

Dean Iain Scott  
Code of Student Conduct Review Committee  
University Secretariat  
Room 4101 Stevenson Hall

October 4, 2016

**Re: Submission for Review of Western's Code of Student Conduct from  
Jennifer Meister, Ombudsperson**

Dean Scott:

Thank you for reaching out to the community for comments as your committee reviews the University's Code of Conduct. This document first outlines the context in which Office of the Ombudsperson staff sees those impacted by the Code, provides comments and recommendations within that context, and then provides my own personal recommendations based on research into student conduct and moral development.

**Context**

Between August 1, 2015 and July 31, 2016, the Office of the Ombudsperson saw 540 students regarding 575 concerns. Conduct-related visits are broken down as follows:

<b>Category</b>	<b>Number of Visitors</b>	<b>Percentage of Overall Visitors</b>
Undergraduate students going through Code process	7 (1 was a King's student. Action on King's campus under King's code)	1.3%
Graduate students going through Code process	1	.18%
Students going through Residence Discipline process (important to keep in mind when discussing Code)	10	1.9%

All of the undergraduate and graduate students accounted for above came to us to better understand the process and for us to review letters of appeal to either an individual decision maker or to the University Disciplinary Appeals Committee (UDAC). Additionally, two undergraduate students and the graduate student implied they would like us to intervene in the matter but we determined there was no reason to. The Office of the Ombudsperson normally only intervenes if there are questions about the process being followed.

We did intervene in three of the 10 cases involving residence conduct. This was done with the students' permission and to get clarification on what stage investigations were at. It is important to note that

there was no overlap between the cases involving Residence Discipline and the Code of Conduct. It is also important to note that we are more likely to ask a residence student for permission to speak with residence staff because residence students tend to be first year students and not as knowledgeable about the processes, haven't necessarily asked residence staff the right questions, and aren't telling us all the pieces of the puzzle. It helps us guide the student if we have the whole story.

Two of the situations involving undergraduate students did overlap with faculty-specific codes. I will address the implications of faculty-specific expectations later in this document.

In addition to the students who contacted us, we were contacted by two parents or family members of students involved in disciplinary matters and one parent of a student involved in residence discipline. Unless we have the student's permission to speak with their parents, we will only discuss the general policy and process with the parent. We are also reticent to get involved in situations where the student has legal representation. In cases where counsel has been retained, we will answer questions about policy and process but not intervene on their behalf with the Code administrator. On occasion, students will ask us if we think they should hire a lawyer. We tell the student it is up to them, but then explain how Community Legal Services (CLS) at Western's Faculty of Law works and provide them with a brochure for CLS.

### **Implications for Code**

For the most part, the Associate Ombudsperson and myself can easily answer questions regarding the Code and provide guidance to students regarding Code-related issues; however I believe there needs to be:

- A review of individuals assigning sanctions
- Clarity around the overlap between "Code-type" documents
- Clarity regarding the impact of the Code on student behavior at University Students' Council (USC) and Society of Graduate Students (SOGS) events, and
- Acknowledgment by students that they have read and understand the Code.

The following section discusses these items.

### Individuals assigning sanctions

When the current Code was written, there was no Associate VP of Student Experience who was well-versed in student development and the education of the whole person. With all due respect to current and past Vice-Provosts (Academic Programs) and Deans, they are focused on making Western a productive and safe place for students to succeed academically. I would like to see centralization of complaints and investigations, with the Associate VP Student Experience responsible for undergraduate complaints and Vice-Provost, Graduate and Post-Doctoral Studies responsible for graduate student complaints. These two individuals will of course consult with the appropriate leaders in the faculties as part of the investigation. This type of structure will help the university accomplish five things:

- Ensure consistency of sanctions across campus
- Ensure harmed parties are consistently provided with any assistance they need
- Ensure offenders are consistently provided with any assistance they need
- Ensure communities are consistently considered (Has this incident caused harm to a community? How are others impacted by what happened?)

- Ensure systemic issues are identified

You will note that I have used the word “consistency” in four of the five points above. With a formal Judicial Affairs office now in place within the Student Experience portfolio, the University has an opportunity to construct a campus-wide method of dealing with code violations that educates rather than strictly punishes.

When students come to our office to declare something “unfair” it is often because they are not being treated in the same manner as “someone else they know” or “someone they heard about”. In these situations we point out that we never know all the details of an event and that in fact, no case is the same; however, there certainly are differences in how issues are dealt with across campus and a centralized office would assist in consistency.

#### Faculty-specific codes

There needs to be a clearer delineation between faculty-specific statements of behavior expectations and the Code of Conduct. Although I readily admit this issue has been much less of a problem over the past one or two years, students are sometimes told they have breached their program’s professional code and then the student is surprised when they also receive a letter regarding the Code of Conduct. Their comment is often “I was spoken to about this already. Why am I being accused under the Code of Conduct too?” Although I understand the reasons for the professional codes, I would suggest there needs to be a clear statement in the document and in interviews with students regarding infractions, that the student can still be accused under the Code of Conduct. The current Code of Conduct does state the relationship between other codes (Section III point 2) and the Code of Conduct, but for some reason it is only the professional codes that the Code of Conduct comes into conflict with.

#### Relationship to USC and SOGS

I have to admit that I am not clear on the relationship of the Code of Conduct to behavior within the USC and SOGS. Two years ago I facilitated two Restorative Justice Discussions for the USC to aid in Club conflicts. As well, throughout my time here, I have been involved in discussions relating to USC and SOGS conflicts. The students involved in these situations were Western students; however the incidents took place at USC Club and SOGS meetings and the University was hesitant to become involved in the situation. As an office that is co-funded by the University and students, Office of the Ombudsperson staff are sometimes called on to assist in resolving student association disputes.

I believe the Code needs to specifically state the relationship between the Code, and SOGS and the USC. As separate incorporated entities, is student activity at USC and SOGS events covered under the Code? Can the USC and SOGS take advantage of tools established under the Code? (e.g. If a restorative or developmental framework is developed as part of this Code review.)

#### Code acknowledgment by students

It is my experience that students in the professional programs take their “codes” seriously and many students can tell you the content of those codes. However, for some reason students don’t have the same knowledge of the broader Western Code of Conduct. For example, many students are surprised when they have been accused under the Code for an activity off campus. We always tell students that ignorance is not a defense; however we also need to remember that the majority of incoming students are young adults, and the University needs to hold some responsibility for educating them about expectations.

I believe incoming students need to sign the Code of Conduct when they enter Western, as they do their residence contracts, so that they know the content. I am a proponent of making Western 1010 – the on-line Orientation program – mandatory for all incoming students. Adding a Behavioral Expectations module would accomplish the same thing – or perhaps even more – than physically signing a document. For graduate students, a module similar to the mandatory Academic Integrity module would be a suitable form of education and acknowledgement.

Generally, students and their families need education about the Code and resources to assist them when they have questions.

#### Summary - Implications for code

To summarize, I recommend the following:

- 1) Responsibility for investigations and sanctions under the Code of Conduct be centralized under the Associate VP Student Experience and the Vice Provost Graduate and Post Doctoral Studies.
- 2) More education is required in the professional programs regarding the purpose of the professional behavioral codes and the Code of Conduct and the relationship between the two.
- 3) More clarity is required regarding whether activities at USC and SOGS events is covered under the Code of Conduct.
- 4) Code acknowledgement and education:
  - Some type of education regarding the Code for incoming graduate and undergraduate students.
  - More communication to parents regarding the Code of Conduct. In the summer of 2015, I wrote a guide for the Office of the Ombudsperson web site regarding the Code of Conduct\*. It is a simple tool to help students and their parents understand the process. The Judicial Affairs Office could create something similar once the new code is passed. (Or just amend our guide to fit the needs of Judicial Affairs.) Students and parents are anxious when a student is accused under the code and a clear, accessible guide could help explain the process. Also included in such a guide could be an explanation of how the Code of Conduct interacts with professional codes, the residence agreement and the law.
  - A concluding paragraph in Code letters and a statement in the policy or on the Judicial Affairs web site that those accused under the code can contact the Office of the Ombudsperson and/or Community Legal Services would help ease the anxiety of the parties involved. The Office of the Ombudsperson would explain the process and review appeal letters, Community Legal Services could provide support for a student who may feel they should be hiring a lawyer.

#### **Experience-informed Recommendations**

Student conduct, both academic and non-academic, fascinates me. Why are some students more morally developed than others? What can post secondary institutions do to help students morally develop? How can post secondary institutions identify students and communities at risk before something happens?

---

\* A hard copy of this document is attached, but it is also available at <http://uwo.ca/ombuds/guides/conduct.pdf>

Because of this interest, I have written three papers discussing issues related to student conduct as part of my Master's degree at the Ontario Institute of Studies in Education (OISE). Following are my recommendations based on the research I have reviewed:

1) *Incorporate restorative thinking into the conduct process so that the impact of the harm the individual caused is considered, not just the offense (Schrage and Giacomini, 2009 as cited in Martindale, 2012).*

Restorative Justice focuses on accountability, relationships, and collaborative problem solving (Martindale, 2012). Research (Meagher, 2009) has shown that restorative justice provides a shift in how students viewed themselves in relation to others such as their neighbours and professionals such as police officers. Students, especially female students, experienced an emotional release and sense of resolution regarding their incidents when they went through an RJ process. It was an end to the story. Students who experienced restorative justice processes changed their behavior: they had lower recidivism and increased compliance with restorative sanctions and increased self-monitoring of underage drinking and alcohol consumption. Students also learned valuable conflict management skills when taken through a restorative justice process.

True restorative justice processes take time to implement but employing some of the same principles when discussing a student's actions with them can help a student learn from their mistakes and further develop. Questions such as the following can be asked during behavioral interviews with students:

What happened?

What were you thinking of at the time?

What have you thought about since?

Who has been affected by what you have done and in what way?

What do you think you need to do to make things right? (Wunderlich, 2008)

2) *In tandem with the Code of Conduct, introduce a Rights and Responsibilities Statement.*

The Office of the Ombudsperson often gets inquiries such as "This student did/said this. Why are they still part of my club/floor/class?" or "I have to hand my papers in on time, why don't professors have to get marks back to me on time?" Often the behavior the individual is referencing is not a Code infraction, but is disrespectful none-the-less or simply just bothersome. To address concerns such as the two referenced above, Fanshawe College introduced a Rights and Responsibilities Statement (<http://old.fanshawec.ca/sites/default/files/assets/Ombuds/SORR.pdf> and attached).

The College has a Code of Conduct that is passed by the College's Board and carries sanctions. The Rights and Responsibilities Statement carries no sanctions and clarifies what the student needs to do to be a productive member of the community, and what the student can expect in return. The President of the College and the President of the Fanshawe Student Union sign the document once per year in order to show their commitment to the document's content.

I think this would be an interesting thing to consider at Western.

Summary – Experience-informed recommendations

In summary, I recommend the following:

1) Include restorative practices in Code of Conduct proceedings and in the published Code.

2) Introduce a Rights and Responsibilities Statement to clarify what is acceptable behavior at Western, and what students can expect in return.

Thank you for considering these points and best of luck with your review.

Jennifer Meister  
Ombudsperson, Western University

### References

- Martindale, T. (2012). *Restorative justice for non-academic infractions at the University of Victoria: Learning from other institutions*. (Master's project). University of Victoria, British Columbia. Retrieved from: [https://dspace.library.uvic.ca/bitstream/handle/1828/4282/Martindale\\_Tanissa\\_MA\\_2012.pdf?sequence=4&isAllowed=y](https://dspace.library.uvic.ca/bitstream/handle/1828/4282/Martindale_Tanissa_MA_2012.pdf?sequence=4&isAllowed=y)
- Meagher, P. (2009). *A phenomenological study of the experience of respondents in campus-based restorative justice programs*. (Doctoral dissertation). Bowling Green State University, Ohio. Retrieved from <http://www.skidmore.edu/campusrj/publications/pmeagherrjdissertation.pdf>
- Wunderlich, K. (2008). *Restorative justice in an Ontario secondary school setting*. (Master's project). Athabasca University, Alberta. Retrieved from: <http://dtp.r.lib.athabascau.ca/action/download.php?filename=mais/karlwunderlichProject.pdf>