

member of the University community with respect to harassment or discrimination based upon the following prohibited grounds of discrimination: race, ancestry, place of origin, colour, ethnic origin, citizenship and creed. (As we noted, sex discrimination and age discrimination are dealt with elsewhere at York. To repeat, we believe that this Centre should be separate from the Sexual Harassment Education and Complaint Centre.) Secondly, the Centre should have an educational and consciousness-raising function. Thirdly, the Centre should have a research and monitoring function on matters relating to race and ethnicity.

The Centre's high profile will encourage alleged victims to come forward and lay complaints, and the Centre should take a strong proactive position in this regard. Having said this, we emphasize that we do not foresee many complaints in any given year. However, it is very important that a proper and adequate procedure be established, and be known by the University community to exist, so that those few complaints that do come forward are dealt with expeditiously and fairly, and justice is both done and seen to be done.

Given some of the power relationships that exist in a university (as for example between professors and students), the Centre should provide sufficient confidentiality and assurances of protection so that victims feel secure in pursuing their rights. The very fact of the Centre's existence will make it easier for those who have been aggrieved to seek redress while also acting as a deterrent to those who might otherwise have indulged in acts of racial harassment.

After a written complaint has been filed, and the respondent afforded an opportunity to respond in writing, an initial investigation would then be carried out to determine whether the complaint warrants further action or is frivolous, malicious or patently untrue. If the complaint is found to warrant further action, two further steps are available: mediation and then a tribunal hearing.

Mediation is an informal and non-adversarial technique of dispute resolution which in recent years has been gaining in popularity as an alternative to formal judicial proceedings. The process is voluntary. Where mediation is attempted, judicial charges are suspended pending the outcome. Mediators would be selected by the Co-ordinator of the Centre and its Advisory Committee, subject to agreement with the parties involved. The mediator meets with the parties together, and then with each party in private, to determine if there are differences in each party's public and private positions. The task of the mediator is to point out areas of agreement between the parties and discuss possible compromise solutions. In many instances, mediation offers a flexible, expeditious and efficient

alternative to a judicial hearing. The very informality and confidentiality of the mediation process allow for a speedier resolution of the problem (less preparation is involved, no need for counsel, etc.). Moreover, since compromise is emphasized rather than adversariness, reconciliation of the parties is more likely.

Judicial proceedings would be used where mediation has failed, or the dispute is too serious for mediation. Precedents over time will provide guidelines for defining serious cases. In general, when the conduct complained of has been persistent and when elements of violence, apprehended violence or misuse of academic power are apparent in the incident, the coordinator or the Centre should recommend that the parties initiate formal proceedings.

Formal charges would be heard by a three-person tribunal appointed as follows: one from a list presented by the complainant, one from a list submitted by the respondent, and the third member, the chairperson, would be appointed by the President of the University. The civil standard of proof, a balance of probabilities, would be followed by the tribunal.

Sanctions open to the tribunal would include rustication (for students), deferment of rustication on promise of good behaviour, apology, private or public reprimand, and dismissal, depending on the nature of the offence and the position of the wrongdoer.

In some cases, it may be appropriate to grant a remedy to the complainant as well as impose a penalty on the respondent, where charges are substantiated. As well, where a complaint is found to be unjustified, it may be appropriate to grant a remedy to the respondent. Possible remedies include a written or oral apology, an independent re-assessment of an essay or final grade, or a transfer out of a particular class or location. The tribunal might also order a person to cease and desist from having contact either directly or indirectly with the other person.

Appeals would be heard by the Provost. An appeal would only be allowed if the Provost finds that the tribunal had not followed the fundamental principles of justice in its procedures or that the tribunal had not interpreted or applied University policy correctly. As well, the respondent has the option of bringing an action to Divisional Court if the tribunal has not met the requirements of fairness or due process.

In the present scheme discipline is imposed on employees working under collective agreements through the "management rights" clause in these agreements. This permits the University administration to impose discipline including discharge for just cause.

Our proposal should not alter significantly this state of affairs. The proposed Tribunal would act under the same grant of

authority as the Provost currently has. The President would simply be delegating his or her disciplinary authority. An employee covered by a collective agreement who wishes to appeal a tribunal decision can invoke grievance and arbitration procedures (unless the collective agreement is amended over time to accept as final the process set forth herein).

Another important function of the Centre will be to act as an educational and consciousness-raising resource for the University. We emphasize that we view this function as the most important one for the long run. The Centre would disseminate information both as to its existence and functions as well as convey pertinent information from external sources. The Centre must take broad positive initiatives (e.g., lectures, other public functions, liaison with other groups and programs, etc.) to achieve greater understanding and tolerance among the diverse ethnic and racial groups within the University community. The Centre should also have links with organizations and communities outside of the University.

The Centre should be responsible for organizing sensitivity-training programmes for staff. In addition, it might seek to assist minority students integrate more fully into campus life.

The Centre's research function can include studies of systemic sources of discrimination in areas such as student recruitment, student services, curricular inflexibility and on the representation of minority groups as members of the faculty and support staff. One of the obvious facts on campus is the relatively few numbers of non-White faculty compared with the numbers of non-White students the University currently attracts. Non-White students are fairly consistently taught by White faculty members and the problems that result from this have to do not only with the lack of role models in authority positions but, perhaps more importantly in the University context, with the implications for curriculum and course content.

The Centre should be prominently located and contain sufficient space for operations. It should have a co-ordinator who is academically qualified and familiar with the area. The position should be full-time for the first year, with a possible reduction to two-thirds or one-half after that first year. The term of office should be two years. The search committee should consist of two members from the Committee on Race and Ethnic Relations and the Provost. The co-ordinator should be responsible to and report to the President.

The budget of the Centre should be sufficient for remuneration for the co-ordinator (or release time), a full-time secretary and additional part-time staff as required, office expenses, the sensitivity-training programmes, liaison, and research.

There should be a ten-member Advisory Committee, including representation from faculty at both campuses, at least two students, representatives from support staff, campus unions and York College Masters.

Although an audit of staff and faculty has yet to be done, impressionistic observation, as noted above, suggests that the staff, library personnel and faculty as presently constituted do not seem to adequately reflect the multiracial and multicultural nature of our changing Canadian society. Several reasons are probably responsible for this apparent imbalance, not the least of which is the institutional racism in society which has prevented the entry of non-White and other minorities in the university labour market. Further, since faculty appointments are normally evaluated with respect to a candidate's publishing and research record, minority people with their relatively more recent entry into this labour market are less able to demonstrate such merit. Moreover, given the general financial constraints in hiring new

faculty over the past decade, the problem is compounded for minority people. Thus, they are not hired and therefore do not get the opportunity to demonstrate merit. Women and racial minorities occupy more part-time teaching positions than do White males as several American studies show and such positions do not readily allow for research and publication activity. Thus, the ability to demonstrate merit as defined in University circles can remain an elusive goal for members of disadvantaged groups. However, much greater effort can be made to recruit from minority group candidates who demonstrate future potential by the completion of a Ph.D. or who show promise in other ways.

Another way in which the system apparently discriminates is by using word-of-mouth and other informal ways of disseminating knowledge about vacancies. Such information is contained within the already existing networks and tends to keep newcomers out. Despite the fact faculty positions must be advertised publicly, behind-the-scenes networking still takes place and this seems particularly to be the situation when the appointment procedure is exceedingly constrained by the economy and the consequential underfunding of the University.

At the staff level, appointments are often filled by using an internal labour market, through the transfer or promotion of current employees. As a result of this procedure, most jobs are shielded from external labour market demands and forces for change. Only a limited number of new entry positions become vacant and are thus potentially available to minorities and other disadvantaged groups, many of whom are just beginning to seek careers. Internal labour markets are cost effective for the University but re-evaluation of such techniques should be undertaken in order to make the University more responsive, as well as more representative, of changing social circumstances.

Accordingly,

THE COMMITTEE RECOMMENDS TO THE UNIVERSITY THAT ALL HIRING, RECRUITMENT, AND PROMOTION POLICIES FOR FACULTY, STAFF, LIBRARY AND SERVICE PERSONNEL BE REVIEWED FOR POSSIBLE SOURCES OF SYSTEMIC DISCRIMINATION AGAINST MEMBERS OF RACIAL AND ETHNIC MINORITIES.

The Committee does not recommend the establishment of a formal employment equity or affirmative action program at this time, but suggests that they be considered upon the recommended review and personnel audit being completed. The results of this review and audit should then be examined by the staff of the newly created Centre for Race and Ethnic Relations. In the event that a lack of representativeness among employees of the University is indicated, the Centre in consultation with relevant administrators, including the President of the University, might develop an employment equity scheme suitable for the University.

The Committee was concerned by the traditional perception of the University as isolated from the mainstream of society. While the University has made notable strides in the area of community outreach, much more remains to be done. In particular, the Committee feels that greater liaison with ethnocultural communities and use of the ethnic press would be advantageous. In this context:

THE COMMITTEE RECOMMENDS TO THE UNIVERSITY THAT MORE EFFECTIVE OUTREACH PROGRAMS BE DESIGNED TO FOSTER RELATIONS BETWEEN IT AND THE LARGE NUMBER OF ETHNO-CULTURAL AND ADVOCACY GROUPS WHICH HAVE BEEN FORMED IN METROPOLITAN TORONTO, SO THAT THE UNIVERSITY CAN BETTER SERVE THE NEEDS OF THE CHANGING POPULATION OF THE CITY.

"Whereas recognition of the inherent dignity and the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world and is in accord with the Universal Declaration of Human Rights as proclaimed by the United Nations;

And Whereas it is public policy in Ontario to recognize the dignity and worth of every person and to provide for equal rights and opportunities without discrimination that is contrary to law, and having as its aim the creation of a climate of understanding and mutual respect for the dignity and worth of each person so that each person feels a part of the community and able to contribute fully to the development and well-being of the community and the Province;"

preamble, Ontario Human Rights Code, 1981

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"15. Equality Rights

(1) Every individual is equal before and under the law and has the right to equal protection and equal benefit of the law without discrimination and, in particular, without discrimination based on race, national or ethnic origin, colour, religion, sex, age or mental or physical disability.

(2) Subsection (1) does not preclude any law, program or activity that has as its object the amelioration of conditions of disadvantaged individuals or groups including those that are disadvantaged because of race, national or ethnic origin, colour, religion, sex, age or mental or physical disability."

Canadian Charter of Rights and Freedoms