THE 1999 ANNUAL REPORT

THE SIMON FRASER UNIVERSITY HARASSMENT RESOLUTION OFFICE

1. INTRODUCTION

This report covers the 1999 calendar year. It is the second report presented under the revised SFU Harassment Resolution Policy\(^1\).

This calendar year was a near mirror image of the previous one in that we dealt with approximately the same number of cases\(^2\) with approximately similar results. There were a few differences noted which will be discussed in later sections of this report.

The operational objectives of the Harassment Resolution Policy are:

- the implementation of a policy which responds to the University’s obligations under the *British Columbia Human Rights Code* 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.

The 1998 Annual Report offered detailed descriptions with regard to the changes in policy and practice which resulted from the implementation of the new policy. Readers who wish to have in-depth procedural descriptions, along with comparisons of the former policy to the current one, may refer to the 1998 report. The 1999 report does not go into the same level of procedural detail as did the previous report.

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\(^1\) The policy can be accessed on the SFU web site at www.sfu.ca/harassment-policy-office/ or by calling 291-4446 or 291-3015 or by visiting the office at Academic Quadrangle (AQ) 3045. Should any part of this annual report differ from the policy, the latter shall prevail.

\(^2\) In 1998, we dealt with 124 cases consisting of 92 Consultations, 30 Informal files and 2 Formal files, whereas in 1999 we dealt with 122 cases consisting of 92 Consultations, 29 Informal files and 1 Formal file.
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 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 community\(^3\)?
- Is the behaviour persistent or is it classifiable as \textit{quid pro quo}\(^4\) harassment?
- Is there evidence that the behaviour was unwelcome by the Complainant? Did the Respondent know or ought he / she reasonably to have known that the behaviour was unwelcome?
- Would the behaviour, if true, constitute a violation of the policy?

For the impugned behaviour to fall within the jurisdiction of the policy, all of the foregoing conditions must be met. Frequently, one or more of these conditions are not met. For instance, if the person against whom the complaint is made is not a member of the University community, the complaint would be without the requisite jurisdiction to proceed. In such cases, however, staff would assist the individual by giving advice and referring the matter to a proper resource, such as police, a counselor or the human rights commission. Subsequent sections of this report will offer more detail about how staff deal with cases in which the policy is without the requisite jurisdiction.

\(^3\) Members of the campus community are represented by six constituency groups. They are the Administrative and Professional Staff Association (APSA), the Canadian Union of Public Employees Local 3338 (CUPE), POLYPARTY (a master collective agreement which applies to all of the on-campus trades), Simon Fraser Student Society (SFSS), the Simon Fraser University Faculty Association (SFUFA) and the Teaching Support Staff Union (TSSU). Senior non-academic managers, staff excluded from union or association membership because they deal routinely with confidential labour relations material and administrators are “Excluded Employees” who are not represented by an association. However, they do constitute a seventh constituency on campus.

\(^4\) This type of harassment requires that the person engaging in the harassing behaviour informs or implies to the target that agreeing to sexual behaviour may result in something positive (like a promotion or a better grade), but refusing it may have negative connotations.
Relative to the processing of complaints, the staff function is limited to the fulfillment of the following roles:

- providing assistance / advice to people who believe that they are the targets of harassment and who wish to deal with the matter on their own;
- conducting Management Consultations with supervisors who are dealing with allegations of harassment within their respective departments;
- rejecting complaints which fall outside the jurisdiction of the policy;
- providing mediation services to the parties or selecting and appointing an experienced mediator;
- referring matters for Formal investigation;
- providing educational opportunities (seminars and guest lectures and developing written material) for students, faculty and staff.

The Harassment Resolution Office becomes, upon completion of a Formal investigation or an external mediation, the “office of record” (as repository) for all documents generated under the policy in a specific case.

2.2 Types of Harassment

Three types of harassment fall under the policy. They are:

(i) **Harassment Based on a Prohibited Ground of Discrimination** defined as behaviour directed towards a person which is abusive or demeaning, is based on a ground of discrimination enumerated in the *British Columbia Human Rights Code* and which would be viewed by a reasonable person as interfering with a University-related activity.

(ii) **Sexual Harassment** defined as sexual behaviour by a person who knows or ought reasonably to know that the behaviour is unwelcome and which either interferes with another person’s participation in a University-related activity or which leads to or implies employment or academic consequences for the person at whom it is aimed.

(iii) **Personal Harassment** defined as behaviour directed at an individual which serves no legitimate purpose and which would create an intimidating, humiliating or hostile work or learning environment.

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5 Faculty and staff are both employees of SFU. Where the term “employee” is used in this report, it refers to both faculty and staff.
2.3 The Harassment Resolution Policy Board

This seven person body consists of a Chair who is appointed following the recommendation of a search committee, two faculty members (appointed to three-year terms), two staff members (each of whom serves a three year term) and two students (each of whom serves a one year term). The Board provides policy advice to the Vice President, Academic, who has the ultimate authority for the administration of the Harassment Policy. It also performs other functions, such as the authorization of Formal investigations and hearing appeals if and when the Board Chair has refused to authorize one.

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 *quid pro quo*)
- unwelcome
- non-consensual
- demeaning

HRO staff also offer service to students and employees who allege that they are being stalked and / or harassed by someone who is not a member of the University community. In these cases, we are able to act as advocates, which is the only time the cloak of impartiality is dropped. The Reader may refer to pages 9 to 11 under the heading Type Two Consultations for examples of cases where we offer service to members of the University community but the policy is without the requisite jurisdiction.

3.1 The Cases

Over the 12-month period covered by this report, the office dealt with 122 cases of alleged harassment. The majority of the cases (92) were Consultations, 29 were “Informal cases” and there was one Formal case. (The designations “Consultation” “Informal” and “Formal” will be defined in the next section of the report.)

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6 In 1998, the office handled 90 Consultations and 30 Informal files and 2 Formal files.
3.2 The Consultation Process

Consultations do not involve direct intervention in a case on the part of Harassment Resolution Office Staff. There are three categories or types of Consultations: those which fall under the jurisdiction of the policy (Type One), those in which the policy has no jurisdiction (Type Two) and Management Consultations (Type Three).

A case is given a Type One Individual Consultation designation when the person who approaches the office to seek advice because they believe they are the target of harassment and the person who is alleged to be engaging in the harassing behaviour are both members of the University community.

A case is given the designation Type Two Individual Consultation when the person seeking advice from the office is a member of the University community but the person alleged to be engaging in the harassing behaviour is outside the jurisdiction of the Harassment Resolution Policy.

A Management Consultation (Type Three) occurs when a University manager or supervisor seeks advice on how to manage and resolve alleged harassment that is occurring in their department or area.

In terms of the time it takes to complete a Consultation, there is no typical case. The shortest time a Consultation could take might be one single meeting with the Complainant (or manager / supervisor in the case of a Type Three Consultation) of less that 60 minutes, whereas another case might involve several meetings / telephone calls with the individual, each lasting several hours.

If HRO staff intervenes in the resolution of a case, (such as Informal 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 alleged is recorded on a standard Consultation form. The name and other identifying information regarding the would-be Respondent is not required to be disclosed or recorded. The reason for this is twofold. Individuals seeking a Consultation are primarily seeking advice on how to handle the situation themselves. The situations tend to be at the lower (less serious) end of the spectrum of harassing behaviour and as such, the individual feels they can, with some advice from HRO staff, handle the situation without the intervention of the employer or an agent of the employer (such as HRO staff).
3.3 Consultation Data

In the 1999 calendar year, the office conducted 92 Consultations as follows:

- 64 Type One Consultations in which the would-be Respondent was a member of the University community;
- 11 Type Two Consultations in which the policy did not have the requisite jurisdiction because the would-be Respondent was not a member of the University community;
- 17 Type Three Management Consultations.

3.4 Type One Individual Consultations With Jurisdiction (64)

**Would-be Complainant Data**

- 29 male, 35 female
- 7 APSA, 10 CUPE, 2 Polyparty, 25 SFSS, 15 SFUFA, 5 TSSU
- Type of harassment alleged: 40 personal harassment, 20 sexual harassment, 4 other human rights based harassment

**Would-be Respondent Data**

- 32 male, 27 female, 3 cases in which either the gender was not known\(^7\) or there were multiple Respondents of both genders and 2 cases of alleged systemic discrimination / harassment.
- 14 APSA, 5 CUPE, 2 Polyparty, 21 SFSS, 15 SFUFA, 2 Systemic, 2 TSSU
- 3 Unknown

**Examples\(^8\) of Type One Consultations:**

1. Over a two-day period, four different male faculty members sought advice from HRO staff regarding persistent, unwelcome attention from female students. In two cases, the students were sending personal Email to their professors. These messages contained the details of difficult emotional issues the students were dealing with in their personal lives. For example, one student talked about problems she was having with her husband, and the other discussed difficulties she was experiencing with her father. All of the professors expressed a certain discomfort about the level of personal information that was

\(^7\) An example of a case in which the gender would not be known would be persistent, sexually-oriented or threatening Email or other written messages from an unidentified source who claims to be part of the University community (i.e., “I see you in class every day.......”).

\(^8\) Please note that anywhere case examples are used, personal information that may tend to identify either of the parties may have been altered to protect their privacy.
being revealed, and all professors suggested to the students that Health and Counselling would be a more appropriate venue in which to discuss personal information. However, it was evident that none of the professors was clear enough about setting firm limits about the amount and nature of contact he was prepared to accept. All of them expressed the wish that they did not want to hurt the student’s feelings. In one case, the student brought food to her professor (he declined) and in another case, the student would turn up at the noon hour, asking her professor to join her for lunch.

In all cases, because the professors were under the impression that the students were soliciting their affection, the advice given by HRO staff was identical: it was incumbent upon the professors to inform the students, in a firm, clear and precise manner about where the interpersonal barriers were to be placed. It was suggested that they communicate this in writing to avoid either ambiguity or misunderstanding. With the assistance of HRO staff, two of the faculty members wrote and sent the letters, while in the third case, this advice was not taken.

In the fourth case, the unwanted contact escalated when the student began to target the professor’s family by driving past and watching his house, and by making repeated threats to, “tell [your] wife”. Because the behaviour appeared to have the hallmarks of criminal harassment (stalking), staff recommended that he refer the matter to police and take additional safety precautions for himself and his family. (The police do not accept third-party complaints; therefore, there was nothing office staff could do on the professor’s behalf.) The behaviour described by the professor would also, if true, have constituted a policy violation. However, the professor did not want to lay an official complaint.

We heard nothing more from three of these cases, but in the matter that is described in the paragraph above, the professor contacted the office one month after the initial contact to report that the behaviour had continued. However, all we could do was to advise him as we had previously - to take the matter to the police. This office has no mandate to act on behalf of Complainants. We are not aware of whether or how the case concluded.

2. This Consultation involved allegations made by a female student against a Teaching Assistant (TA). The student claimed that a series of family problems caused her to seek a deferral in one of her courses. The TA advised her that the deferral had been approved and, in keeping with academic requirements that the deferral would change into a letter grade by the fifth day of the subsequent semester, he asked her to return to his office by a certain date when he would instruct her about the type of work she would need to do to complete the course work. She returned 59 days later than he asked, according to her, because there were additional (but unspecified) family problems. The TA informed her that she had returned far too late to “activate” the deferral, informing her that she had received an “F” in the course (a fact of which she ought to have been aware, absent the advice from the TA).
The student alleged that during the meeting, the TA, “stared at my breasts”. She was asked whether she said anything to the TA during this encounter and indicated that she had not. She was asked whether this was a single episode or whether there were other examples of what she would term as sexually-explicit or sexually-oriented behaviour. The student indicated that it was a single episode.

For behaviour to constitute sexual harassment, it must be persistent. In law and under the policy, a single episode of unwelcome, sexually-oriented behaviour will meet the test of harassment only if it is classifiable as *quid pro quo* harassment, which was not alleged here. However, there were additional problems with proof in this case. To proceed on a case of sexual harassment against a Respondent, there must be a reasonable basis on which to proceed. In other words, there must be some evidence for the “trier of fact” to consider. It is sometimes difficult to prove, on a balance of probabilities, where a given person was, let alone where his / her eyes were cast.

When the student was informed that a single episode would not meet the legal or policy test of harassment, she immediately said that the Respondent had, on one prior occasion, asked her in what province she was born. She was told that there was nothing inherently sexual about that question.

When HRO staff deal with these types of cases, we draw into the analysis all of the factors that may be relevant. Here, we may have had a student who was in dire academic straits and who may have been looking for a way out by alleging sexual harassment. In this particular case, once the student was informed that a one-time event would not suffice, she began to “remember” other circumstances.

The practice in the Harassment Office is to obtain all of the case history before letting the would-be Complainant know whether the impugned behaviour would fall under the policy. This student was asked on five occasions after she gave her verbal account whether she had anything else to add. When she was advised that what she described would not meet the test under the SFU policy, she began to add other circumstances. Staff eventually assessed her claim as not credible.

3. This case involved a student Complainant who alleged personal harassment against his professor who advised the student to re-take the course from another professor. Evidently, the professor told the student that he was not applying himself to his studies and that further interaction with him would likely amount to a waste of the professor’s effort. The student felt offended and humiliated. He was also very displeased with the mark he received.

This student was told that the nature of this dispute was academic (i.e., a grade appeal). While HRO staff could understand why the student would feel a sense of rejection and humiliation about the fact that the professor did not wish to continue to deal with him, the professor had not refused to accept him in the class, he had merely voiced a strong
suggestion that if the student wanted to be taken seriously, his work habits would need to change.

In this case, personal harassment was alleged. However, the test for personal harassment requires that there be “no legitimate purpose” served by the communication or the behaviour. A very legitimate purpose is served when a professor gives performance feedback to a student. Therefore, the test was not met in this case.

3.5 Type Two Individual Consultations (no jurisdiction) 11 in total

Would- Be Complainant Data

- 9 female, 2 male,

- 1 CUPE, 7 SFSS, 1 SFUFA, 1 Alumnus, 1 third party

- 3 personal harassment, 7 sexual harassment, 1 other human rights based harassment

Examples of Type Two Consultations

1. A female student came to the office to discuss problems she was experiencing with regard to a long-term relationship she had been in which had ended four years prior. For a two year period after the relationship ended, the former boyfriend had made several attempts to contact the student, her family and her friends. The man phoned her (both in her home province in Atlantic Canada, as well as here in B.C.) many times, and on one occasion when the student was visiting her family, the man appeared at a pub where the student was present and he followed her home. The student advised him many times that she did not wish to be in communication with him and had no interest in reestablishing a romantic or other relationship. Nevertheless, the man persisted.

The matter had taken on more of an urgent tone because when the student sought advice from HRO staff, she was concerned about her up-coming marriage. The student was returning to her home town - where this man resided - to be married. He threatened to disrupt the wedding.

HRO staff advised the student that she should report the matter to the police in the jurisdiction in which the wedding was to take place. Also, she was advised to tell her family and friends not to share any information with this man with regard to any of the plans in relation to the wedding, such as when she would be returning to her home town, where the wedding or reception was taking place or where they were going on their honeymoon. In classic stalking cases like this, it is often the case that the most dangerous time for the target is when it is clear that he / she is out of the relationship for good.
Therefore, staff cautioned this student that she should take the situation seriously by asking people at the wedding to keep a careful watch for this man and if seen in the vicinity, to phone the police immediately. So far as we are aware, the wedding took place without incident.

2. A second case of alleged sexual harassment in this category of cases actually pertained to alleged sexual assault. A female student came to the office to report that she had met a young man at an off-campus pub. They had a few drinks and returned to her apartment where the student claimed she had unwanted sexual intercourse. The student indicated that she said no to sexual intercourse but the young man paid no attention to her wishes. The student said that after the young man persisted despite the fact that she said no, she decided to “give in” to avoid physical harm. However, no threats had been made. The alleged assault had taken place two days before the student came into the office. She had not reported it to the police. The student had attended a clinic to obtain a test for AIDS and sexually-transmitted diseases, but she had not made sexual assault allegations to the medical staff there.

These are very difficult cases. It is distressing to report that we get at least two to three of these cases each year. An invitation to a student’s apartment is by no means an invitation to sexual activity. However, it is our experience that the combination of three factors - a new acquaintance, alcohol and privacy (a car, apartment or room) can lead to dangerous situations for young women. When HRO staff offer guest lectures to students, we make a point of discussing personal responsibility for safety. Sometimes this is interpreted as “victim blaming”. It is no more victim blaming than is asking people to fasten a seat belt when driving a car. It is responding appropriately to known risk.

Part of our education package for 2000 is to include interactive material on our web page which educates the SFU student population about the risk of acquaintance sexual assault.

With regard to this case, the student was referred to counselling and to WAVAW (Women Against Violence Against Women). She was told that she could report the matter to police and during her visit to the Harassment Resolution Office, she made an appointment to report it. There was nothing more that Harassment Resolution Office staff could offer this student as both the behaviour as well as the Respondent fell outside the jurisdiction of the policy.

3. This was a rather unusual case involving a female student who lived in a downstairs suite in a house that belonged to a female SFU professor. The student reported that the professor was harassing her by waiting until she went to bed and then “deliberately” making lots of noise which kept the student from sleeping. The student viewed the noise-making as purposefully annoying in that the professor would, according to the student, move furniture, walk around and otherwise disrupt her sleep.

The SFU Harassment Policy did not have jurisdiction in this case because:
1. This was not a University-related activity. The relationship between the parties was that of a landlord/tenant. The fact that both of the parties had a connection to SFU would not bring the impugned behaviour within the scope of the policy.

2. On the face of this complaint, there was nothing to suggest that the behaviour was directed at the student (as required by the policy), nor was the situation suggestive of an intimidating, humiliating or hostile learning environment for the student.

The student was advised to discuss the situation with the landlord to determine how to remedy the situation.

3.6 Type Three Management Consultations

The office handled 17 Type Three Management Consultations in 1999, 10 of which involved allegations of personal harassment, 6 involved allegations of sexual harassment and the remaining case concerned allegations pertaining to racist displays. In the 1998 calendar year, all of the 8 personal harassment cases falling under “Management Consultations” involved long-standing disputes among long-term employees of the University. The 1999 Management Consultations were quite different from the previous calendar year.

For instance, in three cases, advice was sought by union representatives on behalf of members of the bargaining unit who were alleged to be experiencing harassing behaviour. In another case, a Vancouver psychologist who was counselling a University employee wanted guidance about how to help his patient understand the policy. He inquired about what would constitute proscribed behaviour and sought advice about how his patient might respond more appropriately to the alleged harasser in future.

Of the remaining Management Consultations, three involved cases in which SFU students sought to interfere with hiring, promotion or employment conditions of 9 current or prospective faculty members whom they claimed either harassed them or someone else in a time long past. In all three cases, the managers who brought the cases to the office for advice were told that in this University, we do nothing on the basis of rumour and innuendo and therefore, the historical allegations would have no bearing on current employment practices. However, the students were invited to bring forward an official complaint, if they wished to do so. No complaints materialized.

3.7 Informal Files: The Process

An Informal file is one in which the office staff has extensive direct involvement, but the case does not evolve into one in which either a Formal investigation or mediation is
commenced. For most of these files, the time spent in assisted dispute resolution or mediation, meetings, the preparation of correspondence and other administrative duties would normally exceed 40 hours per file.

Twenty-nine Informal files were opened in 1999\(^9\). The following table provides an overview of their disposition:

- 8 files are on-going; (The remaining 21 cases are closed.)
- 3 files were terminated by the Complainant;
- 3 files were rejected by the Harassment Resolution Coordinator; 1 because it was outside the jurisdiction of the policy, 1 because it was found to be malicious and 1 because it was out of time; (no appeals were initiated)
- 3 files were terminated when the Complainants resigned their employment at SFU; (one individual took early retirement)
- 2 files were closed as completed, but in one, a subsequent counterclaim was filed and the case could be on-going;
- 1 case declined mediation;
- 2 cases resulted in the implementation of departmental changes negotiated by HRO staff;
- 2 Complainants abandoned their complaints and went on “stress leave”;
- 2 cases were referred to police; charges were laid in 1 case and a criminal trial is pending and in the second case, police advised the suspect that any further attempts, whether direct or indirect, to contact the Complainant would result in the laying of charges for criminal harassment;
- in 3 cases, conditions were imposed on the Respondent by Harassment Resolution Office staff. Conditions may include that the individual will nor contact the other party, that he / she will keep away from certain areas of the campus at certain times or that all communication will cease forthwith.

The following provides information about these cases. The reader may also refer to Table 1 in Appendix “A”.

**Complainant Data**

- 23 female\(^10\), 9 male
- 5 APSA, 4 CUPE, 2 Polyparty, 18 SFSS, 3 SFUFA
- 17 sexual harassment, 13 personal harassment.

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\(^9\) Thirty cases were opened in 1998.

\(^{10}\) The numbers appear incorrect because of multiple Complainants / Respondents. For instance, one complaint involved three females who filed a complaint against a single male Respondent.
Respondent Data

- 32 female, 14 male\textsuperscript{11}

- 6 APSA, 1 Excluded Administrator, 3 CUPE, 1 Polyparty, 10 SFSS, 20 SFUFA 1 other (off campus criminal complaint).

Informal Case Examples

1. This case involved a foreign student who lives in residence at SFU. The student became acquainted with an elderly female resident of Vancouver following the student’s move to B.C. from Mainland China to study. The elderly female came to believe that the SFU student was having an affair with her son-in-law. She made numerous phone calls to the SFU student admonishing her that the affair should cease forthwith because family honour was at stake.

The elderly female visited the student’s residence on campus on at least three occasions and was removed twice by SFU Security, who eventually issued her with a “No Trespass Order”\textsuperscript{12} which she failed to obey. The SFU student tape-recorded threatening messages which the elderly woman placed on the student’s voice messaging system and she also had copies of threatening notes delivered to her apartment on campus. In one of the notes, the elderly female stated that if the student were her daughter, she would kill her. The overriding message in the elderly woman’s lament was that the student was ruining her family honour and eliminating the student would restore it.

In this case, all of the elements of criminal harassment, contrary to section 264. (1) of the Canadian Criminal Code were present. HRO staff accompanied the student to the Burnaby Detachment of the RCMP where a statement was given. As of the writing of this report, the elderly female was placed under arrest, she was ordered not to be present anywhere on SFU property and she will be arraigned later in January 2000. The SFU policy could not have assisted the student in this matter because it would have no jurisdiction over the Vancouver resident. But more importantly, this situation involved serious issues of personal safety which only the police can address.

This is an example of a case in which HRO staff act in an advocacy capacity. In this case, the advocacy took the form of taking the student’s statement, advising her about Canadian criminal procedure, accompanying her to the police station, completing the “Victim Impact Statement” on her behalf and acting as a liaison with Police and Crown Counsel officials.

\textsuperscript{11} See the above footnote. In the case of Respondents, one female student named five professors and one graduate student as Respondents in a case that was rejected. In another case, another female student named three professors as Respondents in a case that was also rejected.

\textsuperscript{12} Pursuant to the Trespass Act of BC, a property owner can issue this order which places an individual on notice that they will be considered to be trespassing if they return to the property.
This case remains open. HRO staff continue to monitor this situation.

2. This case involved two male staff members who had worked together in the same location for several years. The two did not get along well but they happened to know the access code for each other’s Email account.

The Complainant in this matter believed that the Respondent was gossiping behind his back, so to determine if this was the case, the Complainant accessed his colleague’s Email. There, he found numerous messages between the Respondent and others in which unflattering references were made about the Complainant. The Complainant then downloaded these messages and brought them to the Harassment Resolution Office as “proof” of harassment. He felt that the exchange of messages would constitute a violation of the Harassment Policy because they were repetitious, humiliating (to the Complainant) and served no legitimate purpose, as the policy requires. What the Complainant failed to consider, however, was that the commentary was not directed at him - an essential element of personal harassment under the SFU policy. But also, the Complainant appeared to be in breach of SFU Policy GP 24 entitled “Fair Use of Information Resources” which reads in part:

“Any member of the University Community who, without authorization, accesses [or] uses ........ the University information technologies .... has engaged in unethical and unacceptable conduct.”

The Complainant was given a copy of the above-referred SFU policy. The Harassment Resolution Coordinator dismissed this case on the grounds that it lay outside the jurisdiction of the policy.

3. This case involved a female student who made six allegations of sexual harassment against five male faculty members and one alumnus of SFU. The original allegations were brought several years ago but the Complainant did not wish to proceed at that time with a Formal investigation. The allegations resurfaced again in 1999 because the student went to two different professors in two different Departments asking for certain concessions because she had been sexually harassed by individuals who continued to be SFU faculty members. Rather than granting the concessions on the basis of untested allegations, both of the professors asked for advice from Harassment Office personnel.

In both cases, it was affirmed that we take no action in this University on the basis of allegations alone. If the student wished to lay a Formal complaint, consideration could be given to lifting the 12 month time limitation period which would allow the processing of complaints that were now four to five years old. However, if the student did not wish to have the matter investigated, it would be improper for University officials to act as if we believed the allegations to be true.

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13 Email correspondence is directed between the communicating parties, it is not directed at one to whom it is not addressed.
This case also raised an important issue with regard to record retention and disposal. The student in this matter took the position that the Harassment Resolution Office should not have retained records of old complaints. The fact that we did retain them allowed us to review what the student said at the time the original complaints were brought and compare it with what she was saying today. Also, we were able to determine that the student was cautioned, at the time in which she made the original complaint, that the time limitation period was running out.

For Informal files, the Harassment Resolution Office retains records for the current year\(^\text{14}\) plus two additional years in this office, plus three additional years in inactive status in the SFU Archives. However, a re-opened case (such as this one) would be treated as a new case for retention and disposal purposes because the old file information would be transferred to the new file.

As of this writing, this case remains open. It will be “closed” or when a twelve month period of inactivity has elapsed. The student did not apply to have the cases re-opened for investigation.

4. This case pertains to what some might consider to be a typical case of sexual harassment in higher education. While cases involving older male professors propositioning young female students still occur, both the 1998 and the 1999 Annual Reports of the SFU Harassment Resolution Office will confirm the fact that such cases are not the majority.

This case involved a female undergraduate student who complained about what she perceived as “over familiarity” by her male professor, who had been her teacher for only seven weeks. During a meeting held during office hours, the professor was reported to have opened the conversation by telling the student that she was “very bright” and should consider graduate school. The student said that she was perplexed by this because it was early in the term and the professor had not yet evaluated her work. He was said to have revealed to her that the night before he became intoxicated and was glad he, “didn’t wake up in the wrong bed”. During the next class, he gave her material about an out-of-town conference and at the end of the class in which he gave her the material, he offered to pay for her airfare and accommodations.

The student came to the office in search of options; however, one option she declined was bringing a Formal complaint\(^\text{15}\). HRO staff recommended that she write a letter to her professor in which she would share her feelings of discomfort with him. She wrote, \textit{inter alia}:

“I felt uncomfortable when you singled me out in class in front of my peers by giving me documents that pertained to the conference ... I felt I had to explain myself when asked by other students about special handouts... It may be true that your intentions were entirely honourable and above-board. Unfortunately, this is not how I see it.”

\(^{14}\) “Current Year” is defined as the twelve-month period following the last activity on the file.
\(^{15}\) The behaviour described here would fall under the policy.
The professor eventually sent the student an Email message in which he acknowledged receipt of the letter. He withdrew (in writing) his offer to pay the student’s accommodations and airfare.

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.

Exceptional circumstances arose this year in that a decision of the Chair Pro Tem was overturned by the Board and a case that was filed with the Harassment Resolution Office in July 1996 is currently under Formal external investigation.

In this particular case, the Complainant made application under s. 9.2 of the current policy to have the 12 month time bar lifted which would allow the matter to proceed to external investigation. The Chair ProTem considered the matter under the relevant section and issued a written decision denying the application. The Complainant appealed to the Board (which sat without the Chair and the Chair Pro Tem) and the decision was overturned. As of the writing of this Annual Report, the case is under investigation by a lawyer who is external to and independent from this University. HRO staff have no involvement with this case until it is concluded and at that time, only to act as repository, as “office of record” for the documents generated by the investigation.

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 discrimination 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 information sessions

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16 The implication of this decision was that the case would not go forward.
17 Harassment is a form of discrimination; therefore, to understand the origins of harassment it is necessary to understand its relationship to human rights legislation.
• one seminar for library managers
• a Student Services Fair (January)
• two seminars for Harassment Resolution Advisors
• one seminar for APSA “Lunch & Learn”
• a presentation to the “Units In Distress” Working Group
• “New Student Recruitment Fair” (May)
• guest lecture, Business Law Class
• presentation during New Athlete Orientation
• seminar, Mathematics & Statistics Department
• seminar, English Department
• guest lecture, Centennial High School, Coquitlam
• presentation to SFUFA Fall General Meeting on *Mahmoodi v. UBC & Dutton*
• presentation, Chairs and Directors Meeting
• two seminars for Library Staff
• guest lecture, General Studies Class
• workshop for summer camp employees
• workshop for Grad Students in Economics

The following written resources materials\textsuperscript{18} were developed in 1999:

- a brochure for Chairs and Directors
- a “Student Guide to SFU’s Harassment Policy”
- materials for a 2.5 hour seminar entitled “How to Avoid Discrimination and Harassment Allegations in the Academy”
- standardized intake and Consultation forms

**CONCLUDING COMMENTS**

We dealt with approximately the same number of cases in both calendar years with approximately similar results in that no complaint commenced within the calendar year proceeded to Formal investigation or external mediation in either 1998 or 1999. There is no question that dealing with harassment issues continues to carry a stigma on this campus. On this campus as elsewhere, harassment issues are very difficult and having a policy does not resolve everything. For example, it is perhaps noteworthy that in the 1999 calendar year, three University employees who came to the Harassment Resolution Office with complaints about personal harassment resigned their employment. It would be inappropriate to draw any definitive conclusions from this fact, however, the cost to these three employees was obviously great because only one qualified for retirement benefits. In that particular case, it was very sad to witness the departure of an individual who had invested over 25 years of her life’s work leaving on such a negative note.

It is also perhaps noteworthy that three of the 1999 cases involved students who attempted to interfere with the hiring, promotion or employment conditions of current faculty by bringing forward old complaints that had never actually been investigated.

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\textsuperscript{18} Written resource materials are available on our web page as well as in hard copy.
when they allegedly occurred. In all three cases, the students were invited to bring forward official complaints, but none materialized. The University does not act against any employee or student on the basis of rumour and innuendo. Therefore, no actions were initiated as a result of receiving the information.

As to statistical comparisons, in 1998, 76% (or 54 out of 71) of the people who sought consultative advice from the office were female. In 1999, 75 people sought consultative advice. Forty-four approximately 60% were female and 30 or 40% were male. This statistic would tend to support the notion that men may be feeling more comfortable using the services provided in the office. The reader may refer to Appendix B for a statistical breakdown for both calendar years. There, you will note that the number of Consultations for CUPE and SFUFA doubled in 1999.\textsuperscript{19} Otherwise, the 1999 calendar year mirrored 1998 in most other respects.

1999 was a productive, stable year in which the office continued to build trust with the University community. We believe we began to gain a reputation for impartiality and fairness. But as reported last year, there are still people who would prefer us to adopt an advocacy role for Complainants. We are aware there will always be people whose needs we do not serve because we consistently operate within the strictures of the policy. To build credibility within the University community, we must, and will continue to do just that.

The Coordinator was invited this year to speak about a recent decision of the B.C. Human Rights Tribunal in Mahmoodi v. UBC and Dutton, a case in which a University professor was found to have violated the B.C. Human Rights Code by creating a sexualized environment in his own home. The Harassment Resolution Coordinator took the position that the case was wrongly decided because the test of “unwelcomeness”\textsuperscript{20} was not met.

The Coordinator addressed the Association’s Fall General meeting and also wrote an article for the SFUFA Newsletter. From the feedback received from several sources, faculty members were pleased that a position which does not always favour the Complainant was adopted and promoted. Moreover, this case provided an excellent and timely educational opportunity.

We wish to conclude this Annual Report with a request which we issue hereby to the community in general. We are available and will go anywhere, anytime to offer guest lectures and seminars on human rights, harassment and related topics. Please feel free to call on us anytime and we will do our utmost to provide material that suits your particular audience.

\textsuperscript{19} In 1998, we conducted 5 CUPE and 7 SFUFA Consultations, in 1999, the numbers were 11 CUPE and 16 SFUFA.

\textsuperscript{20} For behaviour to be classifiable as sexual harassment, it must be unwelcome such that the person performing the behaviour either knows or ought reasonably to know that such is the case. The findings in \textit{Dutton} revealed that the Complainant agreed to exchange “friendship” for admission to graduate school. Therefore, it is not possible to construe the behaviour as unwelcome when, according to the case, it was offered, albeit for apparently improper purposes.
We welcome inquiries and comments from all members of the University community. Our Annual Report for 2000 will be available by March 31, 2001.

Thank you to all who have supported the work of the Harassment Resolution Office.

Brenda E. Taylor
Harassment Resolution Coordinator

Approved by:

Dr. Malgorzata Dubiel
Chair, Harassment Resolution Policy Board