

Report of the Office of the Student Ombudsperson for the Summer and Autumn Quarters 1996

By James Marquardt and Claudia Flores

The Office of the Student

Ombudsperson helps students seek

fair solutions to their problems with faculty, administrators, staff, and other students. It routinely provides information to those who are confused about where to go to have their grievances heard. When students have exhausted formal University channels to no avail, the office may—on their behalf and with their prior consent—conduct investigations, attempt to mediate solutions, and, if appropriate, recommend changes to policies and procedures.

General Observations

We begin this first of two reports with some general observations drawn from the academic year 1996–97.

—The problems brought to our attention generally resulted from miscommunication and misunderstanding between students and other members of the University community. In these cases, each of the parties involved in a dispute believed that the other had good intentions and genuinely wanted to achieve a mutually satisfactory solution. However, when the stakes were high each side was quick to accuse the other of acting in bad faith, which severely hampered our efforts to help resolve problems.

—For the most part, University faculty, administrators, and staff responded favorably to our inquiries, in many instances devoting considerable amounts of time to discuss matters of concern to students and responding to our inquiries with a refreshing degree of reflection and self-criticism. Occasionally, however, we noticed a certain reluctance on the part of some officials to recognize the legitimacy of the grievances we brought to their attention.

—In too many instances, students either waited months (sometimes a year or more) before bringing their problems to us, at which point there was little we could do to help them, or they were very reluctant to authorize us to initiate preliminary investigations of their complaints. Many feared that their confidentiality would be compromised and that those against whom they brought complaints would somehow retaliate.

—We observed an unfortunate pattern of behavior in the interactions between some students and University officials. When students used routine administrative channels to have their problems with others aired and found University officials slow to respond to their complaints or unwilling to act in small, but symbolically

significant ways to resolve them, they became frustrated, sometimes to the point of seeking legal advice or representation. In response, University officials broke off the lines of communication, thereby further exacerbating tensions and mutual suspicions. What often began as good faith efforts to resolve problems short of litigation ended up with threats of lawsuits and, occasionally, the initiation of legal action.

Purpose and Method

The purpose of our reports is to educate the University community about important academic and non-academic issues. We approach this objective in two different ways. The first report, which covers the Summer and Autumn quarters of 1996, is comprised mostly of detailed case descriptions. The second report, which will appear in the next issue of the University Record, draws largely from cases in the Winter and Spring quarters of 1997; it combines detailed descriptions and generalizations drawn from cursory reviews of a small number of related cases. We organize each report into a half dozen or so major categories in which we address five main questions: What is the issue in dispute? Why is it important? What are main arguments? What was the nature of our involvement? What, if any, are our recommendations for changes in policies and procedures?

We investigated grievances that raised important questions of fairness, regardless of whether we believed that the commitment of our limited resources would yield favorable outcomes. Though respectful of the procedures that are in place to deal with student grievances, our investigations sometimes led us to ask difficult questions that addressed the conduct and judgment of both parties in a dispute. Some students were taken aback by this line of inquiry because they wrongly assumed that this office had agreed to advocate for them when it initiated conversations with University officials on their behalf. Yet this strategy did have its benefits. Some students came to recognize how their actions contributed to their problems and why faculty, staff, administrators, and other students responded to their actions the way they did. We were also able to persuade those to whom students brought their grievances to modify or reverse their behavior.

Academic Policy

The most difficult cases of the Summer and Autumn quarters involved students who attributed academic policy problems to malfeasance by University administrators and faculty. We received four complaints of this kind, and evidence gathered from preliminary inquiries of each of them led us to conclude that two grievances raised sufficient concern about the appropriateness of academic policies and procedures to merit formal investigations. The cases are important because they address the prerogative of faculty and administrators to determine the student makeup of their programs. They also serve as an illustration of the problems that may result when officials are either inflexible in their application of policies or procedures or ignore them altogether, and when students lack clear and accurate information about how academic programs operate.

Admission to a Professional School

We investigated a student's claim that the decision of a University of Chicago professional school not to read his 1992 application and later to deny him admission after evaluating his 1996 application is the result of malfeasance on the part of the school's admissions office.

He first applied to the University of Chicago professional school in 1992. He explained to the school's dean of students that his decision to apply was the result of his wife's dismissal from another professional school that they had both attended the year before. (He attributes his wife's dismissal to racial discrimination.) Rather than continue his studies there, he took a one-year leave of absence and enrolled in a graduate division of the University of Chicago. A short time later, he applied to the University of Chicago professional school in question so as to resume the studies he had suspended.

The dean of students recalls telling the student that he would not be considered for admission because he failed to meet basic admissions criteria for transfer students. He could not demonstrate hardship—that is, a compelling need to be in Chicago—and he was not currently enrolled as a student in good standing in his former school. (The student's former school dismissed him for "poor academic scholarship" when he failed to return from his leave of absence.)

The student says he applied anyway and in the months that followed made inquiries about the status of his application. On one occasion, he says, he was told by an admissions official that the dean of students had removed his application from the admissions file. He reported this to the dean, who assured him that the application would receive full consideration. He checked back with the admissions office a short time later only to learn that his application had once again been removed from the file. He also claims never to have received a rejection letter. The dean of students says she has no record of the student having submitted an application.

In 1996, as he entered the final stages of his doctoral studies in a University graduate division, the student again applied to the professional school, but, in light of the 1992 incident, he directed his application to the school's academic dean rather than to its dean of students. The dean convened a special admissions committee, and based on its recommendation the dean denied the student admission. The student claimed that the committee acted at the instruction of the dean of students. We found no evidence in our investigation of the committee's activities to substantiate this charge.

From the student's point of view, the dean's 1996 decision to deny him admission does not put the 1992 incident to rest. Though the facts are sketchy, there are several ways to look at the student's allegation that since 1992 the dean of students has actively engaged in an effort to prevent him from resuming his professional studies. One approach focuses on the conduct of the dean of students. If, as the student maintains, the dean of students refused to admit him—and

encouraged other schools to do likewise—based on the conversations she had with admissions officials at his former school (the same officials whom his wife charged with discrimination and who dismissed him for poor scholarship), then she made an error in judgment by not discounting information from individuals who had a clear motive to portray the student (and his wife) in a bad light. On the other hand, if after speaking with these officials the dean of students questioned the veracity of the information they gave her and later based her decision not to read the student's application on her assessment of his suitability, then she may have unintentionally left herself open to the student's charge, unjustified as it may be, that by refusing to consider him for admission she condoned the illegal behavior of these other officials or at the very least placed her collegial ties with them above her good judgment.

Another approach focuses on the student. If, on the one hand, the couple's allegation of discrimination against officials at their former school is bogus, then information shared among admissions officials throughout the country, including the dean of students in question, that the student has a reputation for being difficult and litigious is an acceptable admissions practice. If, on the other hand, the claim of discrimination against the officials at the student's former school is valid and the student's reputation is undeserved, then the student's allegation of blacklisting may have considerable merit.

The dean of students says she took as an article of faith the reason given to her by officials at the student's former school for the student's dismissal. Given the charges leveled against these officials by the student and his wife, as well as the dean of students' ties to these officials, we believe that the dean of students was obliged to cast aside her school's strict criteria for accepting transfer applications and send the student's application to an admissions committee. That the student was already matriculating at the University of Chicago when he applied to the professional school makes this obligation all the more compelling.

Dismissal from a Ph.D. Program

A second case involving academic policy questions concerns a student who was dismissed from a Ph.D. program of a University of Chicago professional school after his faculty determined that he had failed the program's general examination. The student took the advice of his faculty and entered one of the school's other doctoral programs. Yet he continued to believe that he had in fact fulfilled his requirements and should have passed the exam. He asked us to investigate his charge that the faculty's action ran counter to the rules that applied to him at the time he enrolled in the first program.

We conducted an extensive review of written materials on the policies and procedures of the student's former program. We also spoke with the school's associate dean and the dean of students for Ph.D. programs, as well as with a faculty representative of that program. We expressed some concern to them about several ambiguous passages in the written materials, and about general inconsistencies in how the program is represented in those materials and how it

appears to operate in practice. (For instance, written materials, old and new, mention but never described the general examination in any detail. Only in the course of our conversations with the administrators of the school's Ph.D. programs did we learn that the exam is a review by the faculty of a student's academic performance—not a written or oral examination taken by the student.) Moreover, program requirements routinely changed over time, sometimes from one quarter to another, and as a consequence we encountered some difficulty determining how, if at all, these changes affected the student. We also learned that the student was not the first in recent history to challenge the outcome of the general examination. A year earlier, another student complained that the faculty's decision to fail her on the general examination was inconsistent with written materials. This suggested to us that the grievance we investigated is not, as the faculty representative stated, a case of sour grapes on the part of a disgruntled student, but rather the failure of the program to accurately represent itself.

We referred the case to the Office of the Provost. A representative of that office concluded that the faculty exercised proper authority when it failed the student on the general examination and dismissed him from the program. This decision was based on the concept of "common understanding," which says that the meaning of a program's rules relies on both written documents and oral tradition. We questioned the rationale for this decision. We argued that the faculty's interpretation of how the program works gives meaning to this concept. Hence by basing his finding on "common understanding," the representative turned to the faculty to rule on the correctness of the faculty's decision to dismiss the student. Neither were we fully satisfied with the logic behind the student's grievance. He conceded that the faculty had the authority to fail him. Yet he also suggested that since he had met the program's requirements (a claim disputed by the office of Ph.D. programs) the faculty did not have the authority to fail him.

The school's office of Ph.D. programs deserves much credit for its recent efforts to clarify the requirements, policies, and procedures of its various Ph.D. programs. The predictability provided by the student manual gives students certain necessary assurances about where they stand and what they can reasonably expect with regard to their academic progress, especially when it comes to admission to candidacy. The problem we investigated may have been avoided had this publication been available at the time the student enrolled in the school.

The Libraries

We investigated a number of complaints about access to and use of the D'Angelo Law Library and the operation of Lending Services at Regenstein Library.

Access to and Use of the D'Angelo Law Library by Non-Law Students

We received several complaints about access to the D'Angelo Law Library. These grievances are important because they highlight how well-intended efforts to protect people and property may conflict with fair access to research facilities by

members of the University community. They also serve as an illustration of the advantages and disadvantages of innovations in security technologies.

In the fall of 1996, the Law School introduced a new security system which enables Law School students, faculty, and staff to enter the building at any time by swiping their encoded University of Chicago ID cards through newly installed mechanisms at any one of four entrances. University and other visitors must enter the building at separate, specially designated entrances. Before 5 p.m. (Monday through Friday), they must use the (unlocked) northwest and southwest entrances and show their ID cards to a receptionist. From 5 p.m. to 10 p.m. (Monday through Thursday), they must use the northeast and southeast entrances. Though locked after 5 p.m., these entrances are opened upon request by the security attendant for students displaying their ID cards.

The Law School introduced this system in response to a number of cases in the last several years in which library and personal property were damaged and stolen, and Law School and other University students, faculty, and staff have been intimidated and harassed by visitors. Early reports indicate that since the installation of the system the frequency of these cases has sharply declined, with little disruption to the routine movement of people in and out of the building.

Yet the new security system is not without potential problems. If, between 5 p.m. and 10 p.m., the security attendant is away from the desk, leaving no one to monitor the evening entrances, then University visitors cannot enter the building. This poses two related problems. First, it will reflect poorly on the Law School's reputation if the absence of the attendant leads University visitors to conclude that the Law School is not committed to assuring them prompt access to the building during designated public hours. Second, the Law School may be shifting the risk of security from its affiliates to visitors if those without encoded ID cards are not assured prompt entry into the building. Several Law School administrators with whom we spoke agree with our concerns and want to assure visitors that, barring an emergency, the evening entrances will be staffed at all times after 5 p.m. So long as the evening entrances are covered in this way, it is our view that the new security system does not impose a major inconvenience on University visitors.

Another student complained about the D'Angelo Library's hours for University visitors. During the week (Monday through Thursday), the library officially closes when the circulation desk closes. At 10 p.m., University visitors are asked to leave the library and the Law School building. Even non-law students enrolled in law courses are prohibited from staying at the D'Angelo Library after 10 p.m. There are, however, extended hours for law students; for them the library remains open until 3 a.m. on most evenings. Law School administrators argue that D'Angelo Library has closed for quite some time at 10 p.m. for all but law students and believe that the new policy satisfies its obligation to provide fair access to the library by University visitors.

We believe that the Law School may not be meeting its obligation to provide members of the community with fair access to the library by requiring non-law

students who are engaged in legal research and/or taking law courses to leave at 10 p.m. We have called on the Law School to extend—on a quarterly basis—encoding privileges to non-law students who demonstrate a compelling reason to access the library after public hours. In this way, the Law School can satisfy the demand for security and meet its obligation for fair access. Although the Law School has said that it will consider such requests on a case-by-case basis, a Humanities graduate student who studies law and literature reports that she has been unable to obtain special access privileges. Based on her conversations with Law School administrators and library staff, she has concluded that the Law School has no intention of making exceptions to its new policy, even for students outside the Law School who are engaged in legal research.

This case reminds us of the caution with which we must employ new security technologies. It has been said that the only thing uniting an institution of higher education is its subterranean system of steam pipes; if we are not careful about the potential misuse of new technologies to regulate the movement of members of this community, then what will divide us is a thin plastic card with a magnetic strip.

The Operation of Lending Services at Regenstein Library

We addressed several complaints about the mishandling of borrowed books and reserve readings at the circulation desk at Regenstein Library. In one instance, Lending Services determined that a student had lost a book and assessed a heavy fine against him. Not only did the student adamantly deny the charge and refuse to pay the fine, but he complained that his repeated efforts to contact the appropriate administrator to discuss the problem were unsuccessful. We put him in touch with that administrator, and they resolved the problem. He was not charged the fine. Others complained of poor service at the reserve desk. They found the process of obtaining readings confusing and time-consuming when the on-line catalogue is down.

Another library complaint came from a student who was fined \$200 for water damage to two borrowed books. A severe rainstorm last summer had flooded his office in the basement of a University building. (He had also lost several dozen of his own books valued in the hundreds of dollars.) He turned to us in an effort to have the fines waived, arguing that the damage to the books was not the result of negligence on his part but rather an “act of God.” He offered to obtain new copies of the books (one from the Seminary Coop Bookstore and the other from a book agent abroad) if the library agreed to waive the fine. Recognizing the unique nature of this case and the student’s good-faith efforts to help replace the books, Lending Services agreed to apply only a \$25 binding and processing fee for each book if the student was indeed able to obtain replacement copies. The student agreed to the deal, and his department then agreed to pay the fee. This case is significant because it illustrates how people with good intentions can find creative solutions to problems that cannot be adequately resolved through normal policies and procedures.

We are concerned about Lending Service's policy on recalled books. Last year, Lending Services instituted a new policy whereby the daily fine for unreturned books, including those recalled between academic quarters when students are most likely to be out-of-town (and undergraduates are unable to get into their dorm rooms), is three dollars a day per book, beginning one week after the processing date of the recall notice, with a maximum fine of \$50. The policy was adopted at the recommendation of a faculty advisory board, which held that books not returned to circulation in a timely manner impair the conduct of research.

We consider this new policy misguided. Students should be routinely granted a moratorium from fines during the winter and spring breaks. To suggest, as Lending Services does, that students check their e-mail for recall notices while out of town and ask neighbors and friends in Chicago to return overdue books for them is not a serious proposition. Neither do we agree with the view that books out of circulation for these short periods of time impair research. Moreover, the new regular lending policy, which allows students to keep books for approximately nine months before having to physically return and recharge them, is in practice neither convenient nor generous, given that during interim periods—when they are least likely to be on campus—students face the risk of heavy fines if their borrowed books are recall during their absences.

To its credit, Lending Services now slips a book marker explaining the new recall policy into each borrowed book. Students may no longer have an excuse for ignorance of this policy, but the presumption that they know the policy does not make the policy reasonable.

Fraternities and Their Neighbors

We received complaints about excessive noise and unruly behavior by two University fraternity houses. Those making the complaints live next door to the fraternities. They argue that the fraternities routinely violate a May 1994 agreement regulating late night parties: music is loud, underage drinking is commonplace, and trash is not promptly picked up. Moreover, neighbors who report violations to fraternity officials say they are routinely taunted by fraternity brothers and their guests. The neighbors further allege that the University itself has all but washed its hands of the problem.

The fraternities argue that they have responded favorably to the concerns of their neighbors. For instance, one fraternity says it recently moved its parties from the main floor to the basement of its house in order to reduce noise. They allege that their neighbors have become increasingly belligerent over the past year, and one neighbor in particular, a graduate student, has been singled out as routinely acting in a hostile manner toward fraternity brothers and their guests.

The graduate student eventually abandoned his efforts to compel the University administration and University police to act on his complaints and has turned to the City of Chicago police and the Cook County criminal court system to have his grievances aired. After responding to a late-night call last fall and listening to the

graduate student's complaint, a city patrol sergeant warned one fraternity that arrests would be made if reports against it continued. Early in the Winter Quarter, the City Police kept their promise when they cited the president of the fraternity for disturbing the peace. This case went to trial, and another case involving a second fraternity and the same graduate student was also referred to criminal court. A judge dismissed charges against the first fraternity on grounds of insufficient evidence, and as a result the plaintiff decided to withdraw charges against the second fraternity.

The University administration is sympathetic to the plight of the neighbors; it too is frustrated that its efforts to improve the situation have failed. The administration says it is prepared to take swift action if one student harasses another. Yet, in the absence of hard evidence to support an allegation of harassment, the administration is unprepared to discipline the fraternities or their members. Although they emphasize that they are a fully empowered law enforcement organization, the University Police argue that there is not much they can do in response to complaints against the fraternities. They respond to calls, notify those in the houses that complaints have been lodged against them, and request that the activities which prompted complaints cease. The University Police concede that compliance is often short-lived; they usually return again and issue second requests, by which time parties are breaking up anyway. Members of the University Police force have told the administration that they are taunted by fraternity brothers when they respond to calls; they feel powerless.

Tensions between these neighbors highlight the need for the University administration to reassume its former role as mediator. Yet part of the solution to the problem of excessive noise and disorderly conduct should also include credible threats on the part of the University, including the exercise by the University Police of their law enforcement powers. We believe that it is wrong for the University to place the burden of keeping the peace on the graduate student and others who have complained about the conduct of the fraternities.

Academic Computing Services and the Regenstein Cluster

We commend Academic Computing Services (ACS) for the recent improvements in hardware and technical support at Usite (the main student computer center) and the various clusters around campus. Yet problems remain. The most common complaint that came to our attention is the servicing of local clusters. One case we investigated involved the maintenance of the ACS cluster on the second floor of Regenstein Library. In September, when Usite is closed for several weeks, small clusters, such as the one on the second floor of Regenstein, are by default the principal computer sites. High usage combined with very limited maintenance has resulted in major inconveniences for many users. Yet ACS takes few special precautions to make sure that the clusters can manage this increased demand for computer use. In the case in question, the printer had no toner, causing long waits for those on computers who wanted to print documents and others who wanted the use of computers. Worse yet, posted instructions for users to report problems did not yield assistance. A student tried to report the need for more toner. He

called Usite, but because it was closed a recorded message suggested he contact Techline. He then called Techline and received a recorded message asking him to hold. After remaining on hold for ten minutes he hung up and contacted the Regenstein circulation desk. They did not have a number for him to call and referred him instead to another office in the library. The student then contacted us. We called an administrator at ACS and were told that a technician would report later that afternoon, as scheduled, to attend to routine maintenance problems. We insisted that the problem could not wait and that someone needed to come immediately and add toner to the printer. A technician soon arrived and in a matter of a few minutes had the printer up and running.

Further investigation revealed that the servicing of the clusters, the Regenstein cluster in particular, has been a problem for some time. ACS has invested significant sums of money to upgrade and maintain hardware and software. It routinely supplies the clusters with paper and toner and attributes supply problems to theft. ACS would do much to meet the ever-growing demand by students for regular computer services on campus (e.g., word processing and e-mail) by further improving its routine, technical support for computer clusters, especially when Usite is closed.

The Women's Swim at Ida Noyes Pool

Early in the Autumn Quarter, a staff member reported that the noontime women's swim at Ida Noyes had been eliminated. She said that fewer women swam after the change and asked us to try to get the noontime swim reinstated. We found confusion within the administration about the status of the women's swim. Some were under the impression that the swim had been eliminated altogether. Others believed that the women's swim had been simply moved to another time when demand for the pool is low. We argued that the swim, if it in fact had been eliminated, should be reinstated. By virtue of having two pools open at the same time (Ida Noyes Hall and Bartlett Gymnasium), the women's swim at Ida Noyes does not deny men the opportunity to swim during the lunch hour. In addition, by keeping the women's swim, the University will demonstrate its sensitivity to the preference of some women to swim in a single-sex environment for religious, cultural, or personal reasons. The women's swim has been moved to the afternoon, from 2:15 to 3:15, Monday through Thursday. However, the future of the swim remains in doubt. If, after several quarters, attendance does not increase, it is our understanding that the swim may be eliminated altogether.

The Financing of the Office of the Student Ombudsperson

Recent reductions in the budget of the Office of the Student Ombudsperson have impaired its ability to fulfill its mandate. The financing of the Office of the Student Ombudsperson steadily increased from its founding in 1968 through the 1995–96 academic year. Yet annual budget increases have failed to keep pace with inflation, resulting in a significant and sustained decrease in the office's real budget. In the academic year 1996–97, moreover, the office saw a steep decline in its overall funding, and inflation continued to nibble at what remained. As a

consequence, we thought twice about taking on some grievances we believed would overwhelm the office's limited resources. This development raises important questions about the office's effectiveness—namely, its ability to help students find solutions to their problems.

The Budget since 1968–69

The budget of the Office of the Student Ombudsperson increased from \$15,400 for the academic year 1968–69 to \$55,000 for 1995–96, mostly in the categories of staff salary and benefits. (See Figure 1.) Significant increases also came in the area of expenses, equipment, and contingencies. Least impressive have been increases in the salary of the ombudsperson. Since 1968, as the total budget increased nearly four-fold, the remuneration of the ombudsperson saw a one-third increase.

When the annual inflation rate is factored in, the budget steadily declined from 1968–69 to 1995–96. The most dramatic decline has been in the ombudsperson's salary. Whereas the first ombudsperson earned \$6,000 in 1968 dollars, the value of the \$8,000 paid to the ombudsperson in 1995–96 was approximately \$1,570 in 1968 dollars.

These trends continued and in some areas accelerated in the most recent fiscal year, 1996–97. With the elimination of the secretary's position, the total budget of the office was \$18,600 in 1996 dollars. In 1996–97, the ombudsperson's salary increased by \$1,000, to \$9,000, posting a slight increase from \$1,570 to \$1,773 in 1968 dollars, still well below the salary of the first ombudsperson.

Recommendations

Non-compensation funds should be slightly increased. One of the principal tasks of the Office of the Student Ombudsperson is to inform the University community about its existence and services. The most effective way to “get out the word” is through advertising. Ads in local University papers are expensive. (The least expensive is a one-eighth of a page ad in the Free Press, which costs \$25 an issue.) The office does not advertise in the Maroon, the most widely read paper on campus, because it cannot afford that paper's advertising costs. Moreover, neither does the office regularly circulate flyers, which are expensive to reproduce (and the labor and costs to design, duplicate, and post them are high). The office needs an advertising budget sufficient for it to place a modest ad in the Maroon (every other week) and in the Free Press or College Weekly News (each month). Also, this budget should include the cost of the duplication of promotional flyers. Funding for supplies and equipment is adequate at the current level.

The remuneration of the ombudsperson should be increased. The current annual salary of \$9,000 (based on a twenty-hour week) averages to about nine dollars an hour, less than the wage of an undergraduate computer technician and some coffee shop attendants. The salary of the ombudsperson should equal the annual

budget that the University itself determines each student needs to meet his or her yearly living expenses. In this way, the University will signal its support for the office and its confidence in the student who holds this very important position. With regard to the position of assistant ombudsperson, currently funds are sufficient to pay eight dollars an hour to that person to work, on average, fifteen hours a week. To attract intelligent and resourceful staff, the wage for the assistant should also be increased to at least ten dollars an hour. Additional funding is needed to hire an office assistant for advertising, filing, and other responsibilities, such as maintaining the office's new web page, which will allow the ombuds-person and the assistant ombudsperson to concentrate their energies on case investigation and general research.

James Marquardt was Student Ombuds-person and Claudia Flores was Assistant Ombudsperson for 1996–97.

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