



THE 2000 ANNUAL REPORT

SIMON FRASER UNIVERSITY HARASSMENT RESOLUTION OFFICE

1. INTRODUCTION

This report covers the 2000 calendar year. It is the third report presented under the revised SFU Harassment Resolution Policy¹.

The SFU Harassment Policy has now been in effect for three years, having been approved by the Board of Governors and implemented in 1998. The policy is to be reviewed every three years. On January 4, 2001 Dr. John Waterhouse, the Vice President Academic, sent an invitation to all members of the University community asking for input about policy improvement. As a result of this consultative process, it is anticipated that the policy could undergo major revisions in 2001.

The operational objectives of the Harassment Resolution Policy are:

the implementation of a policy which responds to the University's obligations under the
regarding the maintenance of a harassment-free environment;

the delineation of procedures and initiatives by which to prevent harassment;

the provision of procedures to handle complaints;

the development of programs and resources by which to resolve and remedy workplace and
educational issues related to harassment; and -

the provision of appropriate education to the students, faculty and staff of the institution.

This report covers all of the aforementioned activities.

During the 2000 calendar year, the Vice President, Academic, supervised the office. From January to September, Dr. Jock Munro filled that position. In September, Dr. John Waterhouse assumed the role. I would like to offer my gratitude to both gentlemen for their insight, support and excellence in leadership.

2. THE WORK OF THE OFFICE

2.1 Intake and the Role of Staff

There are two professional positions assigned to the Harassment Resolution Office. The Harassment Resolution Officer who has a Master's degree in Counselling, reports to the Harassment Resolution Coordinator, who is a lawyer.

At intake, the Complainant is asked to give a complete account of all of the behaviours that are alleged to constitute harassment. If the intent is that the case will remain as a consultation, the details of the complaint are documented by Harassment Resolution Office staff (hereinafter referred to as HRO staff). If the case is complex or if the intent is that it will move beyond the consultation stage, the Complainant is asked to place his or her signature on a written version of the particulars of the complaint. Then, HRO staff makes the initial determination about whether the case falls within the jurisdiction of the policy. Staff applies the facts - as recounted by the Complainant - to the policy by answering the following questions:

Is the activity University-related?

Are both of the parties members of the University community²?

Is the behaviour persistent or is it classifiable as harassment?

conducting Management Consultations with supervisors and others who are dealing with allegations of harassment within their respective departments;

rejecting c

3. THE POLICY IN PRACTICE

Complaints of harassment may be made by a member of the University community against another member regarding a University-related activity. For the policy to apply, it is a necessary prerequisite that the behaviour, if true, would constitute a policy violation. Generally speaking, for behaviour to constitute harassment, all of the following conditions must be met. The behaviour is:

- repetitious (or classifiable as
- unwelcome
- non-consensual
- demeaning

If HRO staff intervenes in the resolution of a case, (such as mediation, attendance at meetings, discussing the complaint with the alleged harasser, writing correspondence regarding the complaint), the case is given the designation “Informal file”. (Informal files will be discussed in a later section of this report).

In terms of the record-keeping procedures followed for Consultations, general information regarding the gender of both parties, constituency group membership of both parties and the type of harassment

3.4 Type One Individual Consultations With Jurisdiction: N = 49

Would-be Complainant Data

- 15 male, 34 female

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the next day, he decided that he wanted to scold the woman in the presence of her supervisor. He set about to discover her identity.

First, he went to Parking Services to inquire as to whether they would give the name of the person who rented a certain parking spot. He had traveled around the parking lots that morning in an attempt to locate a car fitting the description of her vehicle. As such, he was able to describe the location to the staff at Parking Services. They told him they would not release the information. Next, he went to Academic Computing Services (ACS) to ask if they could identify her. He had done some investigative work and thought he knew in which department she worked. ACS refused to assist him. Finally, he went to the Payroll Section of Financial Services to ask if he could have her exact work location and her home telephone number. This man's purpose in coming to the Harassment Resolution Office was, as a last ditch effort, to see if we would help him locate the person who had harassed him.

HRO Staff asked the man to consider the situation from the woman's perspective. He (by his own admission) had chased her down the hill at a rate of speed that was a -2 (l)68.4 54 -10 (l)68.4 54 -q 0.24a tr hi t

effect. The student became quite agitated and said, “look, this man holds my degree in his hands” When asked whether the professor had ever indicated by word or deed that her degree was in

in the negative. She said that the HRO staff member did not seem to understand that there was a power differential here. We realize that there is the perception of a power differential in situations involving students and professors. However, the mere existence of a power differential does not automatically mean that there was an actual abuse of power by the professor.

This case is a typical example of why an impartial approach to this work is not always welcomed by Complainants. This student seemed to be in search of an advocate who would take the complainant's word at face value and then accuse the professor of wrongdoing. That is not reflective of the work we do at the HRO.

3. Several students complained about the announced presence on the SFU campus of the “Genocide Awareness Project” or GAP. This U.S. based group takes anti-abortion, anti-choice literature and imagery from campus to campus throughout the United States and parts of Canada. They compare abortion to the Holocaust and many of the images they employ are graphic, violent and bloody⁹. The students who complained believed that they were being harassed by the graphic images. Also, they believed that the images were anti-female and hence, discriminatory to women and pro-choice advocates alike. The students who complained about the GAP project wanted the group banned from campus on the basis of their allegedly discriminatory message and the danger that violence could erupt (as it had only weeks before on the UBC campus, when anti and pro-choice factions clashed on campus).

This activity was held not to fall within the jurisdiction of the SFU Harassment Policy.

As a post secondary institution in which diversity of opinion is valued, the GAP project was as entitled as any other group affiliated with the SFSS to present their views. Moreover, static displays cannot constitute harassment under the SFU Policy – an inanimate object (such as the graphic displays employed by the GAP proponents) is incapable of harassing. (4 (ny) -10(-10.24 222 -4 () n /C67.76 re W n-2 (e) (r) -7(

The following is a portion of an individual's correspondence with the HRO following a consultation in which she stated that the individual with whom she was in conflict was constructing the Complainant as evil or violent. She writes:

“I did wish to mention that I was somewhat baffled by your referring to this situation [the alleged harassment] as a “personality conflict”. I am very distressed because I am being objectified as some sort of evil being who terrifies people. If I were a student with, say Tourettes Syndrome, who heard that a course instructor who was saying he didn't think I should be here because I was obviously violent, would you then feel I had a case of harassment? If I were a Jew and someone was going around saying I scared them because I ate babies for breakfast, would you then think I had a case of harassment? I do understand that the policy is limited and flawed in many aspects but I feel somewhat unsupported to have you label this situation a “personality conflict”. It is much more damaging than that and one would hope there is a way to stop [the other party] from defaming me and poisoning my work environment”.

discover that her partner of many years had moved out without notice. She went to work the next day and confided in other teachers that her partner had left the relationship. The teachers told the rest of the faculty and the relationship breakdown evolved into the main point of discussion at a meeting in which the student's work performance was also discussed. The student stated that she was depressed and had considered suicide. School personnel tried to contact her to try to get things straightened out, but the woman felt too harassed and conflicted to return the calls. She felt harassed.

Here, the behaviour described by the student did not fall within the scope of the policy. Her evaluation, while negative, had a "legitimate purpose" and therefore, even though she felt humiliated that the evaluation of her work was negative, giving negative feedback is a legitimate part of her supervisor's work. However, even if she had been experiencing harassment by school personnel, the policy would lack the requisite jurisdiction to proceed because school personnel are not a part of the University community. Therefore, the policy is without the requisite jurisdiction.

In this particular situation, the student was referred to the Student Ombuds and to the Health Counselling and Career Centre for counselling. Also, should school personnel persist in phoning her, it was recommended that she write both to them to and the to Department to inform them that she was too ill to communicate with them. It was suggested further that she might want to include a written certificate from her doctor indicating the precarious state of her health. The student had almost completed the program requirements, therefore, it was strongly suggested that she should not simply resign from the program without informing both SFU officials as well as school personnel about her illness.

Examples of Management Consultations

1. A Department Chair contacted the HRC in search of advice concerning how to respond to a man who purported to be the husband of a student. The man stated in several voicemail messages that his wife was complaining about her professor whom she described as “too demanding” “unavailable” “unsupportive” and “arrogant”. The caller alleged that the professor was acting towards his wife in an inappropriate, harassing manner. He said that his wife was frequently in tears and was thinking about dropping out of school because of “biased treatment”. However, the man refused to identify himself. He had telephoned several venues in the University seeking to place the professor’s misdeeds “on the record”.

We do not act on the basis of third party and / or anonymous complaints. In the situation described, the person transmitting the complaint to the University would not identify himself and he was a “complete third party” in that he did not so much as witness the complaint. Therefore, all the caller could supply was information that was given to him by his wife. The Department Chair in this matter was advised, in the interest of fairness and keeping in mind our obligations to adhere to the principles of due process, that he /she should do nothing to address this complaint.

2. This management consultation involved the wide distribution on campus of a sketch of two people engaging in sexual intercourse. The question posed by two SFU managers was: “Should the students who admitted to distributing this material be disciplined? Do students have the right not to be exposed to sexually explicit material? Or conversely, are students entitled to distribute sexually explicit material? Would such an image constitute sexual harassment for those who are offended by their exposure to it?”

These questions are sometimes difficult to answer. Under the SFU policy, “sexual harassment” is first of all defined as “sexual behaviour”. Just as was the case with the GAP project to which this report refers earlier, inanimate objects are incapable of behaviour. But secondly, the behaviour must

one, a strong case cannot be made for the requirement of persistence¹⁰. Moreover, calling security to obtain someone's residential phone number cannot readily be construed as "sexual behaviour", which is a requirement of the policy.

4. This management consultation involved a supervisor whose employee suffers from a mental illness (bipolar disorder). When he is in certain phases of his illness, he upsets other employees by becoming intrusive, argumentative and obnoxious. His colleagues were aware of the nature of the mental illness and they were prepared to give him a certain degree of latitude. However, frequent interruptions involving matters that were not directly related to their assigned tasks were causing them to feel harassed. For example, despite that this employee did not supervise anyone, he would go about the office asking colleagues what they were doing and why they were doing it. He would give his supervisor unsolicited advice about how to improve her performance and / or he would demand that his supervisor explain to him why certain people were assigned certain tasks that he believed should be assigned to him.

Informal Case Examples

1. This case involved allegations of personal harassment by a senior member of faculty against her Department Chair and Dean. The faculty member felt that because her research facilities had been scaled back and she felt consequent humiliation, that alone would suffice to classify the case as constituting personal harassment. Such is not the case.

For a case to be classifiable as personal harassment, the behaviour, which is directed at the Complainant by the alleged harasser, must serve “no legitimate purpose”. In this instance, the Department Chair and Dean denied the use of research facilities because the faculty member had not published in a peer review journal for many years, had not held any external research grants for the same period and had not supervised graduate students or research assistants. The faculty member maintained that her research record was no worse than others in the Department and that her supervisors were treating her in a differential manner in order to embarrass her and denigrate her in the eyes of her colleagues. Further, she believed that her teaching evaluations were biased, her teaching workload was punitive and excessive, and overall, that she was the target of a most egregious form of personal harassment. The Complainant eventually filed a formal complaint. It was rejected by the Harassment Resolution Coordinator as falling outside the jurisdiction of the policy.

Cases in which personal harassment is alleged cannot proceed, as the Harassment Policy is presently constituted, beyond section 8 of the Policy. The effect of this is that they cannot be referred for formal investigation. In this case, the Complainant was interested in formal investigation only. Mediation was thought to be an impossibility because the acrimonious nature of the relationship between her and her supervisors had been proliferating for years.

Please note, the next two case summaries contain offensive language.

2. This case raised the difficult question of jurisdiction. It involved two employees of the institution, one of whom supervised the work of the other.

The supervisor invited several of his employees to a party at his home. After consuming alcohol, the supervisor shared with the employee – a woman of colour – and other employees his opinion about African Americans and Blacks. He said, in front of witnesses, that there were two classes of Black people: those to whom he referred as “niggers” and Blacks. He went on to state that “niggers” rape and loot from one another. He said that we, in Canada, should consider ourselves fortunate not to live in an environment like Los Angeles where Black gangs are out of control. He went on to state that he did not hate Black people, but he did hate “niggers”.

The employee, a Black woman, looked at the Respondent and said, “You’re kidding...right?” The Respondent replied, “You should be ashamed of your race”. When the Complainant called the Respondent a bigot, he said he would not schedule her for more shifts because he would not allow someone who thought of him as a bigot to actually work for him. As such, the supervisor cloaked himself with the mantle of an employer.

Normally, whatever takes place in the private realm would not fall under an SFU policy. However, in this case, the supervisor made employment an issue by threatening not to continue to employ the Complainants 0 0 (1) 24 68.4 () threat.

HRO staff sent a formal letter of complaint to the Respondent detailing all of the allegations made in support of the complaint. He was asked to come to the HRO. The young man with whom he had been speaking in the kitchen of the SFU Residence accompanied the Respondent. HRO staff asked the Respondent whether he disputed anything in the letter in which the allegations were detailed. He replied that the only point he would dispute was that when he and his friend were speaking in the kitchen, they were not talking about the Complainant in particular, they were speaking about women in general. Utterly astonished, HRO staff asked the young man why he felt that by explaining this discrepancy, he would improve our view of him. He did not respond.

The Respondent's explanation for his behaviour was based on being advised by a third party that for the two-week duration of his relationship with the Complainant, she had sexual relations with other men. That, he suggested, "turned the relationship into a lie". Since the Complainant wanted an apology only, HRO staff excused her and the Respondent's friend in order to have a lengthy discussion with the Respondent about such matters as why it is inappropriate to justify one's actions on the basis of what you think someone else has done. He seemed incapable of understanding that it was irrelevant whether he found out after the fact that the Complainant was having sexual relations with many other men. That in no way would serve to justify his behaviour towards her.

Subsequent to the initial meeting, the Respondent made several attempts at writing his letter of apology to the Complainant. He was asked to submit his drafts to HRO staff before delivering it to the Complainant. He was also advised that the substance of the letter would require the approval of HRO staff before it could be given to the Complainant. Earlier attempts at letter writing provided only justification for his actions. For example, in one he said, "I called you names because I found out you slept with other guys while you were dating me". This is hardly indicative of contrition. However, by the time the Respondent arrived at a usable version of the letter of apology, it appeared that he has some understanding of personal responsibility. He said, "I allowed myself to become overrun with anger and poor judgment".

HRO staff also recommended to the Respondent that he enroll in a co

A female SFU student attended a party at which she became very intoxicated. One of the men at the party told her she could “crash” in his bed. Once undressed and in his bed, the question becomes: to what was she consenting by accepting an invitation to sleep there?

Several hours later, the woman woke up to find that she was having sexual intercourse with the man. She described herself as being “too drunk to tell him to stop”. She woke up the next morning, but she was “too drunk to leave” so she went back into the same bed with the man that she would later allege had raped her.

When she felt sober enough to leave, the woman went immediately to a local hospital to undergo a forensic examination for sexual assault. Then she reported the matter to police. However, cases like these rarely result in criminal charges because proof of sexual intercourse is not proof of sexual assault. The woman came to the HRO hoping that we could assist her in “banning” the young man from campus. She was advised that we do not take action based on allegations and we have no jurisdiction over criminal assaults that take place off campus. Because she said she could not bear to run the risk of facing the young man on campus, the Complainant left the University.

4. FORMAL FILES

A Formal file is opened when either the Harassment Resolution Coordinator has authorized mediation or the Chair of the Harassment Resolution Board authorizes a Formal Investigation. In exceptional circumstances, a decision of the Chair can be appealed to the Board sitting without the Chair. The Board can overturn the Chair’s decision.

The HRO dealt with three formal files in 2000. Two were files from previous years. One was a case in

recommend to the Complainant that she file a charge of criminal harassment with police. When she did, police advised her that the accused had had previous dealings concerning a criminal harassment matter with a police department from another jurisdiction. In that situation, the police department decided not to proceed with charges because the Respondent had entered into a written mediated agreement with the Complainant in that matter. He agreed at that time that he would not engage in similar behaviour.

HRO staff decided that, in view of the fact that this Respondent did, in fact, engage previously in similar behaviour, he was not a suitable candidate for mediation. However, he admitted all of the behaviours that formed the subject matter of the complaint, therefore, the case was selected for formal investigation. Because the investigative findings were concluded after the end of the calendar year, this case will be discussed in the 2001 Annual Report

5. EDUCATIONAL ACTIVITIES

Education is our most important resource. Our goal in providing seminars, guest lectures and in developing educational materials is to increase awareness among members of the University community about harassment and discrimination¹⁴ and in particular, how to avoid behaviours that run counter to human rights legislation.

HRO staff presented the following educational seminars during this period:

- 12 New Employee Orientation Sessions

- A presentation to Teaching Assistants

- Two half day workshops (one for faculty and the other for staff) of the Linguistics Department

- Two Business Law Guest Lectures

- One presentation at Centennial High on "Sexual Harassment in Co-op Education"

- One Guest Lecture in Womens' Studies

- One presentation at Langara College on "Sexual Harassment in Higher Education"

- One presentation to the Administrator's Meeting

- Two half-day workshops for Distance Education employees

- Two presentations to varsity sports teams

CONCLUDING COMMENTS

The year 2000 was professionally challenging and markedly different from the year before in a couple of respects. First, there was a 70% increase in management consultations, which, because of their complex nature, placed additional demands on staff. Second, Informal files increased by a slight number (from 29 files in 1999 to 35 in 2000). However, 8 of the Informal files were multi-party disputes which also placed increased demands on staff. The nature of multi-party disputes is such that they are often ones in which the conflict is deeply entrenched and long-standing, therefore, resolution is more challenging.

The HRC would like to close this report by acknowledging the work performed by the Harassment Resolution Policy Board (HRBP). In addition to the requirement that they approve this Annual Report, they also act in an Advisory capacity to the Vice President, Academic, who oversees the work of the

¹⁴ Harassment is a form of discrimination; therefore, to understand the origins of harassment it is necessary to understand its relationship to human rights legislation.

HRO. This year, their work was rendered more complex by the two formal cases in which they were

Faculty. Therefore, in the following tables “X” will be used to represent multi-party disputes. For example, 6X means six consultations took place in which there were multiple parties.

Table 1. Type One and Type Two Consultations N = 59

| | Complainant N = 59 | Respondent N = 46 + 13X |
|--------------------|--|---|
| Gender | Female = 41, Male = 18 | Female = 12, Male = 32, 13X, Unknown = 2* actual identity unknown but believed to be a member of the campus community. |
| Constituency Group | 4 APSA, 5 CUPE, 4 Polyparty 25 SFSS, 13 SFUFA, 5 TSSU, 1 Alumnus 2 Off Campus | 2 APSA, 2 CUPE, 2 POLYPARTY, 13 SFSS, 15 SFUFA, 3 TSSU, 5 Off Campus, 10X On Campus, 3X Off Campus, 4 Unknown |
| Type of Harassment | Personal Harassment 43 Sexual Harassment 14 Human Rights Based 2 | |

Table 2 . Management Consultations N = 29*

*This number represents the number of consultations. However many consultations involved multi-party disputes where there were either multiple Complainants and / or multiple Respondents.

| Type of Harassment | Number |
|-------------------------------|--------|
| Personal Harassment | 16 |
| Sexual Harassment | 10 |
| Human Rights Based Harassment | 3 |

Appendix B

Statistical Comparison of Type One and Type Two Consultations for 1999 and 2000

1999 - Total number of Type One and Type Two Consultations N = 75
2000 - Total number of Type One and Type Two Consultations N = 59

1999 - Gender of Complainant 44 Female (59%) 30 Male (40%)
2000 - Gender of Complainant 41 Female (69.5%) 18 Male(30.5%)

1999 - Gender of Respondent 28 Female, 38 Male, 9 Other*
2000 - Gender of Respondent 12 Female, 32 Male, 13X, 2 Other*

* actual identity unknown but believed to be a member of the campus community.

Constituency Group Membership - Would - Be Complainant

1999 - 7 APSA, 11 CUPE, 2 Polyparty, 32 SFSS, 16 SFUFA, 5 TSSU, 1 Alumnus,
1 Off Campus
2000 - 4 APSA, 5 CUPE, 4 Polyparty, 25 SFSS, 13 SFUFA, 5 TSSU, 1 Alumnus,
2 Off Campus

Constituency Group Membership - Would - Be Respondent

1999 -14 APSA, 5 CUPE, 2 Polyparty, 21 SFSS, 15 SFUFA, 2TSSU, 11 Non University,
2 Systemic, 3 Other
2000 -

