

Annual Report to Senate of the Co-ordinator of Dispute Resolution Mechanisms 2007 - 2008

Harry Smith

January 29, 2009

I am pleased to submit to the Senate the Annual Report of the Co-ordinator of Dispute Resolution Mechanisms (CDRM) for the period September 1, 2007 to August 31, 2008.

Subsection 14(c) of the *Senate Policy on Student Appeals, Rights and Discipline* (SARD) requires that the Co-ordinator make an annual report to Senate on the work of the University Student Appeal Board as well as other activities undertaken by the Co-ordinator. This Report covers both areas of activity.

Please refer to Appendix A for the mandate of the CDRM.

Activities of the Co-ordinator

Case Management

Summary:	<u>2007-08</u>	<u>2006-07</u>
Student cases	201	121
Inquiries by faculty and administration	12	34
Other inquiries from within the University	49	14
Inquiries by persons external to the University	10	7
Staff	9	7

STUDENT CASES: The CDRM handled 201 student academic cases for the period from September 1, 2007 to August 31, 2008, compared to 121 student cases a year earlier, and 139 during 2005-06. The larger number of student inquiries may be attributed to an increase in the number of students contacting the CDRM during the summer months (Sept.-Dec.: 41, Jan.-Apr.: 69, May-Aug.: 91).

Most student cases involved at least one in-depth in-person interview in the form of office meetings, often about an hour in length. Frequently, the matter required contact with other individuals or offices and follow-up meetings.

Twenty-one students were assisted by a Dispute Resolution Advisor during the reporting period.

The CDRM dealt with 12 inquiries from faculty and administration compared with 34 queries in 2006-07. Another 49 inquiries were received from individuals within the University regarding matters not directly related to academic issues (e.g. students seeking information unrelated to their studies, questions from students involved in student government and related to non-academic discipline). Ten people external to the University contacted the CDRM for information.

STAFF CASES: The CDRM was involved in 9 staff cases providing information and advice, up from 7 cases the previous year. These cases often require more than one meeting. In addition to those people who contacted the CDRM, many other cases are addressed by staff advisors who are contacted directly. Contact information for staff advisors can be found in the Gazette and on the CDRM website at <http://www.queensu.ca/secretariat/drm/>.

NON-BARGAINING UNIT SCHOOL OF MEDICINE ACADEMIC STAFF GRIEVANCES

No complaints were filed with the CDRM under the *Non-Bargaining Unit School of Medicine Academic Staff Grievances* policy during the reporting period.

Tribunal Administration

The CDRM is responsible also for providing administrative support to the University Student Appeals Board (USAB) and the Harassment/ Discrimination Complaint Board (H/DCB).

Professor Nick Bala (Faculty of Law) was Chair of USAB during this time period, having been appointed chair for a second two year term beginning September 1, 2007.

Four appeals were submitted to be heard by USAB in the 2007-08 year, the same number as the previous year. In one case the appellant withdrew the appeal. In another case, a settlement was reached following three pre-hearing conferences held by the Chair alone during fall term 2007. In the other two cases, the appeals were not heard during the reporting period.

The Chair of the Harassment/Discrimination Complaint Board (H/DCB) during this period was Professor Paul Paton (Faculty of Law). No complaints were brought before the H/DCB during the reporting period. Professor Paton's term ended August 31, 2008 and a new chair will be nominated.

Training

A training session was provided to the AMS prosecutor's office and the judicial committee in September 2007 addressing non-academic discipline, the Senate policy on *Student Appeals, Rights and Discipline*, and basic administrative law principles applicable to their work. Training was also provided to students serving on the Residences Peer Judicial Board. Similar training including reference to faculty regulations was provided to the volunteers at the AMS Academic Grievance Centre, which helps undergraduate students with questions or issues related to their academic work.

In November 2007 the CDRM was invited to speak to the staff at an information session at Queen's Health Counselling Disability Services (HCDS). Student academic appeals often require supporting documents provided by the counsellors at HCDS. The exchange of perspectives helped those who assist students to better understand the kind of supporting document that is useful to a decision-maker when considering an academic appeal as well as the kind of information HCDS is able to provide.

Also in November, the CDRM attended a four day conference entitled *New & Ongoing Challenges for Academic Leaders* held by the Centre for Higher Education Research and Development (CHERD). The workshop examined the changes that are occurring in the academic environment and the impact of these changes on departments and individuals. Topics addressed included legal responsibilities within the university environment, identifying key sources of conflict in academic settings, and the promotion of conflict resolution.

In May 2008, the CDRM was invited to participate as a coach at the Queen's Industrial Relations Centre 5 day workshop in Dispute Resolution Skills: The Mediation Process. Coaches are assigned to assist groups during program (skill-building) exercises, to monitor group dynamics, and to provide feedback during mediation simulations.

Policy Development

TA Consultative Committee

In December 2007 the CDRM was invited by the Dean of the School of Graduate Studies and Research to attend the TA Consultative Committee meetings as a guest during discussion of the complaints procedure for teaching assistants. In March 2008 the CDRM drafted a proposed amendment to the TA Protocol for Resolving Disputes to be considered by the Committee.

Staff Grievance Procedure

Staff Advisors and the CDRM met in February, in May with Queen's University Staff Association (QUSA) President Spring Forsberg, and again in June with the QUSA President and Vice-Principal Human Resources Rod Morrison. Topics discussed included: the role of Staff Advisors and their experiences in assisting staff; their experiences interacting with supervisors; awareness within the University of the role of Staff Advisors; and staff reluctance to raise issues or file grievances.

In a letter to Principal Williams, dated June 12, 2008, the United Steelworkers informed the University that it had begun an organizing drive of general staff. As of August 31, 2008, the University had not received notice of an application for certification.

Committee Work

Review of the Harassment/Discrimination Complaint Policy and Procedure

According to Part IV of the *Harassment/Discrimination Complaint Policy and Procedure*, a working group will be appointed once every five years for the purpose of reviewing the document. At the Senate meeting on November 15, 2007, the Senate approved the membership and mandate of the Working Group (see report from Senate Operations Review Committee at http://www.queensu.ca/secretariat/senate/Nov15_07/SORCRpt.pdf). In January 2008 the CDRM was asked to chair the Working Group. The Working Group met eight times during 2008 and the review is ongoing.

Senate Committee on Non-Academic Discipline

The CDRM serves as secretary to the Senate Committee on Non-Academic Discipline (SONAD). SONAD met eleven times from October 2007 through April 2008. The Committee continued its work regarding the proposed Student Code of Conduct. At the April 24, 2008 meeting of the Senate, the motion to approve the new *Student Code of Conduct* and to rescind the current *Code of Conduct* was approved. The new *Student Code of Conduct* came into effect July 1, 2008.

SONAD's Annual Report to Senate for 2007-08, submitted to Senate at the November 27, 2008 meeting, can be found at http://www.queensu.ca/secretariat/senate/Nov27_08/SONADa.pdf.

The CDRM is a member of the Academic Integrity Working Group. Meetings during the reporting period included a presentation to the group by representatives from the text-matching software company Turnitin.

Discipline Working Group

The CDRM is a member of the Discipline Working Group of the Senate Residence Committee. The Residence Discipline Report for 2007-2008 can be found at http://www.queensu.ca/secretariat/senate/Nov27_08/Residenc.pdf.

In June, the CDRM participated as a member of the selection committee for the Society of Graduate and Professional Students (SGPS) advisors, as required by the Memorandum of Agreement between the School of Graduate Studies and Research and the SGPS.

Co-ordination of Advisors

The CDRM also performs the function of co-ordinating and supervising the University Dispute Resolution Advisors. These are faculty members appointed by Senate to assist students who are facing adverse academic decisions or other difficulties related to their academic program. Advisors provide students with advice and information about policies and procedures regarding

(usually) academic discipline matters. Where possible they also promote the informal resolution of academic discipline-related concerns by helping students to identify and evaluate options for resolution.

Referral to an Advisor often follows a meeting with the CDRM. In addition to these referrals, Advisors sometimes are contacted directly by students. In most instances, University Dispute Resolution Advisors become involved when a student is appealing an academic decision. Frequently an Advisor will accompany a student to a meeting with a faculty member to discuss an allegation of academic dishonesty. As mentioned above, twenty-one students were assisted by a Dispute Resolution Advisor during the reporting period. Four faculty members volunteered their time in this capacity during the reporting period.

Faculty members interested in participating as a University Dispute Resolution Advisor are encouraged to contact the CDRM. Advisors should have a reduction in administrative or other service responsibilities in their school or faculty. The CDRM confirms the availability of an Advisor before providing the contact information to the student, acknowledging the many other demands on a faculty member's time. Additional Advisors would help distribute the workload, especially following the conclusion of an academic session when there is increased activity in terms of students seeking assistance. Additional Advisors would make referrals and scheduling easier also, and provide alternatives when a conflict of interest prohibits an advisor from becoming involved.

The CDRM also co-ordinates the activities of the Staff Advisors appointed by the Principal to assist Queen's non-unionized staff with questions related to grievances and discipline. Contact information for Staff Advisors is found inside of the back page of the Queen's Gazette. As mentioned above, the CDRM heard from 9 staff members over the course of the year. However, when looking for assistance most staff members contact these Advisors directly.

In June 2008, Gary Racine retired after volunteering his time for many years as a Staff Advisor. According to the University's Human Resources Grievance Policy, there is to be no fewer than five and preferably eight Staff Advisors. Following Mr. Racine's retirement, currently there are two Staff Advisors. Enquiries regarding the role of Staff Advisors are welcomed.

Finally, the CDRM co-ordinates the activities of the Respondent Advisors under the Harassment/Discrimination Complaint Policy and Procedure. These advisors, also appointed by the Principal, assist Queen's faculty, students, and staff who are the subject of a complaint under that policy. The CDRM did not make any referrals to the Respondent Advisors in the reporting period since most referrals currently are made by the Human Rights Office in direct response to the filing of a complaint.

Thank You

There are many people across the University who offer their time and experience to those in need of assistance. Much of this occurs informally. Many students are able to get the information they need simply by asking an approachable instructor or staff member in a faculty office who is

willing to take the time to understand the issue. Helpful information at this initial stage often allows the student to assess options and decide on an appropriate course of action. Explicit statements of the rights and responsibilities of students and clear descriptions of formal procedures including channels of appeal are invaluable in allowing all parties to understand the procedure in advance and then focus on the appeal and its merit. Regular review, updating, and publishing of rules and regulations are essential to ensure consistency with the *Senate Policy on Student Appeals, Rights and Discipline* and other Senate policies.

Thank you to the following faculty members who volunteered their time again this year as University Dispute Resolution Advisors and who have made themselves available to students in need of assistance with an academic issue or appeal:

Professor Robin Dawes, School of Computing
Professor Patrick Oosthuizen, Mechanical and Materials Engineering
Professor Cheryl Pulling, School of Nursing

Thank you to faculty and student Senators who have given their time to sit as members of the University Student Appeal Board. Thank you also to the chairs and alternate chair of the USAB and the Harassment/Discrimination Complaint Board.

Thank you to the staff members who, as Staff Advisors, provide assistance in the resolution of workplace issues. This can be a difficult and time-consuming task when combined with a staff member's own work responsibilities.

Bob Burge, John Deutsch University Centre
Janet Cowperthwaite, University Secretariat
Gary Racine, ITS Services Business

As mentioned above, in June 2008 Gary Racine retired from Queen's. He is especially deserving of recognition for his many years of service as a Staff Advisor. Gary's familiarity with the University informed his approach to the issues brought to him by staff seeking his assistance. He was tactful when contacting others for information and he gave careful consideration to the circumstances in each situation. The guidance he provided to staff was objective and practical. Thank you for your dedication to helping others through your work as a Staff Advisor.

Thank you to those members of the University community who, as Advisors, assist respondents with the Harassment/Discrimination Complaint procedure:

Mr. Paul Banfield, University Archivist
Professor Ellie Deir, Faculty of Education
Professor Greg Wanless, Drama

Finally, thank you to the many faculty members, staff, and senior administrators I have called upon at various times throughout the year either for assistance or to gather information and clarify circumstances. The cooperation received by the CDRM often makes it possible to narrow

the scope of a dispute, to focus on the main issues in question, and sometimes to resolve disputes without resorting to formal and lengthy procedures.

Respectfully submitted,

Harry Smith, LL.B., M.I.R.
Co-ordinator, Dispute Resolution Mechanisms
University Secretariat

Appendix A

Mandate of the CDRM

The CDRM has a mandate in the following areas:

Case Management - The mandate of the office of the CDRM is to promote the informal resolution of academic and non-academic discipline matters, including those of Queen's staff who have a work related problem or grievance. The Co-ordinator provides information on Queen's policies and procedures and can help students and staff identify and evaluate options for resolution. The CDRM does not act as an advocate for any party in a process but rather for the process itself. Depending on the nature of the matter, the CDRM may make a referral to other resources at Queen's.

Tribunal Administration - In addition to working with users of the dispute resolution mechanisms, the CDRM serves as administrator of the University Student Appeal Board and the Harassment/Discrimination Complaint Board. In this capacity, the CDRM receives materials filed with the boards, circulates copies amongst the parties and the chairs, co-ordinates the selection of board members, and schedules and organizes the hearings.

Mediation – Students who have been affected by an academic or non-academic discipline decision, or who are alleged to have committed an academic or non-academic offence, may contact the CDRM to discuss the options available to them. Following an initial consultation, the CDRM may attempt to facilitate the informal resolution of the dispute.

Policy Development - The CDRM also serves a consultative role for Queen's administrators by offering input and recommendations regarding policies or procedures for dispute resolution mechanisms throughout the university. The CDRM may also be called upon to provide input on questions of procedural fairness in the implementation of dispute resolution mechanisms.

Education - In addition, the CDRM has an important educative function within the University. The office may be invited to present at conferences or seminars on academic or non-academic discipline or on administrative law and procedural fairness. The CDRM may also be requested to work with an adjudicative body on campus – be it a faculty sub-committee or a non-academic discipline tribunal – to educate members on questions of jurisdiction and due process.

Committee Work - The CDRM also has committee responsibilities, both as secretary of the standing Senate Committee on Non-Academic Discipline (SONAD) and on other ad hoc committees or working groups.

Co-ordination of Advisors - The CDRM is responsible for co-ordinating the activities of such various advisor groups as the University Dispute Resolution Advisors, the Harassment/Discrimination Respondent Advisors, and the Staff Advisors. This involves assessing and meeting their training needs, monitoring caseloads, and receiving and dealing with concerns raised by the advisors about the practical application of policies or processes relating to the resolution of disputes.