Zulkernine, School of Computing & Electrical and Computer Engineering

Enclosures:

- Motion for the Senate
- 2011 USAB Referral
- 2011 SEEC Letter to Associate Vice-Principal Dixon
- 2010 SEEC Response to USAB Referral

UNIVERSITY STUDENT APPEAL BOARD

QUEEN'S UNIVERSITY

Ronald R. Price, Q.C., Professor Emeritus (Chair)
Professor Victoria Remenda, Faculty of Arts and Science
Mr. Rico Garcia, Student Senator

IN THE MATTER OF _____ (APPELLANT), A STUDENT IN THE
FACULTY OF ARTS AND SCIENCE, QUEEN'S UNIVERSITY

AND IN THE MATTER OF AN APPEAL FROM A DECISION OF
THE BOARD OF STUDIES OF THE FACULTY OF ARTS AND SCIENCE,
QUEEN'S UNIVERSITY DATED DECEMBER 7, 2010

DECISION AND REASONS FOR DECISION

This Appeal by _____ comes before the USAB as herein constituted by Notice of Appeal dated January 18, 2011 (incorrectly dated January 18 10), from a Decision of the Board of Studies of the Faculty of Arts and Science dated December 7, 2010, this upholding a Decision communicated to her by letter dated May 28, 2010 from the Associate Dean (Studies) of the Faculty of Arts and Science. The Decision was that she would be required to withdraw for one year based upon her failure to meet Academic Regulation 20b (#21). That Regulation is quoted in documentation filed as follows:-

“REQUIREMENT TO WITHDRAW FOR ONE YEAR

- i After the completion of a minimum of 3.0 credits, a student who has not passed a majority of credits attempted (including transferrable credits taken and failed at another university, Faculty or School before transfer to the Faculty of Arts and Science), or who has failed to meet probationary conditions, will be required to withdraw for a minimum of one year. During that period, the student will not be permitted to register in the Faculty.
- li Students who have been required to withdraw for one year are eligible to register after a twelve month period. ...”.

In attendance on the Appeal were the Appellant, Professor Patrick Oostuizen as Student Advisor, and Dr. Hugh Horton, Associate Dean (Studies) representing the Faculty of Arts and Science.

The jurisdiction of the USAB is prescribed, and its powers also circumscribed, by the ***Queen's University Senate Policy on Student Appeals, Rights & Discipline***. Section 17 (b) provides that the "USAB has jurisdiction to hear appeals with respect to ... decisions concerning academic standing, exigent circumstances meriting special consideration, or a requirement to withdraw". Excluded from the USAB's jurisdiction is "the academic substance of decisions and assessments" (Section 18). Section 21 (Grounds of Appeal) provides that:-

"... [T]he jurisdiction of USAB is limited to cases where the student is able to establish that there has been:

- (a) a failure to follow the rules or regulations by the relevant decision-making body;
- (b) a failure to follow the 'rules of natural justice';
- (c) a violation of University policies;
- (d) a decision made that is not found to be reasonable."

On this appeal there has been no contention that anything that has occurred brings paragraphs (a) – (c) into direct contention. The sole issue is whether the decision in issue can, in the USAB's view, be determined to be "not found to be reasonable".

It is this Board's view that, in the special circumstances of this case – and having regard to all of the circumstances of this case, including the premises upon which the decision-maker(s) proceeded – the Decision of the Faculty of Arts and Science was and is "not reasonable". As will be noted below, this conclusion is reached in the context of the USAB's responsibility to consider "exigent circumstances meriting special consideration". For that reason the Student's Appeal is allowed.

In considering this matter, "University policies" are also addressed as part of the context in which, in the Board's view, the case needs to be assessed.

It was submitted by Professor Oostuizen that a part of the problem concerning the expectations that the Faculty had of the Appellant brought into issue a "cultural" component. While the point was not developed in submissions, its applicability seemed apparent to the Board in aspects of the case that it found itself considering.

The matter of "Educational Equity" has been the subject of notable attention in recent years by the Senate as an aspect of "University policies", reflecting among other sources the work of a Senate Committee that after extensive study reported to the Senate on "Educational Equity". For present purposes, and for convenience of summary, we quote from the document

issued by the Vice-Principal (Academic) on “Educational Equity Guidelines for the Academic Planning Exercise”:-

“ ... As the new Senate policy articulates, the values of diversity and equity intrinsically contribute to the educational enterprise and its academic quality. Consequently, these concepts and approaches should inform the academic planning exercise currently taking place, particularly in ... insuring an inclusive educational environment These suggestions are ... initial points of departure that develop concepts articulated in the vision statement.

...

2- How does your department/faculty meet the educational needs and interests of an increasingly diverse student body? ... How can your department/faculty attract and support students of diverse backgrounds, ethnically, culturally, linguistically, ...What issues and challenges arise, and what measures and resources are needed to insure that students of all backgrounds are valued and included successfully in the educational enterprise?”

is a young woman from an Albanian family that came to Canada as immigrants some six years ago. Her first language is not English. The evidence given is that neither of her parents speak English. She has a sister who is, as we understood it, also a student. The evidence was that her sister, who does speak English, was out of the country for most if not all of the period relevant to these events.

It was difficult to follow all of the evidence given orally or presented in documents in an entirely precise way. Some particulars seemed to get confused as to dates. We had a sense of the student having been at times overwhelmed. Nonetheless, the thrust of the story seems clear to the Board. We detect no artifice or attempt to mislead. There was, it seems to us, a lot transpiring at a very difficult time for someone working in a second language and having so much to cope with.

was admitted to a part-time degree program at Queen’s at the beginning of May, 2009. As she explains, she was actually admitted just after the first day of classes. She had no clear understanding of all of the procedural requirements and expectations that she had or might have to meet, or of the resources that she might be able to call upon. She provides examples of this, and gives details of attempts through discussions with other students of what was required to work with the QCARD system, drop courses and the like.

did not live on campus. She did not go through a First Year orientation process. In ordinary circumstances she doubtless would have learned much of what she needed to know as experience presented itself – as she knew, for example, of the services of the Queen’s Writing Centre which she utilized. The circumstances, however, were not ordinary.

's Mother was involved in a serious automobile accident. This appears to have occurred in July, 2009. Her Father had previously suffered serious injury in a separate automobile accident in late 2008. She explains the difficulties that were presented for her as follows (undated letter bearing date stamp Oct 19 2010):-

" ... Both of my parents had on-going health problems relating to the car accidents. Normally, my sister would have been able to attend the insurance and doctors appointments relating to the accident, but as she was on international exchange, it was left to me to attend these appointments with my parent in order to act as translator. I was also required to work with my parents to complete all the paperwork required. I found travelling back and forth to Toronto to assist my parents and the work involved put me under considerable stress and often delayed my ability to complete my academic assignments on time. As I was the only member of our family in Canada that could speak English I had to be there for all appointments to assist my parents. The car accidents affected my parents both emotionally and physically. My parents attend weekly physiotherapy treatments and continue to do so even though it is more than a year after the accidents".

Elsewhere, she reported that she had to make trips to Toronto every two weeks, and on some occasions a couple of times per week, and was as well in daily contact with her Mother.

's academic difficulties were multiple. Her Course grades were significantly below expected standards. She was regularly late with assignments, failed to meet dates for withdrawal from Courses, did not provide a change of address during one period, and did not file an appeal within prescribed time limits. Her evidence was that she did not in all cases know what was expected. There are certainly cases where such an explanation would justifiably be met with scepticism. In this case – and in all of the circumstances, supported by our impressions of the Student in her testimony -- the Board finds the overall explanations credible.

There is, on the face of it, no reason given to doubt the story in its main outlines, relating to the automobile accidents and the burdens that this occasioned for the Student. The Board views this as a ***catastrophic event*** bringing obvious and incalculable pressures on a First Year Student, especially a student from another country whose principal support system, her family, was put in jeopardy.

The view that the Faculty of Arts and Science has taken is, at least by implication, indicated in the procedures set out where there is a "request to waive a requirement to withdraw for one year" by Appeals to Associate Deans (Studies) (Document filed):-

"Appeals requesting that a requirement to withdraw be waived must clearly demonstrate how significantly extenuating circumstances, beyond the student's control, affected his or her academic performance. In cases where the extenuating circumstances are ongoing rather than temporary, the student should also indicate how these personal challenges will be managed if the requirement to withdraw is waived. A

medical certificate or other official documentation that verifies the extenuating circumstances should be provided with the letter of appeal (see Academic Regulation 20b).”

This approach as applied to this decision is reflected in the letter of the Associate Dean (Studies) to _____, dated September 28, 2010:-

“Extenuating circumstances normally involve a significant physical or psychological event that is beyond your control and debilitating to your overall academic performance. Additionally, these kinds of extraordinary situations are normally supported by documentation from a professional. While your letter indicates some extenuating circumstances that led to your absence from classes during the 2009/10 academic year, it fails to provide any timelines and makes no indication of how these absences directly affected your studies. It also fails to explain why you were unable to drop these courses prior to the academic deadlines nor does it describe any measures you took to seek academic accommodation (such as request extensions on the submission of assignments). Your mother’s car accident took place in July of 2009; however the medical note provided only indicates that you were unable to study from July 15 to August 24, 2009 and makes no indication of any impact on your academic studies beyond that time. Furthermore, there is no documentation supplied to confirm your father’s accident or the direct impact that it may have had on your academic studies. ...”.

Similarly, in his letter to _____ dated December 17, 2010, Dr. Patrick Costigan, Chair, Board of Studies states as follows:-

“The Board acknowledges that there were many significant events in your time here at Queen’s and we are sure that you would agree that all students experience some degree of stress when they begin university. However, the ability to deal with stressful situations differs among students. Two students in similar situations will react quite differently and it is how these situations effects ... [sic] ... one’s academic performance that is critical. It is necessary to have documentation from a professional for us to understand how, and if, these events were responsible for your academic performance. In addition, it was difficult for the Board to gauge the effect these situations had on your ability to work effectively as there was no documentation on the time commitment required to provide support to your family. Finally, it did not appear that you sought out assistance from academic advisors or your instructors for accommodation in your courses that might have helped you to manage your courses. For these reasons, the Board had no choice but to deny your appeal.”

In her submission to the USAB, _____ stated:- “As a first generation Canadian having immigrated to Canada six years ago with my parents, my responsibility to my family given their lack of English skills to navigate the health care and insurance systems significantly impaired my ability to achieve my true academic potential”. In material filed, and in her testimony,

provided what can at least be regarded as indicators that her academic potential is not adequately reflected in the academic performance demonstrated on the record. For these reasons, there is good cause for Members of this Board to have pause before accepting the conclusion that the Faculty of Arts and Science, at two levels of decision-making, has come to.

Two other considerations influence the USAB's view of the matter.

First, this is not the ordinary type of "extenuating circumstance" that decision-makers are called upon to address. The requirement for a 'professional assessment' is almost standard in "extenuating circumstances" situations, not only in the academic context but with workplace and other types of claims. However, this is a ***catastrophic event*** the impact of which cannot readily be judged in the same way, especially in relation to a student in _____'s situation (see next paragraph below). It is not clear what discipline could provide the 'professional' to confidently render an opinion of the kind expected. It is notorious that the reliance on 'professional opinions' has become the staple of abuse in many litigious situations. What would the Faculty expect a 'professional' to be able to report here? What professional could satisfactorily report it, at least without an extensive in depth assessment? And how in this context could a First Year student already burdened with understandable circumstances of stress be expected to obtain and pay for this?

Second, there is no evidence on the record that the Faculty of Arts and Science took into account the fact that there is an equity/diversity/cultural aspect of the matter that might well be expected to have a bearing, not only on the student's performance, but also on the University's obligations to the student under evolving University policies as indicated above.

made specific submissions in material filed with the USAB:-

"Although I contacted my professors to receive extensions on some of my assignments, as a first year student with these additional responsibilities, I was unaware that I could appeal to my professors to waive the late penalties on the assignments. Had I known that this was an option, I believe that my marks would have been significantly better. The marks that I received are not indicative of my academic ability. As well, I was not aware of the true implication of not dropping my courses at the appropriate time as I remained hopeful that I could manage both my family and my academic responsibilities. English is not my first language and therefore it requires more time and effort in order for me to complete readings and assignments.

The letter from the Board of Studies states that I needed to provide 'documentation from a professional' to show how and if these events were responsible for my academic performance. The letter was not clear on what kind of professional that could validate the extent of the additional stress this imposed and how it affected my academic performance. For example, I was not aware that I had an option of academic counselling [A]lthough I had informed my professors of my family circumstance and received extensions on assignment due dates, I was not informed that extra support was

available. As well, although extensions were granted in some instances, I was penalized by 2% - 5% per a day. ...

... As noted previously, my sister has returned from England and is now assisting my parents; I am able to commit to my studies and perform to my full academic potential.”

The Senate policy initiative contemplates “support”, albeit undefined, for “students of diverse backgrounds, ethnically, culturally, linguistically ...”. The Board sees here no sense of any outreach or empathy of the kind that the University policy is, as the Board interprets it, seeking to make a part of the Queen’s environment. Nothing in the new University policy initiative suggests that providing this is inconsistent with the high academic standards that Queen’s is rightly known for.

The USAB is satisfied that the Appeal in this matter should be allowed. It is also the decision of the USAB that the requirement imposed by the Faculty of Arts and Science that the Appellant herein be required to withdraw from studies for one year be expunged from the student’s academic record and transcript.

Should there be any question as to whether the decision of this Board can have the effect of expunging any record of the requirement to withdraw from studies for one year, and having same removed from the student’s academic record and transcript, the hearing of this Appeal is to be treated as adjourned pending the opportunity to receive submissions on the legal effect of the Board’s ruling and the means of implementing it in full, and if necessary for additional Reasons by the Board.

Furthermore, having regard to the newly developing policies of the University in relation to Educational Equity, and to the potential implications of a Decision such as this one for the conduct of academic responsibilities as these may be seen to require or contemplate incorporation of principles of Educational Equity – and in accordance with paragraphs 19 (c) and 46 (c) of the Queen’s University Senate Policy on Student Appeals, Rights & Discipline – the Board proposes to send a copy of this Decision and Reasons for Decision as a “Report” to the Senate for its consideration, and with this a request that the document be further referred to the Senate Committee on Educational Equity. Unless the Student (Appellant) otherwise requests, her name will be removed from the forwarded document.

To allow time for additional submissions if either Party wishes to make them, the Decision as it relates to referral to the Senate will take effect—absent any communication to the USAB forwarding submissions or requesting to be further heard -- only on Friday, March 25th. If there are additional submissions, or intended submissions, the time will be extended as may be required.

DATED THIS 9TH DAY OF March, 2011

RONALD R. PRICE, Q.C
ALTERNATE CHAIR
QUEEN'S UNIVERSITY STUDENT
APPEAL BOARD

ADDENDUM

In accordance with paragraph 19 (b) of the *Queen's University Senate Policy on Student Appeals, Rights & Discipline*, the Board indicated its intention, pursuant to paragraph 19 (c), to refer a copy of its Decision and Reasons for Decision as a "Report" to the Senate, and allowed time for any submissions that the Parties might wish to make as to whether the Board should, under paragraph 19 (c), exercise the aforesaid power to forward its Decision and Reasons for Decision as a Report.

The Board did receive a communication from the Faculty of Arts and Science, not addressing this question specifically, but expressing the view that rather than make the decision that it did, the Board ought to have referred the matter back to the Faculty (presumably its Board of Studies) for consideration as ordinarily contemplated by paragraph 19 (a) (i).

Paragraph 19 (b) states that the "parties should be prepared to make submissions to the Board at the hearing specifically on whether the Board should exercise its power under clause (a) ii", that is to "make any decision that the original decision-maker could have made".

Be that as it may, Section 19 (b) provides that the Board may "make any decision that the original decision-maker could have made" where "it would be impractical to remit the matter back for a rehearing". Here, "**in the special circumstances of this case**" [*Reasons* of the Board], it having been found by the Board that "exigent circumstances meriting special consideration" had been established, there would be no practical role at this stage for a Faculty decision-maker to discharge. The Faculty is bound by the ruling of the Board. The outcome follows from the nature of the finding:- that the requirement that the Student withdraw for one year can no longer be sustained,, and accordingly that the Student can re-initiate registration procedures. It is difficult to envisage any other "special consideration" that would adequately reflect the University's concern for the Student – who, in the last analysis, has still ultimately to meet the academic requirements and performance expectations of the Queen's University Program.

If the Board could not make this kind of finding on the material and evidence before it -- and, indeed, consider this kind of material and evidence -- there would be no point in conferring on the Board the power to address “exigent circumstances meriting special consideration”.

Section 4 of the **Senate Policy** document stipulates:-

“This policy, and any supplementary rules of procedure and directions, shall be liberally construed to secure the just, most expeditious and cost-effective determination of every proceeding on its merits”.

To refer the matter back to the Faculty for further consideration in a case such as this one, entailing a further attendance in Kingston by the Student Appellant and a further delay in having the matter resolved when the appeal proceedings had already continued into mid-March – this when there would be no evident role for a Faculty decision-maker to discharge – would in the Board’s view fly in the face of the expressed intent of the **Senate Policy** document.

DATED this 28TH day of March, 2011.

RONALD R. PRICE, Q.C.
ALTERNATE CHAIR
QUEEN’S UNIVERSITY STUDENT
APPEAL BOARD



Professor John Dixon
Associate Vice-Principal International Relations
Office of the Provost and Vice Principal Academic
Queen's University

Re: Queen's International Students

March 31, 2011

Dear Dr. Dixon:

I am writing on behalf of the Senate Educational Equity Committee (SEEC) regarding the experiences and challenges faced by our international students. International students contribute to and enrich the learning environment and social culture of the university communities with their diverse background, knowledge and culture. The quality of education and experience of international students while at Queen's is contingent upon factors such as the climate, adequacy of resources and support services.

As stated in the Queen's University Educational Equity Policy:

"Queen's University recognizes that the values of equity and diversity are vital to and in harmony with its educational mission and standards of excellence. It acknowledges that direct, indirect and systemic discrimination exists within our institutional structures, policies and practices and in our community. These take many forms and work to differentially advantage and disadvantage persons across social identities such as race, ethnicity, disability, gender identity, sexual orientation, faith and socioeconomic status, among other examples.

Queen's is committed to counteracting discrimination in this institution and developing a climate of educational equity that recognizes and respects the equal dignity and worth of all who seek to participate in the life, work and mission of the University. Such a climate is created and maintained by developing a university-wide commitment to and understanding of educational equity, supported by policies, programs, curricula, practices and traditions that facilitate individuals' and equity-seeking groups' free, safe, and full participation."

International students at Queen's include exchange students, undergraduate students and graduate students (in addition to the students registered in the English Language Programs of the School of English). The Queen's University International Centre (QUIC) has a vital responsibility to "promote an internationally informed and cross-culturally sensitive university community". In view of QUIC programs and services that support the academic and personal development of international students, the Committee invited Ms. Susan Anderson, Assistant Director of the QUIC, to give a presentation to the SEEC on January 6, 2011. As well, one of the Student Advisors of the Society for Graduate and Professional Students (SGPS), Mr. Usman Mushtaq, also a member of SEEC in 2008-2009, gave a presentation to the SEEC on February 4, 2010. Furthermore, the Chair of Committee had a meeting with one of the International Student Coordinators of the SGPS in February 2011.

The Committee notes that the recruitment of diverse international students needs attention and more effort on the part of the University, particularly in view of the recent recruitment of international students through partnership with certain countries which could result in the disproportional representation from these countries. The Committee would like to discuss with you a number of these issues and to hear from you about the Queen's internationalization plan. Various issues related to international students at Queen's are highlighted below. Some of the climate associated challenges and recommendations may relate to students from racialized (visible minority) groups as well.

Challenges/Concerns

- The English proficiency level of exchange students can be an issue both for students and instructors. As well, exchange students are expected to function at the senior undergraduate level immediately upon entry. International undergraduate students face similar issues as exchange students but the timeframe makes for a more gradual, gentler adjustment process. While English proficiency tests, such as TOEFL, are required for both undergraduate and graduate international students, they may face challenges and need additional support while preparing course assignments, reports and/or documenting their research.
- Both exchange and undergraduate students are faced with certain difficulties when groups are formed for course work. International students may experience challenges in forming a group or in joining a group (e.g., exchange students might not know their classmates), as well as after the groups are formed. While group dynamics could result in unforeseen challenges, interpersonal racism in the classrooms and among some students could add to the disputes among group members and adversely affect international students personally and academically.
- The Committee recognizes that international students who speak English with a different accent could face inequitable treatment. The accent of international (undergraduate and graduate) students could have an impact on how their course/thesis presentation is perceived. For graduate student teaching assistants, the accent matter generally arises as a negative issue in the form of discrimination, when the potential is there for students, including undergraduates, to have the positive experience of consciously, purposefully adding to their listening skills. It is noteworthy to mention that this challenge is faced by all instructors who speak English with a non-Canadian/US (and perhaps non-European) accent, including teaching assistants, faculty members, and teaching staff.
- The status of international students as temporary residents of Canada limits their access to certain sources of funding and scholarships (they might not have authorization to work off-campus). The fees associated with immigration and health insurance (UHIP) could be a significant financial burden, particularly for international students with families. The extent of some of these issues vary depending on the citizenship of international students, including the renewal of their student authorization while in Canada, issuance of entry visa to Canada (single entry vs. multiple entry visas to Canada, issued by the Canadian Embassy/Consulate), and so on. The Committee notes that financial difficulties faced by both undergraduate and graduate students may lead to poor academic performance.

- Tuition fees for international students are higher than for domestic students. Tuition fee increases affect international undergraduate students disproportionately compared to other students. To offset the differential portion of the tuition fee of international graduate students, Queen's School of Graduate Studies (SGS) provides a certain number of International Tuition Awards (ITA, a.k.a "tuition bursaries") to each department. It is noted that the amount of funds allocated for the ITA affects the proportion of international graduate students (which in turn could affect the research of the faculty members in the long run). Many departments and faculties do not accept self-funded (domestic or international) students for research-oriented graduate programs. As well, they do not accept international applicants who do not hold scholarships from their country for Ph.D. programs unless the departments guarantee an ITA or the supervisor pays the equivalent amount from his/her research grant (in addition to the research assistantship). To recruit more international students, some departments allocate a portion of their Queen's Graduate Award (QGA) towards establishing a couple of departmental ITAs. In addition, recently departments have been allowed to accept international students for the Master's program without an ITA. The Committee notes that this policy of the SGS provides access to graduate studies at Queen's for international applicants who can afford the Master's program, and hopes that departments continue to encourage faculty members (supervisors) to cover the differential portion of the tuition fee if they have sufficient research funding.

Recommendations

- The Committee notes the services provided by the Writing Centre in Collaboration with the School of Graduate Studies, particularly *SGS 801 - Principles of Academic Writing* course ("focusing on analysis of effective writing in reference to theses and other major project reports"), as well as the course offered by the Centre for Teaching and Learning, *SGS 802 - English Language Communication Skills for Teaching Purposes* ("a twelve week non-credit course designed for International Graduate Students/Teaching Fellows who are non-native speakers of English"). The Committee discussed that a similar course for exchange students, and perhaps a bridging program by the School of English, could further enhance the experience of some of these students during their attendance at Queen's. To further support international students in documenting their project/research and preparing their papers/thesis, the one-on-one support provided by the Writing Centre for students should be well publicized (during orientation and on the webpages of departments, QUIC, student societies AMS and SGPS, ...).
- It is recommended that all departments, particularly the ones that participate in the exchange program, each have a compassionate faculty advisor designated for international students (exchange, undergraduate, and perhaps graduate students) to provide pertinent information regarding preparation for the academic culture of the University. The Committee notes the importance of familiarity with the Canadian culture ("white" and "non-white", including the culture of aboriginal people) as well, and appreciates the support provided and the programs organized by the QUIC regarding awareness and understanding of the Canadian culture. This could be accompanied with web-based training supported with some documentation on academic culture, e.g., instructions on how to properly acknowledge the literature consulted when

sentences/paragraphs are used from books/papers/... in the course work/project. These online resources should be promoted to all international students during orientation and be accessible from the QUIC, AMS and SGPS webpages. As well, resources and instructions for discipline-specific and task-specific academic writing would be of assistance.

- The challenges related to how student groups are formed for course work and the need for instruction as to what makes for effective group work should be further addressed with emphasis on the advantages of diversity within groups. The instructors of the courses, particularly the ones that require group work, should emphasize in their course syllabus and course webpage the requirement for safe space and fair treatment of group members, which would require clear communication of the expectations/responsibilities of each member. Zero tolerance for discrimination should be communicated to all university members, similar to the zero tolerance for academic dishonesty. Most course outlines/webpages have statements related to “academic integrity”; similar emphasis should be given to the “social integrity” issue. In addition, instructors should inform students that they would be collecting feedback from all members of the groups indicating whether they experienced and/or witnessed unfair treatment of and discrimination against group members. It is noted that in some departments, the members of the groups are asked to evaluate the contribution of each group member, including themselves, to the work submitted. The Committee recommends that the Faculties communicate these to their faculty members, and that the departmental advisors for international students share these issues within the context of their department with the instructors of courses that require group work for assignments/papers/projects/...
- The Committee appreciates the current financial pressure that universities face, and is concerned that further increases in fees for both domestic and international students would reduce access to higher education and would also reduce the proportion of international students at Queen’s (the trend might have already started). The Committee believes that the University should play a leadership role by taking initiatives to alleviate the adverse effect of tuition hikes on students. It is highly recommended that a significant portion of the tuition increase for international students be directed towards establishing bursaries/scholarships and enhancing the support services (to address language and cultural barriers) for these students (both undergraduates and graduates). In addition, considering the fact that the average completion time of a Ph.D. is close to 5 years in many programs, fellowships should be established to support Ph.D. students (domestic and international) in the 5th year of their program.

The Committee recommends that the Office of the University Registrar develop a user-friendly online guide with a search engine on the available bursaries and funds so the existing financial aids could be searched under different categories, e.g., using keywords such as “international students”, “aboriginal students”, and so on. It is the understanding of the Committee that, at the present, there are not that many admission scholarships for the international students.

- The overall experience of an international graduate student and his/her relationship with the thesis supervisor, who holds expert knowledge and social power, could be further enhanced by improving the communications and awareness of rights and expectations. Effective communication from

Departments/Faculties, e.g., during a departmental/faculty-wide orientation for international students, should clarify the expectations as a teaching assistant and a research assistant. Information regarding authorship and timely publication of work funded from research grants should also be discussed during the orientation. The Committee applauds the Student Advisor program of the Society of Graduate and Professional Students (SGPS), the mentorship role that the Student Advisors play and the valuable support that they provide in this regard. It is the understanding of the Committee that as of November 2010, we have 635 international graduate students out of 3949 graduate students (16.1%), with 200 female international graduate students (5.1%). The Committee notes that according to the SGPS, the vast majority of graduate students who seek advice from the SGPS peer advisors are international students and the proportion of female international students seeking advice is higher than for male international students.

- To combat racism and accent discrimination, an unfailing commitment to the realization of an inclusive and diverse university is vital. The Committee notes that recognition and acknowledgement of the existence of racial and accent discrimination is a prerequisite to changing any negative climate. It is noted that discrimination does have a negative effect on individuals (personally and academically) as it exposes the individuals to significant levels of mental and physical stress. The University and Departments must set objectives to respond in a vigorous and principled manner if they are to create a positive environment and change the day to day discrimination (individual and systemic) and the disadvantage that some students (and university members) face because of their race, ethnicity, cultural background (accent), gender, and so on. The leadership role of senior administration in counteracting discrimination, developing a climate of educational equity, as well as taking initiatives and providing university-wide support for initiatives, such as the campaign against accent discrimination of the SGPS, is essential and should be reinforced by incorporating accent comprehension competency in the curriculum.

In addition, the sensitivity and awareness of fellow students, faculty and staff to the presence of international students and the impact of some words/actions on students from other countries/cultures should be promoted. The Committee highly recommends that, similar to the legislated mandatory accessibility training, the senior administration provide support and resources for developing a mandatory training (e.g., an online tool) that addresses equity, anti-racist and anti-oppression issues for all members of the university community, including instructors (faculty members and teaching assistants) and staff.

- To further increase the sense of community (“membership, influence, integration and fulfillment of needs, and shared emotional connection”), more diverse curriculum content, including non-European culture and languages, should be developed. Assumptions about shared knowledge, i.e., use of cultural references in teaching should be considered. Intercultural competency training would be an asset to all faculty and staff. As well, a more adequate and visible space for international students could further enhance the sense of belonging to the university community. While the space allocated for the QUIC may be considered adequate by the staff of the Centre, it is the understanding of the Committee that more students seek and would like to utilize the Centre than can currently fit comfortably in the available space.

- To prepare international students for the cost involved, the university should assist by giving clear and transparent information so that they can make educated decisions before coming to Queen's. As well, some information on the regulated professions and links to the webpages of pertinent regulatory bodies, such as nursing and engineering, should be provided.
- It is hoped that issues such as entry/re-entry visas to Canada, which could be a concern when an international student leaves Canada to attend an international conference outside the north American continent and/or visits his/her home country, will be brought to the attention of government and immigration offices. As well, the Kingston community should be encouraged to establish support and connection with the family of international students, such as improving their knowledge of English and Canadian culture.

The SEEC expresses its appreciation for your commitment to advancing equity at Queen's University. We would like to invite you and your team to the SEEC meeting on May 12, 2011, to discuss the importance of addressing arising issues for international students (some highlighted in this letter) and the Queen's internationalization plan, and to explore venues for the SEEC to contribute to the realization of the internationalization process that the university is considering.

If you have any questions or concerns, please do not hesitate to contact me. You can reach me by e-mail at notash@me.queensu.ca or by telephone at extension 36778.

Sincerely,



Leila Notash, Ph.D., P.Eng
Chair, Senate Educational Equity Committee

SEEC Members

I. Bujara, Human Rights Office
D. Dávila Aquije, AMS Representative
N. Deshpande, School of Rehabilitation Therapy
A. Foo, NCIC Clinical Trials Group
A. Girgrah, Office of the AVP and Dean of Student Affairs
A. Grondin, SGPS Representative

C. Hoessler, Grad representative
A. Husain, Provost and VP Office
C. Morrison, Faculty of Education
C. Pilgrim, Undergrad representation
M. Singh, Physics
M. Zulkernine, School of Computing and Electrical and Comp.

Chair: L. Notash
Secretary: J. Christie

**Response of the Senate Educational Equity Committee to
Queen's University Human Rights Policy and Procedure: Harassment, Discrimination and
Accommodation (draft VII)**

December 14, 2010

Background

In May 2010, in accordance with Section 19(c) of the *Queen's University Senate Policy on Student Appeals, Rights and Discipline*, the University Student Appeal Board (USAB) directed that their Report, which involved a student appeal to USAB regarding allegations of discriminatory treatment that affected the instruction and evaluation of the student, be sent to Senate. It was suggested that there might be some gaps in the *Harassment/Discrimination Complaint Policy and Procedure*, especially when students allege discrimination or individual bias that affects their evaluation or academic standing in individual courses, which requires clear procedural guidance from the University. In September 2010, the Senate referred this Report to the Senate Educational Equity Committee (SEEC) to consider and decide whether any changes are required to University policies.

In 2007, in lieu of a periodic review of the Policy to ensure that it met the needs of the University's constituents, an external assessment of the Policy was conducted by Mr. Keith Norton, a Past President of the Federal Human Rights Tribunal and Chief Commissioner of the Ontario Human Rights Commission during 1996-2005 (also a Queen's law graduate and a member of the University Council). In November 2007, following his report entitled *Review of the Harassment/Discrimination Complaint Policy and Procedure of Queen's University at Kingston, Ontario*, the Senate appointed a Working Group to review the recommendations and to make changes to the existing policy and procedure. A revised draft of the *Queen's University Human Rights Policy and Procedure: Harassment, Discrimination and Accommodation* was submitted to the Senate in March 2010 and discussed at the April 2010 Senate meeting, during which the Working Group invited the University community to review and comment on the drafted revised Policy.

In view of the USAB referral, the SEEC reviewed the current *Harassment/Discrimination Complaint Policy and Procedure* (approved by Senate on March 30, 2000) and the *Queen's University Human Rights Policy and Procedure: Harassment, Discrimination and Accommodation* document. The revised Policy is planned to be brought to the Senate (and then to the Board of Trustees) early in 2011 for approval in order to replace the current Policy. Taking into consideration the timeline, the Committee agreed it would be more appropriate to concentrate on the revised Policy, and hence, would like to share the following with the Working Group and the Senate.

Observations, Recommendations, and Concerns

- Under the **Policy Statement** (emphasis added throughout the document to the quotes from the revised Policy):

“prohibited grounds of discrimination: Queen's University believes in the necessity of providing safeguards for its members against harassment and discrimination. Every community member has a right to the provision of services, living accommodation and employment, without

discrimination (including harassment) because of race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, sexual orientation, gender identity, age, marital status, , family status , disability.

***duty to accommodate:** Implicit in the duty not to harass or discriminate is a positive duty to accommodate on the grounds listed above.*

***equity programs:** The obligation to provide a harassment and discrimination free environment may also be met by special programs designed to contribute to the elimination of harassment and discrimination, or whose goal it is to assist under represented persons or groups to achieve equal opportunity*

The Committee would like to emphasize the importance of awareness of individuals (students, staff, faculty) about the human rights policies and the grounds of discrimination. No matter how well-documented the Policy will be, the “awareness” of the university community regarding these issues will prescribe the success of the Policy. SEEC recommends that a statement in line with “Every member of Queen’s has a responsibility to be aware of the University human rights policies and the grounds of discrimination.”, which is in the current Policy (under the “Responsibilities of Supervisory Personnel”) with somewhat different wording, be included in the Policy Statement section of the revised Policy.

The Committee is considering how to enrich the awareness of students, staff, faculty, units and university community about the Human Rights Office (HRO) of the University, its role and resources, as well as the grounds of discrimination. The student societies, specifically the Society of Graduate and Professional Students (SGPS) have initiated a couple of projects, including the mandated anti-oppression training offered by the HRO for the staff and executive members of SGPS; a campaign aiming to create in Queen's an environment where any communication barriers involving a difference in spoken English can be dealt with effectively and in a manner respectful to all parties involved; and cooperation with the HRO for revising the definitions of sexual violence.

The senior administration of the University has a leadership role to play in order to ensure opportunities and to promote awareness about human rights issues and grounds of discrimination.

- Under **Reason for this Procedure of the Policy Statement**

***“prevention:** ... The Procedure is designed, in part, to prevent harassment and discrimination by educating and informing members of the University community as to what constitutes such behaviour. It is also intended to provide a framework which is accessible to the community in that it is complainant driven, ensuring that, as far as possible, the initiation and pursuit of a complaint will not be an intimidating experience, and the principles of natural justice will be followed for both complainants and respondents.”*

Considering this entry of the Policy Statement and to ensure that the procedure is “intimidation free”, the Committee highly recommends that the collegiality, non-adversarial, non-threatening and informal setting be encouraged and followed by the Board under the revised Policy when convening the hearing, deciding on the procedure and setting of the hearing and so forth, unless a formal, adversarial procedure is desired by both the complainant and the respondent. The Committee believes that an adversarial procedure may be viewed as intimidating and may lead the complainant

to drop the proceedings because she/he feels intimidated. As well, the adversarial process will divorce the Human Rights Office Advisors from the “formal process”. It is recommended practices of the Board reflect a non-adversarial approach. For example, the hearing should be conducted in a room that accommodates a (preferably round) table rather than a venue such as the “Moot Court room” of the Faculty of Law in the Macdonald Hall.

- The Committee recommends including “systemic discrimination” in the paragraph of **Section 6 Discrimination**. Systemic discrimination is defined and referred to in Appendix A but there is no reference to this form of discrimination in the main body of the Policy.
- **Section 9 Accommodation, part (c)** could be broadened to include and address “cultural accommodation” in more than an ad hoc approach, in addition to “*providing flexible scheduling to accommodate a particular faith-based requirement*”. At present, students’ exams may be rescheduled upon request for some faith-related holidays. The same accommodations, however, are not currently made for some cultures’/nations’ “national” holidays/celebrations even though these may be more important than the faith-related celebrations.
- **Section 13 Roles and responsibilities of persons in positions of authority, part (b):** “*Those in positions of authority have the additional responsibility for creating and maintaining a harassment and discrimination-free environment; acting immediately if they observe or receive allegations of harassment or discrimination; looking into allegations of harassment and discrimination to determine whether there is a basis for the complaint, and remedying the situation where possible; and advising persons, who they believe may have been the subject of harassment/discrimination, of the assistance available through the Human Rights Office.*”

The Policy should outline the consequences of persons in positions of authority who do not actively act on this responsibility. This should be considered a breach of this Policy, and result in some form of sanctions.

- In **Section 18 Advisors**, it is specified that the Advisors from the Human Rights Office will assist community members (students, staff and faculty) to address complaints of discrimination and harassment, while the Coordinator of Dispute Resolution Mechanisms (DRM) or a designate will be responsible for advising respondents concerning their rights and responsibilities. The Committee praises the idea of “Advisors” and their roles for both the complainant (HRO Advisors) and the respondent (the Coordinator of DRM or a designate) under the revised Policy and Procedure. The Committee believes this is a significant innovation because a respondent should not be compelled to hire a lawyer in order to receive the necessary advice, and appreciates that this system is established to provide an appropriate level of comfort for the respondent without replicating an office for respondents in light of social imbalance that exists considering human rights issues. The Committee recommends ensuring that there will be no conflict between DRM, who has the coordination role, and the role of Advisor for the respondent.

SEEC notes that university members (students, staff, faculty) may be at a significant disadvantage when a harassment/discrimination allegation is raised against an instructor/head/dean or a unit where the University provides external counsel to the respondent in a situation where a complainant wishes to resolve the dispute in an informal, collegial setting through a ruling of the Board and without retaining lawyer.

- The Committee praises maintaining the defined timelines in the revised Policy, which are key factors “to preserve the safety, emotional and physical well-being of the complainant or respondent” while the complaint is resolved, such as the ones in **Sections 32(c) and 37(d)**, e.g., “The respondent will have **10 working days** from the receipt of the complainant’s statement/documentation within which to submit to the Chair of the Board a written statement of response”. It is noted that delays in the process could significantly affect the health of the university members (students, staff, faculty), as well as their academic/employment progress and duties. SEEC recommends that excessive and unreasonable delays in the process, e.g., because of the vacation of the respondent or complainant, should not be allowed.
- Considering **Section 38 Makeup of Complaint Board**

*“b) **Appointees to the Harassment and Discrimination Board will be selected from the Senate.** Specific care will be taken to ensure gender balance and diverse representation on the Board. The member groups from which members of the Board may be chosen will be **staff, student, and faculty.** The members of each Board, excluding the Chair or Vice Chair, shall be empanelled anew for each complaint, having regard to the availability of individuals to serve on the Board and the desirability of sharing amongst senators the responsibility to serve on the Board.”*

The Committee notes that the Senate includes ex officio and elected members. The ex officio members consist of the Principal, Provost and VP Academic, VP Research and Deans, which form the administration; the University Librarian; the President of the Faculty Association QUFA; and the Presidents of the student societies AMS and SGPS. Unlike the USAB Board for which only the elected members of the Senate, except for the students from the School of Law, are qualified (Section 22 of the *Senate Policy on Student Appeals, Rights and Discipline*); both the ex officio and elected members of the Senate are considered eligible for the Complaint Board. The Committee highly recommends that a statement be added to the Policy regarding the potential conflict, e.g., when a harassment/discrimination allegation is raised against a head/dean or a unit, the ex officio members of the Senate representing the administration should not be empaneled for the Complaint Board.

- Considering **Section 40, Challenges to the composition of the Board**

*“(a) There is a presumption that a tribunal member will act fairly and impartially. The Chair of the Board may, both before and after receiving representations from the complainant or the respondent, require any member to withdraw from sitting on the Board where the member has an actual or potential conflict of interest, or has a bias or may reasonably be perceived by the complainant or respondent to have a bias. However, the onus of proving bias falls to the person who alleges it. The Chair should be informed of the allegations at the earliest opportunity so the allegations may be evaluated and a decision may be made. **Where there is a challenge to the participation of the Chair, s/he will decide voluntarily whether to recuse herself or himself.**”*

The procedure for the challenges to the participation of the Board Chair is very different compared to the one in the current Policy. It is the understanding of the SEEC, after consultation with the Chair of the Working Group, that the proposed procedure is consistent with what is taking place in “administrative tribunals”. The Committee recognizes that the harassment/discrimination complaint Policy and Procedure is for an educational institution, and the hearing and the Board Chair are not “identical” to a “court” and “court judge”. To adhere to the rules of natural justice, the Committee

strongly proposes to have a body identified as the ultimate decision maker if the Chair of the Board does not recuse himself/herself after a challenge to his/her participation is made and the Chair's response is not satisfactory to one or both parties.

The Committee advises that a panel recommend the Chair of the Complaint Board to the Principal, to be ratified by the Senate. It is also recommended that a similar panel, e.g., formed by the Chair and Vice-Chair of the USAB and perhaps the Vice-Chair of the Complaint Board, decide whether the Chair should withdraw when a challenge is made and the Chair does not recuse himself/herself. As well, a timeline should be included for the panel to make a judgment.

- **Section 43 Processing of Complaint by the Board, parts (b) and (d)**

*“Either party, or their representative, may cross examine the other party in order to seek clarification of matters relevant to the determination of the dispute”, and “Throughout the proceedings before the Board, the complainant and the respondent **may be represented** by her or his Advisor or by a lawyer or other representative of his or her choosing.”*

and **Section 44 Additional parties, part (b)**

*“There are interests of the University at issue in the dispute which might not be addressed by the parties, the Chair or a Board, if it has been struck, shall notify the Principal with a request that the University instruct either **its lawyers or in-house counsel** to represent those interests in the process”.*

The Committee recommends that the Policy explicitly states that the complainant and the respondent are allowed to have Advisors/lawyers accompanying them to the hearing. It is noted that the Advisors (HRO Advisors and/or Advisor designated by the DRM) might not be qualified to “represent” either and/or both parties.

- **Section 45 Disposition of complaint by the Board, part (f)**

“Whether or not anyone or any unit of the University has been found responsible for harassment and/or discrimination, the Board may make recommendations to the administrative officers of the University or, if appropriate, the Senate and the Board of Trustees for purposes such as preventing incidents or reoccurrences of certain types of harassing or discriminatory behaviour. Such directions may be given whether or not the University or any of its units or officials have been a respondent at the formal hearing but, in such cases, before issuing such a direction or making such a recommendation, the Board shall inform the Principal of the fact that it is contemplating such a step and provide the University with an opportunity to respond either orally or in writing as seems appropriate.”

The Committee recommends that a statement be added instructing the Board to notify both parties should the situation arise where the Principal is informed about the recommendations and invited to provide response. As well, a timeline should be included in this section for the University to respond.

- The Committee recommends that human rights considerations be included in all appeal (and complaint) policies and processes of academic units, as well as all Senate related policies of the University, including the *Queen's University Senate Policy on Student Appeals, Rights and Discipline Policy* (dated February 26, 2004) when these are considered for regular review. The Committee would like to highlight the contributions of the present Chair and Vice-Chair of USAB, who are highly respected in the University community, to the well-being of the students and the University.

It is suggested that the Coordinator of the DRM advocate that all unit level appeal policies incorporate human rights issues such that these are consistent with judicial interpretation of the requirements of administrative decision makers.

- The Committee recommends having a section on the impact of harassment and discrimination on individuals, institution and society in the revised Policy.

Clarifications and Information

- **Policy Statement, Appointment of Human Rights Advisors**

*“Among the responsibilities of the Office are those of: increasing awareness among the University community of the effects of harassment and discrimination, **including the effects of the lack of accessibility and/or accommodation for persons with disabilities**; of providing educational programs to all segments of the community, including supervisory personnel; of providing support for individuals and groups who are the targets of harassment and discrimination; and of administering the Procedure established under this document.”*

This entry could be expanded to include a few other examples of discrimination, particularly the ones reported at Queen's such as race and gender related harassment and discrimination.

- **Section 11 Natural Justice and Section 26 Informal Resolution (and Section 27 Fact Finding)**: we suggest the document include a brief explanation/clarification on the “**Rules of natural justice**” and “**Principal of procedural fairness**” in the glossary section (Appendix A).
- We suggest that the document provide a list of sources of information and resources for assistance with the Policy, such as the HRO, DRM, student societies (AMS, SGPS), faculty/staff unions/associations (QUFA, QUSA, CUPE) under a pertinent heading.
- **Section 19 Information**: we suggest ensuring that a copy of the “*Frequently Asked Questions* document”, referred to in the revised Policy, be attached to the document in order to provide “a simplified outline of the essential elements of the Policy” (and perhaps a flowchart) as recommended in the Report of Keith Norton.
- **Alternative Dispute Resolution (ADR) - included after Section 30**: The Committee recommends that the Policy emphasize that the alternative dispute resolution mechanisms, such as informal process or mediation, should not deviate from the Process as it could cause delays which in turn would affect “*the safety, emotional and physical well-being of the complainant or respondent*”.

- We suggest clarifying which “Advisor” is referred to in the following sections; i.e., “Advisor for complainant (HRO Advisors)”, “Advisor for respondent (Coordinator of DRM or a designate)”, both Advisors, or ...?
 - **Section 22, Facilitated Dialogue:** *“In the event that a complaint is made, the content of facilitated discussions will be considered confidential and will not be used in the complaint process. Such a complaint will also proceed with an Advisor other than the Advisor who assisted with facilitated dialogue.”*
 - **Section 31 The role of the Advisor as ADR facilitator, part (a):** *“If both the complainant and the respondent consent, the Advisor may assist the parties in resolving the complaint through an Alternative Dispute Resolution process.”*
 - **Section 45 Disposition of complaint by the Board, part (h)** *“In cases where any unit of the University has been found responsible for harassment and/or discrimination and a sanction is imposed, the Board will as soon as is reasonably possible send a copy of its decision on sanction(s) and the reasons therefore to the Principal and to the Advisor as well as the person to whom notice has been given under sections 27 and 30, for implementation.”*

Typographical Errors

- **Prohibited grounds of discrimination:** *“Every community member has a right to the provision of services, living accommodation and employment, without discrimination(including harassment) because of race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, sexual orientation, gender identity, age, marital status, family status, disability.”* Please remove the extra comma and spaces between “status” and “family” and after “family status”.
- **equity programs:** *“The obligation to provide a harassment and discrimination free environment may also be met by special programs designed to contribute to the elimination of harassment and discrimination, or whose goal it is to assist under represented persons or groups to achieve equal opportunity”,* please rephrase the second part of the sentence or remove “it” and replace “under represented” with “underrepresented”.
- **Policy Statement, Discrimination Free Environment:** *“All supervisors, both academic and staff, shall strive to create an environment free of harassment and discrimination, and that responds to the need for accommodation in their area of responsibility.”* could be rephrased.
- **Section 30 Interim relief (part b):** *“Any decision or action taken by the University taken as interim relief shall be without prejudice to the rights of either the complainant or the respondent”* includes repeated occurrences of verb “taken”.
- **Section 36 Establishing jurisdiction (part a):** *“That communication will also advise the complainant of the right to seek a ruling on the matter from the Chair of the Senate Harassment/Discrimination Complaint Board (as detailed below.) It will also outline any alternative University Grievance routes”,* please correct the location of period, it should be after the closing parenthesis.

- Considering **Section 38 Makeup of Complaint Board**: “*The members of each Board, excluding the Chair or Vice Chair, shall be ...*”, please remove the extra space before comma.
- **Section 47 Time limits**: “... *the Chair of the Board or a Board, if it has been struck, may extend those time limits if the failure to comply is beyond the control of the person seeking the extension, or the members of the Board, or whether it is ...*”. The comma in between “extension” and “or” should be deleted.
- We recommend replacing “s/he” with “she/he” throughout the document.
- **Appendix A, Accessibility requirements**: “*when those needs are occur because of one of ...*” should be rephrased (“are” appears to be redundant).

The Senate Educational Equity Committee entrusts that the Working Group will appropriately incorporate these comments in the final draft of the Policy and appreciates their commitment to advancing equity at Queen’s.

SEEC Members (2010-2011)

Irène Bujara, Human Rights Office

Daniella Dávila Aquije, AMS Representative

Nandini Deshpande, School of Rehabilitation Therapy

Alison Foo, NCIC Clinical Trials Group

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