

# Annual Report 2010-2011

## Office of Rights and Responsibilities

*Promoting a Respectful Campus*

Submitted by:

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## INTRODUCTION

The activities of the *Office of Rights and Responsibilities* (“the Office”) are directed by the Advisor on Rights and Responsibilities (the “Advisor”). A new Advisor, Louise J. Shiller, was appointed on September 13, 2010. She is the third Advisor in the Office’s history at Concordia University. The 2010-2011 Annual Report covers the activity of the Office.

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## OVERVIEW

The annual report of the Office would normally cover a period of 12 months. Given the adjustment of the University’s fiscal year from May 31<sup>st</sup> to April 30<sup>th</sup>, it was decided to adjust the annual report to cover a period ending on April 30, 2011. Therefore, this annual report will exceptionally cover an 11-month period. In addition, given the commencement of the newly appointed Advisor, the undersigned can only reliably report on the activity of the Office from mid-September, 2010 until April 30, 2011, a 7 ½-month period. This time frame is unusually short for an annual report. In addition to the shorter timeframe, the Office was without a functional database upon the Advisor’s arrival and only limited information and data prior to September was available. Data was collected manually for this report but some of the statistical information and analysis is limited.

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## MANDATE AND SERVICES OFFERED

The Office assists all University members (faculty, staff, and students) in addressing behavioural incidents and resolving conflicts on campus in a constructive manner. Any University member may consult the Office when a problem arises relating to someone’s behavior on campus. Responses range from the use of informal dispute resolution methods to formal procedures for adjudicating complaints. Remedies and sanctions attempt to restore harmony, collegiality, and cooperation.

The Office is mandated with administering the [Code of Rights and Responsibilities](#) (“the Code”), which sets standards of conduct for all members of the University.

The Office also coordinates a procedure for identifying and managing behaviour that may pose a danger. This may include administering the [Protocol on the Coordination of Urgent Cases of Threatening or Violent Conduct](#) (“the Protocol”) and/or the [Policy on Student Involuntary Leave of Absence](#) (“POSILA”).

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## THE CODE OF RIGHTS AND RESPONSIBILITIES

The Code is the main policy administered by the Office. Its principles and procedural elements guide the Office with the purpose of promoting and protecting the values of civility, equity, respect, non-discrimination and an appreciation of diversity as well as supporting members who have experienced, or are experiencing, conduct that violates these fundamental values. As specified in article 2 of the Code, all members “may reasonably expect to pursue their work, studies and other activities related to University life in a safe and civil environment.” The rights of faculty, staff, fellows, students, interns, etc., are protected. Likewise, all members bear the responsibility of upholding the Code’s principles in order to maintain a safe and civil environment. As such, members are expected to refrain from violating the Code and those who have supervisory authority over others bear a particular responsibility to act in a timely and effective manner when they become aware of any alleged violation(s) of the Code. The Code is intended to help University members resolve conflicts and alleged behavioural violations in a constructive manner, using informal methods whenever possible. If it is necessary to file a formal complaint, the Code places great emphasis on fairness and natural justice.

Violations of the code generally affect the University and/or its members. A complete list of offences can be found in articles 28 and 29 of the Code. Some of the most common infractions reported to the Office are:

- Harassment (psychological, sexual)
- Discrimination
- Threatening or violent conduct
- Theft or wilful damage of property
- Disruptive behaviour
- Trespassing
- Forgery
- Possession of controlled substances or weapons
- Abuse of computer privileges

Article 2 further stipulates: “neither the University nor any of its Members shall condone any conduct which adversely affects the University and/or any of its Members.” In practical terms, the Code allows the University and its members to respond constructively to a variety of conduct-related issues and offences, thereby facilitating a healthy work and academic environment while promoting respect within the Concordia community. The Code, which is accessible to all members includes a complaint resolution process with both formal and informal mechanisms for resolutions, adheres to the principles of natural justice, contains clear sanctions and an appeals process, as well as allowing for emergency measures to be taken when necessary.

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## ROLE OF THE ADVISOR

When an issue or problem arises related to someone’s behaviour, the Advisor can help evaluate options and provide assistance in making an informed choice as to what steps to take. Consultations are confidential. A formal complaint does not have to be launched in order to get information or advice. In most cases informal resolution is both possible and desirable. Informal resolution takes a variety of forms ranging from: clarifying perceptions through shuttle diplomacy, mediation, raising awareness of certain conduct (i.e., defining undesirable behaviour and outlining expectations and consequences), settlement agreements, etc. Settlements mediated by the Advisor are voluntary but once reached are binding. Finally, if the situation warrants, the Advisor can assist with the formal complaint procedure. The status of the Respondent within the University will determine what formal process will ensue. In the case of a student, a tribunal hearing is mandated. In the case of a staff or faculty member, an investigation must take place to determine if a complaint is founded. In cases where a Respondent is either a staff or faculty member and a student, the Advisor reviews the complaint and the capacity of the Respondent related to the specific complaint (i.e., was the Respondent acting in his or her role as a student or staff person when the complaint occurred?) in order to determine by what means to proceed.

Advice may also be sought for situations that may be occurring off campus. Although the University usually cannot intervene in these situations, the Advisor may attempt to provide information, advice and support. If appropriate, informal measures towards resolution with the Advisor’s assistance will be considered.

With the revised Code of Rights and Responsibilities taking effect in August, 2010 and the adoption of two other policies this year, [VPS-15: Policy on Student Involuntary Leave of Absence](#) and [HR-38: Policy on Harassment, Sexual Harassment and Psychological Harassment](#), the role of the Advisor has been slightly modified and expanded.

As such, the Advisor’s responsibilities and functions now include the following:

- Administering the Code and/or other policies
- Advising and assisting University members who are experiencing a problem related to another member’s behaviour (emphasis on informal procedures)
- Receiving and expediting formal complaints

- Actively promoting, through education and direct intervention, the values of the Code as well as members' rights and responsibilities
- Providing training to University groups and members on a variety of topics and issues related to the Office
- Coordinating the University's response to urgent cases, which may involve threatening or violent conduct (Responses may include activating the Protocol or POSILA, consulting relevant professionals, and leading the appropriate case team in decision-making and procedural matters in such crisis or urgent situations.)
- Making recommendations regarding situations which have the general effect of violating the rights of members to pursue work, study, and other University activities in a safe and civil manner

Essentially, the Advisor works directly with students, staff, faculty, and members of the administration to resolve behavioural matters. The Advisor will provide all the options available so that the Complainant can make an informed choice as to how to proceed towards resolution. This might include strategies and facilitation of an informal resolution or guidance on how to proceed with a formal complaint process when warranted.

Occasionally, misconceptions of the Office's disciplinary function within the University exist, requiring clarification. The Advisor does not issue sanctions nor can sanctions be issued without a formal process first taking place (i.e., a hearing or investigation). Rather, the Advisor works with potential Complainants (and others implicated to assist) in a sometimes gradual process in trying different steps. In order to defuse situations and attempt to reach a desired outcome, this incremental approach is often exercised well before consideration of a formal complaint. Sometimes the Respondent is completely unaware of the involvement of the Advisor or the Office. Often the Advisor will make recommendations and "advise" on how to handle a situation but ultimately the choice and subsequent actions may rest with the Complainant or those tasked with resolving the matter.

The Advisor does have the authority to formally dismiss a complaint on specific grounds (as per article 33 of the Code), refusing to assist in informal resolution or to proceed with a formal complaint; however, this does not often "formally" occur. In most instances, the Complainant is redirected willingly to the appropriate channels, often with the Advisor facilitating the initial steps. If a complaint is not fully within the Advisor's jurisdiction but a conflict still exists, informal resolution can be attempted, if appropriate and if both parties agree. Similarly, if there is not sufficient evidence to justify a complaint, it will be explained first verbally to the Complainant. Usually, there are other options proposed to resolve a particular conflict, even if not entirely within the jurisdiction of the Code. Because of this approach and the subsequent willingness of Complainants to understand the situation better and desire to seek resolution (not repercussions), most complaints never reach the stage where the Advisor must dismiss them formally in writing. Of course, there are exceptions as recorded in the data.

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## STAFFING

The staff of the Office of Rights and Responsibilities had consisted of the Advisor who directs the Office and its operations as well a shared secretary/receptionist, who also served the Ombuds Office. In addition to the appointment of a new Advisor, the office saw an additional staffing change. During the course of the year, a joint decision by the two respective offices was made to replace the secretary/receptionist position with that of an Assistant who would have additional responsibilities. As such, a search began for the 2011-2012 year. This staff position would also be shared between the two offices. Staffing needs will continue to be assessed.

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## POLICY DEVELOPMENT AND REVIEW

### THE CODE OF RIGHTS AND RESPONSIBILITIES (BD-3)

The revised Code of Rights and Responsibilities came into effect August, 2010. The 2010 version amends and supersedes the previous 2004 version. The new version is, in part, reorganized to emphasize the important role of the Advisor in the

University and his/her role in promoting tolerance and civility within the University community. The revised version provides a clear and complete explanation of the role, appointment, and functions of the Office and the Advisor (section II). Previously the Advisor reported to the President. The Advisor now reports to the Secretary-General (SG). Given the Code mandates that the ultimate responsibility for implementation and amendments to the Code rests with the SG, the change in reporting was a logical one, meant to provide appropriate support and feedback.

Some additional revisions included are:

- Psychological harassment has been included and defined in accordance with the the [Quebec Labour Standards Act](#)
- Offences section was reorganized to group all types of harassment offences together along with descriptions of different types of harassment (sexual, psychological)
- Definition of discrimination was revised
- Definition of “suspension and expulsion” was clarified
- Definition of student was expanded to include the School of Extended Learning students
- Jurisdiction of the Code was expanded to include the protection of non-members of the Concordia community (article 22)
- Addition was made of “knowingly making a false accusation” as an offence (article 29b)
- Updated and revised definition of “theft or abuse of computing facilities” was provided
- Specific emphasis was made on the fact that peaceful picketing (or other such activities) is permitted and that such activity, as long as it does not interfere with class activities, is not an offence (article 29g)
- Extension was granted, from 2 to 3 months, of the delay to file a complaint with the Advisor (article 32) with the exception of a complaint of psychological harassment as specified in the [Quebec Labour Standards Act](#) which has a strict delay of 90 days since the last incident
- The section (VIII) on PROCEDURES FOR RESPONDING TO FORMAL COMPLAINTS MADE AGAINST FACULTY, ADMINISTRATIVE OR SUPPORT STAFF MEMBERS OR MEMBERS OF THE ADMINISTRATION has been reviewed and clarified. It is now emphasized that the Code is subject to the provisions of an employee’s collective agreement. The changes clarify the role of the Advisor with respect to complaints against faculty, administrative or support staff and members of the administration. Also, the new version provides clarification as to how harassment complaints must be investigated, in accordance with the relevant collective agreements (articles 108-114)

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

In November, 2010, policy HR-38 came into effect. While harassment complaints are included in the Code, the University is emphasizing its commitment to safeguarding a healthy environment for its members and is committed to the values of civility, equity, respect, non-discrimination and an appreciation of diversity. *Concordia’s Policy on Harassment, Sexual Harassment and Psychological Harassment* guides the University's practice and helps ensure compliance with laws, regulations, and government requirements concerning harassment. It is imperative that situations of harassment be dealt with and remedied as soon as possible and that recurrences are prevented. The policy incorporates prevention and education as well as support and redress when harassment violations occur. Education and training is being developed and additional material pertaining to the details and responsibilities of the Office will be provided in the 2011-2012 Annual Report.

Additionally, during their last collective bargaining negotiations, three support staff Unions (CUUSS, CULEU, and CUUSS-TS) along with members of the University agreed to have a joint committee to review the procedure for treating complaints of harassment. The Advisor sits on this committee which had its first meeting on April 1, 2011. Other Unions have expressed an interest in developing their respective harassment complaint procedures and the Advisor is naturally expected to participate. While all unionized members, like all employees, have access to services of the Office and the provisions of the

Code (and are likewise expected to abide by its principles), provisions of collective agreements supersede the Code. Consequently, it is important to have consistencies in related procedures and policies.

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

As part of the aforementioned Code revision and in recognition that the Protocol is used in exceptional situations, it was separated from the Code into its own document. The Protocol is activated by the decision of the Advisor whose function is to coordinate a well-organized, effective, and prompt response with the work of an Ad-Hoc Case Management Team (when appropriate) in situations involving threatening or violent conduct, deemed to be imminent and dangerous. Various forms of intervention and follow-up may be required as part of the process.

## POLICY ON STUDENT INVOLUNTARY LEAVE OF ABSENCE, VPS-15 ("POSILA")

In an effort to effectively and responsibly respond to students who are in a crisis situation, POSILA was officially adopted in March, 2011. It was created as a framework for assistance to students in need ("student-of-concern"). The undersigned was given an opportunity to work with the policy as a draft document prior to its formal adoption. This allowed for slight modifications to be made so that it worked in better conjunction with the Code and Protocol, specifically making links between the policies and allowing for the Case Team under one policy to continue with the necessary modifications should the need arise for another policy to be invoked.

The policy is proactive and supportive in nature and recognizes that a student for either his/her own well-being or that of other members of the University may need care and support which may include a leave of absence from their studies. A "student-of-concern" means any student whose apparent physical and/or mental state and/or related conduct is such that he/she may be or have become a threat to themselves, others, the educational process, or the University community in general. This may or may not involve allegations of non-academic misconduct by the student.

An addition to the Advisor's roles is that of POSILA policy coordinator. This responsibility continues through the entire process which may include the initial threat assessment, coordination of the case team, recommendations and decision making, return to campus procedure and management, as well as on-going follow-up with re-integration and transition back to the University. The policy is unique in that incidents occurring off-campus can be considered if the potential consequences of an incident have a direct impact on the University and/or safety and security of its members. When assessing students-of-concern and making decisions, a balance is sought concerning respect of individual rights while taking into account the safety and rights of others. POSILA is only invoked in extraordinary circumstances. Before an involuntary leave of absence is considered, efforts are made to assist a student in getting the help he/she needs and/or encouraging the student-of-concern to voluntarily leave the University, if appropriate.

While there are a limited number of POSILA cases, the general feedback from the various parties involved with the implementation is that the policy is serving a great need on campus. Though few, the current cases are extremely time-consuming. The initial crisis management usually requires a fast response time in addition to a substantial amount of follow-up and documentation. A student on an involuntary leave of absence is not permitted on campus, nor may he/she communicate with University personnel, except for the Advisor or with permission granted by the Advisor; therefore, all requests and any subsequent follow-up must occur through the Office. In addition, the return to campus requires a considerable amount of communication and monitoring. While the Advisor is putting some steps in place to better assist with the transition back to school using other internal and external resources, POSILA cases and the new responsibilities to the Office are nonetheless particularly lengthy. Regular review of cases, the policy, and procedural elements continue.

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## EDUCATION AND OUTREACH

Education and outreach programming is on-going. The Advisor, through education (in the form of training, workshops, publicity and promotion) and direct intervention of the Code as well as application of other policies which the Office oversees, takes place throughout the year. Such training promotes a healthy and respectful environment for all members of the University community and informs students, staff, and faculty about the services available through the Office.

The Advisor provides on-site education and prevention training to inform the University community (including but not limited to new faculty, student orientations, department chairs, and staff) as to their rights and responsibilities under the Code. Starting September, 2011 with the commencement of the new Advisor the following were some fairs attended and presentations given (many in collaboration with the Ombuds Office):

- CUPFA Part-time Faculty Orientation
- CUPFA Campus Equity Week
- Orientation for Education Department
- Council on Student Life
- Applied Linguistics Graduate Students' Orientation
- Political Science Department Council Meeting
- Re-Discover Concordia Fair 2011 (hosted by Counselling & Development)

Exceptionally, there were fewer orientations attended by the Advisor in 2010-2011 as her commencement date began in mid-September. Normally, the Advisor would be present for the start of the academic year; as such, more presentations and orientations during the orientation period (starting in August) would take place.

In collaboration with the Office of General Counsel and the Ombuds Office, a review began of the needs for targeted workshops to be jointly offered by various units.

With the implementation of POSILA, the Office has received many requests and continues to deliver more specific workshops related to this policy and how staff and faculty may be implicated. With the adoption of HR-38, which specifies that prevention and education are the best tools for the elimination of harassment, periodic communications on the subject will be distributed including a review of available recourse. In addition, the Advisor and the Department of Human Resources have been mandated to be jointly responsible for informing and training managers and supervisors with respect to provisions on the topic of harassment.

The Office also distributes, throughout the University, a variety of publications including a general brochure on the services available through the Office, and to academic departments a separate pamphlet on the issue of managing disruptive behaviour in the classroom. As the revision of the Code came into effect, so did the development of new publication material.

Finally, the Advisor is often requested to sit on committees or be a guest at meetings within the University as a resource to the community.

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## PROFESSIONAL DEVELOPMENT

Following the undersigned's attendance at the new staff orientation (as a participant), given by the Department of Human Resources, a recommendation was made that basic information concerning the Office (as well as the services available through the Ombuds Office) be given at such sessions. Upon review of such sessions, this information is now provided to new employees.



Professional Development was mainly limited to internal opportunities. With limited time available, these shorter workshops allowed the Advisor to experience and review some of the internal educational opportunities within the University. Such in-house professional development provided networking opportunities for the Office and the new Advisor. In addition, having taken advantage of some of the workshops offered within Concordia allowed for the undersigned to comfortably refer others when appropriate. Lastly, by viewing what other departments were offering, efforts will be made to avoid duplication of services.

Workshops taken included:

- Dealing with Difficult Situations in the Classroom, Concordia's Centre for Teaching and Learning
- EAP workshop: Effective Communication at Work
- Legal Issues in Counselling, hosted by Quebec Counselling Association (McGill University)
- Nonviolent Crisis Intervention, given by Concordia Security
- Managing Students with Mental Issues, webinar hosted by Advocacy and Support Services

As time permits, future professional development opportunities should include continued education in the areas of conflict resolution and mediation, as well as risk assessment and dangerousness management (within post-secondary institutions). Hosting such professional development, potentially with other internal partners will be considered in the future. In addition, it would be beneficial to enhance knowledge and expertise through consultation and networking with other universities for the implementation of best practices.

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## DATA ANALYSIS AND REVIEW OF REQUESTS FOR SERVICES/ASSISTANCE

### ACTIVITY SUMMARY

Requests for assistance and complaints are generated from many areas of the University and may come from all members (students, faculty, or staff). Individuals from outside the University generally do not have access to the services of the Office and they are usually redirected accordingly. Contacts with the Office that reach the Advisor are categorized as either a "case" or a "consultation." Information requests and general inquiries that are answered at the front reception do not currently get tracked or recorded. Future tracking of such general inquiries will be reviewed at a later date.

### CONSULTATION

It is sometimes difficult to decide what constitutes a consultation versus a case. Consultations are recorded when the Advisor has been contacted for information or guidance on an issue or incident but does not take an active or on-going role. Consultations should be brief; however, there is sometimes a fair amount of follow-up, especially if it involves advice-giving or providing strategies for a particular issue. Often consultations (as do cases) involve speaking to several individuals (particularly when more than one person is tasked with assisting with a resolution). For example, a Department Chair may be asked to assist with a resolution involving a student and professor (even though, the initial complaint might not have originated with the Chair). Consultations often require the Advisor to provide an opinion and/or strategies to be attempted by the Complainant or involved parties. It is possible that the Respondent could be unaware of the Advisor's "behind the scenes" guidance. Consultations can be made in-person, by phone or by e-mail. Information and/or advice may be provided but the assistance is limited. Finally, a consultation may also be a request for resources or coaching. Walk-ins are accepted but appointments are preferred.

### CASE

Most cases obviously start off as consultations. Complaints will not be retained without at least one consultation, usually in-person. Cases typically require direct intervention by the Advisor and/or review of direct evidence. Accordingly, the Advisor has taken an active and/or on-going role in providing consultation, advice, assistance and/or facilitating measures on a matter related to the Code or other policy. While informal resolution should generally not last more than 3 months,

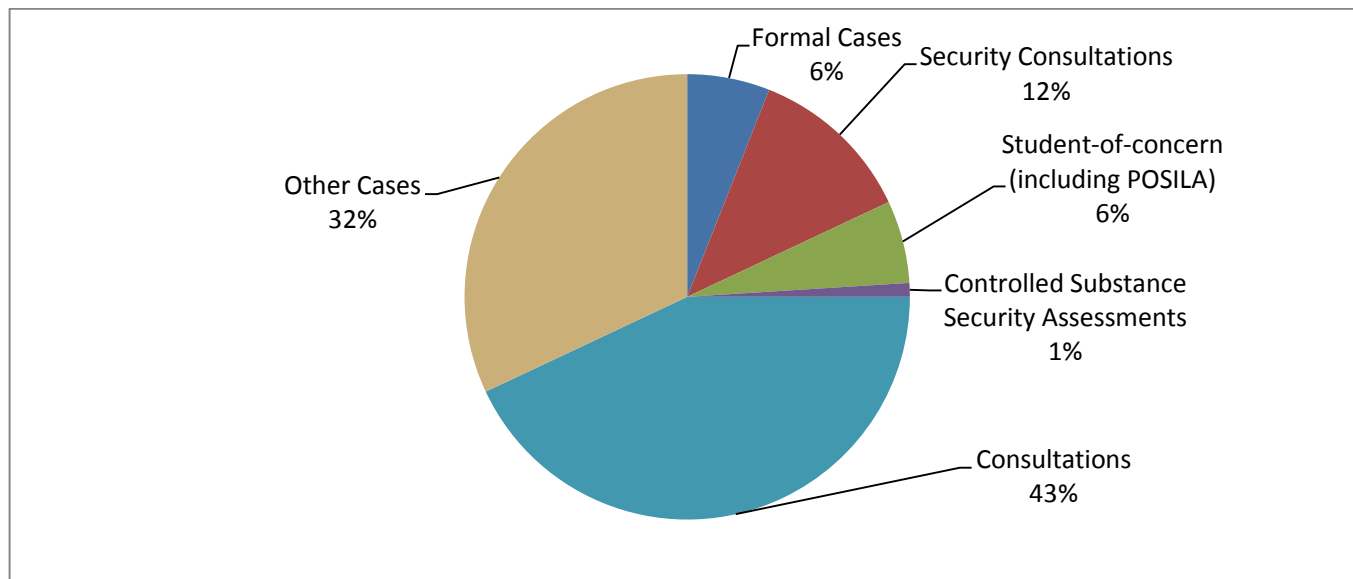
cases for a variety of reasons (complex issues, time extensions, holidays, absence of parties, breakdown of resolution, etc.) can occupy the Advisor’s time anywhere from a few days, spanning over months, and on rarer occasions over a year. A case may remain inactive after a resolution or decision and then evolve; thereby, re-opening the same case would be necessary. In 2010-2011, there were several former cases that required additional follow-up by the Advisor and for the purposes of tabulating the data have been labeled as “administrative consult” (in Table 3 and Chart D). Cases (and consultations) are generally classified as behavioural issues under the Code, behavioural issues under the Protocol, or as students-of-concern under POSILA. Often a case may start out as classified under one category and develop into another. In more extreme cases there may be both Code issues present that need to be addressed as well as matters to be dealt with under another policy. Each case is individually handled and decisions made as to how to best proceed with more urgent matters.

### OTHER SERVICES

Another service that the Office provides include security assessments for applications for authorizations to access controlled goods. The Office of the Provost requires security clearance for access to controlled goods (for work or study) and verification of the absence of Code infractions from the Office of Rights and Responsibilities is required in the process of assessing such applications. Separate files are kept for such requests.

Other files that the Office retains are reports sent by Concordia Security, involving behavioural incidents. Not all reports from Security require follow-up from the Office. Most often, the onus is on the Complainant to seek services from the Office should they desire to have their concern addressed. As such, when appropriate, Concordia Security regularly directs or recommends individuals to the Office and provides the contact information to a potential Complainant when warranted.

CHART A: DISTRIBUTION OF SERVICES



### 2010-2011 ANALYSIS

From June 1, 2010 until August 31, 2010 limited data is available. During this time period, 18 cases were reported but documentation of consultations is not available. From September 1, 2011 until September 13, 2011 the Ombudsperson along with other relevant personnel covered the Office (which is normal procedure in the absence of the Advisor). The current Advisor had 198 requests for assistance over a 7 ½-month period. Total requests for assistance was 212 (cases and consultations) over an 11-month period. In addition, 29 reports from Security were sent to the Advisor for consultation and/or review concerning a behavioural matter, not all requiring her direct intervention. (Note: Those not requiring intervention by the Advisor were not included in the case or consultations totals. Totals also do not include basic information requests of the Office which do not reach the Advisor). There were two applications of security assessments

for authorizations to access controlled goods sent to the Advisor for verification of absence of Code infractions. (Note: For the purpose of reporting annual comparisons consistently, these services administered are also not included in any of the totals displayed in Tables 1 and 2).

TABLE 1: 2010-2011 REQUESTS FOR ASSISTANCE

2010-2011 Academic Year	Cases	Consultations	Total
June 1 - August 31, 2010 (previous Advisor)	18	0	18
Sept 13, 2010 - April 30, 2011 (current Advisor)	89	105	194
<b>Total for 2010-2011 Academic Year (not including basic requests for information and other services mentioned)</b>	<b>107</b>	<b>105</b>	<b>212</b>

TABLE 2: ANNUAL COMPARISON

3-year Comparison	Months	Cases	Consultations	Total	Change
2008-2009 Academic Year (12 months)	12	119	65	184	n/a
2009-2010 Academic Year (12 months)	12	121	72	193	4.9%
2010-2011 Academic Year (11 months)	11	107	105 <sup>1</sup>	212	47.6% <sup>2</sup>
<sup>1</sup> Consultations recorded reflect a 7 ½-month period					
<sup>2</sup> Percent change reflects statistics corrected for a 12-month period; therefore, the increase is only an estimate					

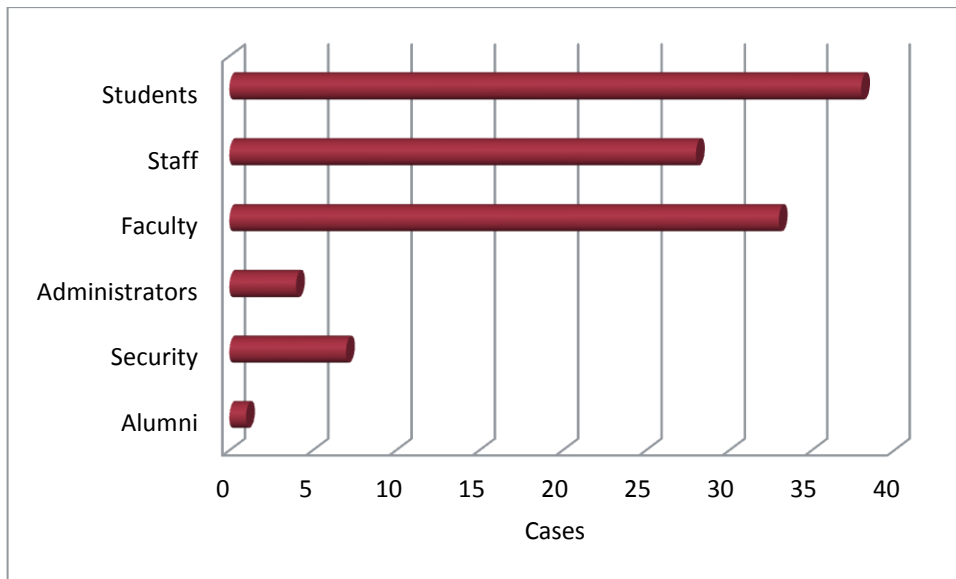
While the number of cases recorded appears to be at par with previous years, the number of consultations more than doubled, indicating a substantial increase. This increased activity could be attributed to increased visibility of the Office with the newly appointed Advisor being introduced and meeting various members within the University. Perhaps the Office now addressing students-of-concern as defined in POSILA and the expansion of the Advisor's role within the various policies where she is implicated has also increased the number of requests for assistance and service usage. One could theorize that changes to the Code have had an effect on the amount of requests for services (with the inclusion of psychological harassment, for example). It is also worth mentioning that the distinction between what constitutes a case or consult may differ between Advisors (affecting data). There may also be variations in what cases are accepted by the Advisor. While non-jurisdictional requests/complaints are never retained as formal complaints, if appropriate the Advisor will assist with informal measures or suitably redirecting a Complainant, as previously mentioned.

## BREAKDOWN OF REQUESTS (CASES AND CONSULTATIONS)

Nearly half of the total requests for assistance were comprised of consultations, covering a variety of topics and infractions with requests made by different groups of the community. For reporting purposes, with the absence of an operational database, detailed information is only being provided on cases for the 2010-2011 period, which constituted approximately half of the other total requests for assistance. More detailed breakdowns and tracking will be available in the future.

Requests for assistance/complaints were generated by:

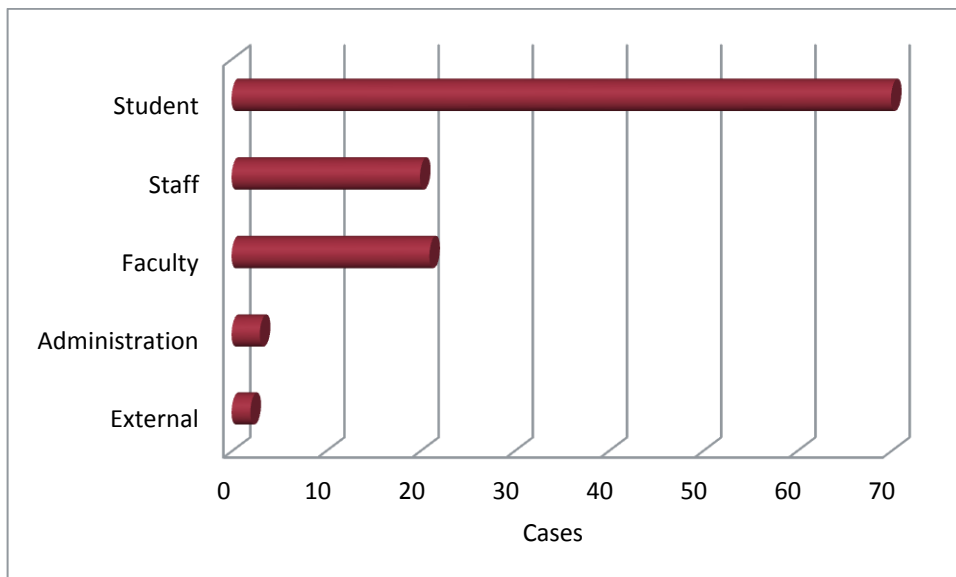
CHART B: COMPLAINT DEMOGRAPHICS



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

Complaints were generated against:

CHART C: RESPONDENT DEMOGRAPHICS



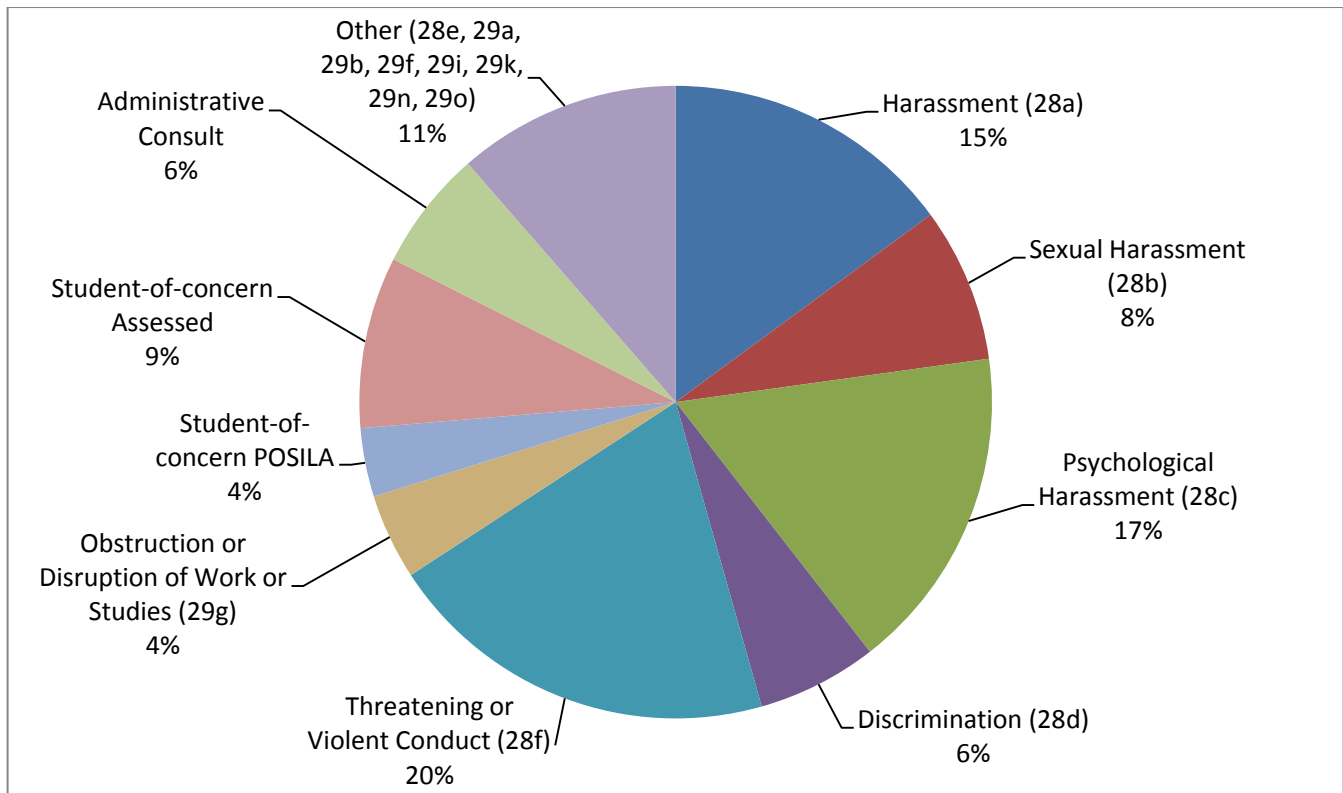
The term “Respondent” is used to refer to the person against whom a complaint is made. It may concern any member who is seen as allegedly responsible for undesirable behaviour as described as an offense/infraction under the Code of Rights and Responsibilities, thereby instigating a Complainant to seek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

TABLE 3: BREAKDOWN OF CASES BY INFRACTIONS

OFFENSE	CODE	TOTAL
Harassment	28a	17
Sexual Harassment	28b	9
Psychological Harassment	28c	19
Discrimination	28d	7
Communication of Discriminatory Matter	28e	1
Threatening or Violent Conduct	28f	23
Offences against property	29a	2
Furnishing false information	29b	2
Maliciously activating fire alarms	29c	0
Bomb threats	29d	0
Theft or abuse of computing facilities or time	29e	0
Unauthorized entry into University property	29f	2
Obstruction or disruption of work or studies	29g	5
Camping or lodging on University property	29h	0
Forging or altering University documents	29i	3
Hazing	29j	0
Unlawful use or sale of controlled substances	29k	1
Possession or use of explosives	29l	0
Possession or use of weapons	29m	0
Unauthorized use of University's name	29n	1
Offence against laws or regulations	29o	1
Student-of-concern	n/a	14
Administrative Consult	n/a	7
<b>Total</b>		<b>114</b>

It should be noted that some formal complaints allege more than one Code infraction but they are still counted as a single complaint/case file, regardless of the number of offences charged. Comparing the total cases in Tables 1 and 3, there were 107 total cases which included 114 infractions cited. As well, cross complaints may exist. They are usually counted as separate complaints for data reporting and in fact the respective Complainants may proceed differently. Cross complaints though rare, do occur. Whether formal or informal, they present unique challenges for the Advisor. Extra attention needs to be paid towards remaining impartial and neutral. In cases where each Complainant is unaware of the other's respective complaint (informal), confidentiality must be maintained. When one Complainant initiates a formal complaint or other formal process (such as a grievance), there is usually little chance for the other Complainant to proceed informally, even if that was the original intention.

CHART D: PRESENTING ISSUES



Note: The total number of students-of-concern was 14 and represented approximately 13% of incoming cases.

The breakdown in Chart D provides a rough overview of the types of cases retained by the Office. None of the tables indicate the amount of time spent in consultation, gathering information, reviewing evidence, resolving issues, etc. or how long the case remained active. Most cases were resolved through some informal means. Two cases handled informally resulted in mediated settlements being signed. Others included behavioural contracts/agreements, some written and some verbal. No cases this year, originally resolved through informal means, have been reopened as formal complaints. One file was closed by the Advisor following a Complainant’s decision to commence another formal procedure within the University (i.e., a grievance with the employee’s union).

### PROTOCOL CASES AND THREAT ASSESSMENT

The Protocol is only activated in urgent situations. Any preliminary safety concerns or risks of threat are usually assessed prior to consideration of activating the Protocol. There have been for example, several instances of students issuing what can be construed as a threat (either verbally or in the form of written text) that the Advisor and/or Security has assessed. Such incidents usually involve speaking to the student and getting a clarification of their intention as well as outlining acceptable behaviour and potential consequences should further issues arise. All low level threat assessments were assessed as negative. Most students were remorseful for their actions and their communication was not intended to be threatening. At least three such cases demonstrated misuse of language (where English was not the mother-tongue) and in expressing their frustration or dissatisfaction of a matter, the individuals used inappropriate wording. In these situations, the intention was to resolve the matter in the most effective and constructive manner. As such, interventions provided a learning experience for the student while protecting the safety of all members and the interests of the University or Complainant. Several instances of email communication between students and professors involved a misperception between the message that the writer was trying to communicate and the interpretation of the reader. Miscommunication is often the cause of conflict.

The Protocol was activated twice this year. One such instance involved an employee in conjunction with a formal complaint being launched under the Code. Safety concerns were expressed concerning this Respondent. External professionals were involved and the individual received the needed help, never posing a true threat to anyone in the Concordia community. The formal complaint, nonetheless, did proceed. The second instance involved a student. Discussions had begun with members of an Ad hoc case team and it was quickly decided that POSILA should be applied as the allegations which were the cause of concern happened off University premises. Eventually, as the student's situation deteriorated, police and medical intervention were required.

## POSILA CASES

POSILA cases tend to occupy the most man-hours and tend to be open indefinitely given the follow-up needed, even when a student returns and transitions to campus, as conditions and progress are monitored. Often changes are requested by the student (e.g., a request to increase one's course-load). These requests must be assessed, a decision rendered, and subsequent follow-up prescribed. When a breach in conditions occurs, for example, a decision also has to be made as to how to proceed (i.e., apply further conditions or reinstatement of a leave of absence, etc.).

While 14 students-of-concern were assessed and assisted as per POSILA, only four students necessitated detailed discussion with recommendations made by the case team. Since the policy's existence and covering the 2010-2011 academic year, three students have taken leaves of absences under the policy. Two of these three cases were involuntary leaves of absence, while one was a voluntary leave. The fourth student reviewed has not re-registered in 2011-2012 but is not considered to be on a leave of absence under POSILA. In this case, Code infractions were dealt with separately. While mental health concerns existed, intervention was not mandated under POSILA and the situation was being monitored for changes. Of the leaves of absence taken, one case involved behaviour and incidents on campus while the second case involved behaviour predominantly on campus (with some recorded disturbing behaviour outside of the University). The final POSILA case during 2010-2011 occurred as a result of an alleged violent crime (against another Concordia student) that took place off campus. Reasonable concern of a threat existed to a member or members of the University community. Of the three current POSILA cases, two have requested to return and subsequently have come back to Concordia, part-time. Both had/have strict Return to Campus Management Plans that contain conditions that must be followed. If any conditions set out are violated and/or if any further incidents occur which lead the University to believe a student represents a threat to any member of the University community, the University reserves its right to invoke formal measures. While this may sound harsh, the management plans are quite supportive in nature, intended to assist a student in transitioning back and achieving success while still keeping safety concerns at the forefront. In fact, due to a breach in conditions, one student was put on an involuntary leave of absence following the initial return during the 2011-2012 academic year.

## ANALYSIS OF FORMAL COMPLAINTS AND THEIR OUTCOMES

As part of the Office's mandate is to assist with corrective measures, few cases proceed to formal complaints. Although sanctions can be issued, the Code is not punitive in nature. Rather, attempts are made to restore harmony, collegiality and cooperation between members.

Formal cases are usually initiated when: mediation has broken down, one or both parties do not want to proceed with informal resolution, there has been a breach in a settlement reached, or the Complainant feels that only a formal complaint procedure can address the seriousness and nature of the complaint. There have been several Complainants who initially expressed a desire to file a formal complaint but following consultation and review with the Advisor chose to proceed informally. These complaints were not recorded in the data as formal complaints; however, if a formal complaint letter was submitted in writing and subsequently informal resolution was proposed and attempted instead, then that information has been recorded in the formal complaints data.

In 2010-2011, 14 formal complaints were launched, representing just over 6% of total requests for assistance and 13% of total cases. One additional formal complaint was reopened from the previous year, for failure by a student to fulfill the issued sanction. (Note: This reopened case required administrative consultation only and has not been counted as part of the 14). Of the 14 cases that were processed as formal complaints, 8 were made against students and 6 were made against employees of the University (staff and faculty). Complaints made against students consisted of the following division of Complainants: *Administration (1), Faculty (2), Residence (1), Security (2), and Students (2)*. Formal complaints made against University employees (3 faculty and 3 staff as Respondents) consisted of the following division of Complainants: *Faculty (1), Staff (1), and Students (4)*. One complaint made against a student was formally dismissed by the Advisor for insufficient evidence and for being frivolous. Others were resolved through mediated settlements or alternative informal resolution. Three cases are still pending. It is noteworthy that while there were 14 formal complaints this year, there were only 12 Respondents and 13 Complainants named. Two cases involved the same Complainant and the same Respondent when a reoccurrence of the alleged behaviour occurred following the resolution of the first complaint (which was originally founded through a formal process). Two other complaints were made against the same Respondent by different Complainants. The presenting offense was the same but the cases were resolved separately (both through informal measures facilitated by the Advisor). Table 4 displays a detailed breakdown of the 2010-2011 formal complaints.

<b>Table 4: 2010-2011 Formal Cases</b>						
<b>Date</b>	<b>Infraction</b>	<b>Respondent</b>	<b>Complainant</b>	<b>Hearing/Investigation</b>	<b>Outcome</b>	<b>Action Taken</b>
14-Mar	28e	Faculty	Student	Investigation	n/a	Corrective measures <sup>1</sup>
13-Oct	28a	Faculty	Student	Investigation	Founded	Sanction(s) imposed <sup>1,4</sup>
6-Jul	28c	Faculty	Student	Investigation	Not founded	Disciplinary action <sup>2</sup>
14-Sep	29b, l, n	Student	Staff	Hearing	Founded	Sanctions imposed
17-Sep	29f, o	Student	Staff	Hearing postponed	Pending	Informal measures proposed
20-Sep	29i	Student	Staff	n/a	n/a	Case reopened due to unfulfilled sanctions <sup>3</sup>
27-Sep	29b, l, o	Student	Student	Hearing	Founded	Sanction(s) imposed
26-Oct	28a, c	Faculty	Student	Investigation	Founded	Disciplinary action
30-Nov	28c	Student	Student	n/a	Dismissed (Formal only)	Informal resolution <sup>4</sup>
1-Dec	28f	Student	Faculty	n/a	Dismissed by Advisor	n/a
1-Dec	28c	Student	Student	None	Resolved	Informal resolution
7-Dec	29f, k	Student	Staff	Hearing	Founded	Sanction(s) imposed <sup>5</sup>
20-Jan	28c	Staff	Faculty	Pending	Pending	Pending
12-Apr	28c	Staff	Staff	Investigation	Not founded	None
15-Apr	29a	Student	Staff	n/a	Pending	Informal measures proposed

<sup>1</sup> The case was carried over from 2009-2010.  
<sup>2</sup> The infraction as charged was unfounded; however, other behaviour warranting disciplinary action was founded following the investigation.  
<sup>3</sup> The case was not included in the data.  
<sup>4</sup> The formal case was dismissed; however, informal measures were proposed and accepted.  
<sup>5</sup> In this case, one infraction was founded and sanctions were imposed, while the other infraction was unfounded.



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## RECOMMENDATIONS

As per articles 15-16 of the Code, the Advisor may, when warranted, make recommendations to University authorities regarding situations within a unit, department, faculty, or the University as a whole. As well, the Advisor may make recommendations, as necessary, with regard to either the Code or the operations of the Office.

The Code of Rights and Responsibilities is scheduled for a thorough review approximately every five years. The last such review occurred recently in 2009-2010 with a University-wide committee struck to accomplish this task. As such and at this point, more time is needed for the practical application to determine what, if any, further revisions are needed. At this early stage, the following minor revisions or applications of the Code should be considered:

- Non-monetary sanctions issued by the Hearing Panel to students should have a reasonable deadline established within the issued sanction.
- Article 65d specifies that community service at the University may be issued as a sanction. It is the opinion of the undersigned that ideally community service should be relevant to the infraction committed. Therefore, relevant community service (internal and external) if monitored appropriately through the University is being proposed. Discussions will take place with the Dean of Students to explore some relevant options.
- In Section VII PROCEDURES FOR ADJUDICATING FORMAL COMPLAINTS AGAINST STUDENTS, article 49 states that no statements, documents or information brought forward in the course of an attempt at informal conflict resolution may be used or referred to should a formal complaint be initiated and no reference may be made to the fact that informal conflict resolution was attempted. The interpretation of this article needs to be clarified so that it reads as it is currently being interpreted and applied: no statements brought forward during a previous attempt at informal resolution involving the Advisor may be used in the form of evidence (as an offense or defense) by any of the parties involved during an internal formal process.
- Similarly, under section VIII PROCEDURES FOR RESPONDING TO FORMAL COMPLAINTS MADE AGAINST FACULTY, ADMINISTRATIVE OR SUPPORT STAFF MEMBERS OR MEMBERS OF THE ADMINISTRATION, in the articles concerning informal resolution (95-98), a clause should be included to this effect as well. While an attempt at informal mediation may need to be known to certain parties, especially in the case of a breakdown of such an attempt which results in a formal process being initiated (either under the Code, a collective agreement, or other formal process), it needs to be emphasized that article 49 (once the wording is clarified) also applies to faculty and staff; that is, that information brought forward in an informal process with the Advisor can't be brought forward as a form of evidence in a formal internal proceeding.
- Article 93 states that "the Advisor shall terminate any attempt at informal resolution or formal resolution should either party initiate a process such as, but not limited to, a grievance or other formal internal procedure, or any external procedure such as a complaint or action before a commission, board or tribunal." This does not preclude any concurrent criminal cases or police matters or the possibility of such if applicable, as has been the circumstance in some cases. While details of attempted mediation cannot be included in any formal complaint proceedings initiated under the Code, the Advisor's files and testimony are subject to the law. Therefore, the Advisor is obliged by law must disclose confidential information to appropriate authorities (i.e., if legally bound to reveal such information for example, following the receipt of a subpoena). Such testimony can include admissions or statements made in the presence of the Advisor. While clients are often advised of this prior to the commencement of any informal mediation and this information is now specified in the new intake forms of the Office, it might be beneficial to include such a clarification in the Code.
- The Office received several complaints involving either emails or postings on a variety of websites or social networking sites (usually in the form of harassment). These complaints bear several challenges including that of jurisdiction. When possible and appropriate, the Advisor was limited to responding to such complaints using an informal approach to resolution. Sometimes, the identity of the Respondent is unknown making it even more

difficult to respond. The next Code revision should include an in-depth discussion about such “e-space issues” and the unique challenges attached to such complaints.

- Article 20 of the Code defines a “student” as well as when “a person ceases to be a student.” A future revision should consider defining when a person ceases to be an employee of the University; as such, a person may not have access to recourse under the Code. For example, if a person resigns, the complaint process would not be initiated through the Code. In this case, another entry point or other procedure would most likely be used for redress.
- Article 33 specifies the reasons which the Advisor may refuse to assist in informal resolution or not retain a formal complaint. This applies to all members (faculty, staff, and students). Article 34 specifies the appeals procedure for such a refusal. This article (as it is currently written) is only applicable to students. Both non-unionized and unionized staff and faculty have recourse available as well, should such a member disagree with the Advisor’s decision. As such this should be more clearly specified in the Code.

In addition to recommendations concerning the Code, recommendations to the University and a number of departments are on-going. Several that have been made are under review or in discussion. Some of the recommendations are on topics such as education on matters of confidentiality, updating student information, issues involving time sheet or annually contracted employees, formal complaint processing and investigations procedures. Therefore, given the limited time-period for this report, detailed recommendations have or will be provided to the individual departments concerned. If appropriate and not confidential in nature, a separate addendum with such systemic recommendations will be written at a later date and/or discussed in the 2011-2012 Annual Report. Regular recommendations are made by the Advisor when her involvement is requested to assist with informal resolution procedures. Such recommendations are case-specific and confidential in nature and therefore cannot be reported as part of an Annual Report. If systemic recommendations arise as a result of a case, they may be disclosed to the community.

One such recommendation or area that deserves further attention is that of harassment cases. Harassment is a serious matter and when founded needs to be immediately corrected. That being said, it needs to be acknowledged that when someone feels harassed, it does not always mean that they are being harassed. While harassment cases were retained (as seen in the data), the Advisor also saw several cases this year (and continues to see) which stemmed from issues of a workplace conflict with a colleague or issues with a supervisor; however, the situation did not meet the criteria for harassment. That is not to say that a conflict did not exist that required some sort of resolution but it did not meet the definitions under the Code or HR-38. Discussions between the Advisor and Employee & Labour Relations will need to take place on how to better address such work place conflicts when they occur.

Finally, article 8 of the Code specifies that the Code is not to be applied in such a way as to detract from the right and duty of those with supervisory authority to manage and, if necessary, to discipline members in accordance with collective or employee agreements and University policies and procedures. For example, a negative evaluation (without other behaviour meeting the criteria for harassment) would not constitute an infraction. Of course, there are appropriate ways in delivering messages and inexperienced supervisors/managers could always use assistance in dealing with such issues.

## IMPROVEMENTS AND OBJECTIVES (FOR THE OFFICE AND OPERATIONS)

In addition to personnel changes to better serve the needs of the Office, several other modifications were made or plans for further improvement identified. Forms of the Office were either modified or newly created with the assistance of Maître Melodie Sullivan in the Office of General Counsel. This included the intake form, consent to the release of personal information to an external person or institution, and the POSILA Leave of Absence Return Assessment Form. All promotional and informational material was reviewed and the revamping process initiated to reflect the Office’s increased mandate and revised Code. The website is scheduled to also be overhauled (both for content and visually to be in accordance to the new look of the University website).

One of the objectives of the current year was to increase the awareness within the University of the role of the Office and the services of the Advisor (including some misperceptions about the functions within the Concordia community). There has been a substantial amount of focus on promotion and education through presentations, networking and direct intervention as well as communiqués (direct and indirect) about the services of the Office. While it is difficult to track if visibility has genuinely improved, the increased numbers of individuals and departments requesting assistance or consulting the Advisor would suggest that this is the case. In conjunction with the development of the Office's new website, on-line training will be considered.

Relationship building within the University continues to remain an important focus of the Office. While the Office is independent in nature, institutional partnerships are imperative. The Advisor most closely works with and/or consults with the following individuals or departments concerning behavioural issues and various University matters: Employee and Labour Relations, Dean of Students, Office of General Counsel, Ombuds Office, Counselling & Development, Security, Health Services, Advocacy and Support Services as well as the SG. Discussions will continue and appropriate measure taken in an effort to improve services. Much of the year was spent developing close working relationships with important stakeholders: students, administration, faculty, staff, and union affiliates and this should remain a priority.

With the assistance of the Records Management and Archives Department as well as the Office of General Counsel, the retention schedule for the Office's confidential records was amended.

The Office upon the undersigned's arrival did not have a functioning database making it difficult to report statistics, activity, and trends within the Office. It is the opinion of the undersigned that this was and continues to be one of the biggest detriments to the Office's functioning efficiently. Reporting of activity and record-keeping was not consistent. Standards for keeping records and case files have improved and additional modifications are to be made. With few in-house options available, the task of finding a cost-effective system that will provide appropriate support for the Office has been a challenge. Various database models and software are being reviewed along with costs so that the Office may implement an appropriate database management system to ensure accuracy and transparency of critical information and statistics. One will be selected soon and the goal is to have it up and running before another academic year begins.

As visibility and awareness increases, so will the request for services. Furthermore, there is an added responsibility of assessing more urgent cases and students-of-concern and an extensive amount of time allocated as a result of the implementation of POSILA. There is also necessary and mandated training to staff and faculty concerning the Code, HR-38, and POSILA. Recognizing that the Advisor has been somewhat of a "one person operation," continued review of the Office with the SG and the Advisor is recommended.

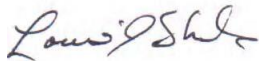
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## CLOSING REMARKS

The Office of Rights and Responsibilities should be regarded as a resource for the entire Concordia University community in aspiring to create and maintain a healthy and respectful working and academic environment. In my first year of service as the Advisor on Rights and Responsibilities, I strived to assess and improve the Office's functioning and our services (which will be an on-going objective). I look forward to continuing to develop and fulfill the Office's mandate. Everyday proves to be a learning experience in finding ways to better our community.

In closing, I wish to thank all my colleagues for assistance and support. A special mention should go to the members of the POSILA Case Team who pull together when needed to ensure delivery of best practices.

Respectfully Submitted,



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The Advisor on Rights and Responsibilities



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