STRATEGIES FOR INSTRUCTOR PROTECTION FROM FALSE AND FRIVOLOUS HUMAN RIGHTS COMPLAINTS

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Abstract – False or frivolous human rights complaints against instructors, by students unsatisfied with their grades, have become a growing problem in some universities. These complaints and associated lengthy investigations are a form of mobbing that is harmful to instructors' health and wellbeing. This in turn is harmful to instructors' families, professional relationships, the pedagogical environment and the instructors' careers. This paper reports on a brainstorming exercise used to identify possible ideas for preventing such false claims of human rights violations. This work operates under the assumption that the institution is unwilling or unable to improve their complaint management process. The authors identified 12 viable ideas that might help reduce the probability of a student making false accusations when unsatisfied with their grades. These ideas could be clustered as "Acquiesce", "Shift Blame", "Interaction Monitoring", and "Separation". All ideas had problem associated with them. Some ideas, like separation, were consistent with current pedagogical trends in distance and asynchronous education. In the face of a lack of institutional engagement in the current problem, the only idea identified that could secure instructor safety and wellbeing was to leave the profession. Further investigation is needed.

Keywords: false complaints, organisational mobbing, risk management, instructor safety, workplace harassment

1. INTRODUCTION

This paper addresses the issue of instructor protection from false and frivolous human rights complaints by disgruntled students. We discuss this issue from the perspective of Ontario university institutions. Human rights complaints processes in universities have led to increasingly convenient forms for making accusations against instructors. Disgruntled students can more easily make such complaints against instructors using confidential online processes. This results in the university launching secretive investigations against instructors ostensibly to protect the privacy of all parties. The investigators may conduct interviews with any of the

following possible informants: the instructors' Chair, their colleagues or collaborators, their teaching assistants, their grad students, and/or post docs as well as any staff with whom the instructor may have worked. These interviews are confidential and all parties are sworn to secrecy. Once these parties have been consulted the investigator will speak with the student involved about their complaint. The instructor will not know who, amongst those with whom they work, have been interviewed about their alleged human rights violations and what they might have said. These stigma laden investigations are lengthy, taking as long as a year to complete. Once completed the investigator passes a report to the instructors' Dean who is the designated decision maker for the complainant.

There is anecdotal evidence that this is a growing problem with faculty members being increasingly targeted by students [1]. Engineering instructors have spent as much as 20% of their time under investigation for false or frivolous human rights violation complaints from students. These false complaints are often tied to academic issues such as failing a course or exam, which instigates the complaint – students who fail a course can accuse their instructor of human rights violations via a convenient online portal on the university web site. The complaints might be with regards to the student's race, culture, gender, family status, etc., and depend on falsehoods invented by the student. These amount to statements like: "Instructor X said people from (insert country) are bad and shouldn't be studying engineering". Multiple such statements can be included in a single letter of complaint leaving the instructor with a considerable challenge in their response letter that is required at the start of the investigation procedure.

The literature on false complaints acknowledges the problem as a form of mobbing in which the institution is induced to harass the victim at the request of the complainant [2-5], in this context a student with an academic problem. Research indicates that victims of such mobbing may experience job depression, severe stress, anxiety and physical illness, with heart attack and suicide as well as job loss also being reported [6]. The social network of instructors, including family, suffers and the academic environment is degraded. Victims under investigation are forbidden to discuss their case with others which denies them opportunities for social

support at work and home. Lack of psychological support under job strain is a well-known contributor to ill health outcomes including heart disease, depression, burnout and illness [7-9]. In such cases, university instructor victims of such investigations have required medical treatment and medical leave due to the current process. This is consistent with reports of mobbing and false complaints available in the literature [4, 6].

Research on the motivations for false complaints have categorised these as including material gain (i.e., academic advancement in this context), emotional gain, revenge, attention seeking, and/or disturbed mental state [10, 11]. Current university procedures typically take no account of the possibility of false complaints, despite the punitive, harmful nature of the investigation process. There are no negative consequences for individuals making false accusations, and there appears to be no interest by institutions to address this problem. This lack of attendance to the possibility of false claims in the education sector has also been noted in the literature as a serious problem[5].

In this paper, we explore possible options available to instructors to protect themselves from false or frivolous human rights complaints made by disgruntled students. We do not deny anyone's right to make such complaints. We do assume universities are unwilling to, or incapable of, decreasing the physical and mental harm their processes inflict on instructors. The current paper therefore addresses the question: How might the risks of false complaints against instructors be minimised?

2. METHODS

Ideas were generated using a brainstorm approach. A rough screening was applied to eliminate ideas that were beyond the realm of possibility within the foreseeable future (e.g. entirely robotic and AI driven course delivery was deemed too futuristic to be included).

Ideas were evaluated qualitatively using a consensus-based approach. The explorative evaluation attempted to estimate the effectiveness in preventing false claims, the mechanism of prevention where appropriate, as well as pros and cons of each idea including aspects of cost, ease of implementation, ethical aspects, workload considerations, and privacy and data management issues as appropriate for each concept.

3. RESULTS

The authors identified and examined twelve strategies to deter false and frivolous human rights complaints against instructor. These could be clustered into four general categories: Acquiesce to requests (n=2), Shifting "Blame" (n=3), Interaction monitoring (n=4), and Avoidance or separation strategies (n=3). Each of these are addressed below.

3.1 PREVENTION BY AQUIESCING:

In these strategies, students' wishes to improve their standing are granted to remove the source for a complaint.

Idea #1: Fail no-one

Passing all students removes the motive for students to file complaints based on receiving a failing grade.

Possible effectiveness: Good for cases involving failing grades as it removes the motive to make a false complaint.

Pros: Easy to implement, no extra cost of overhead

Cons: Unethical, may cause accreditation and licensing problems, school reputation may suffer, degraded academic environment.

Idea #2: Acquiesce to grade change requests

This is more targeted than a policy of passing all students. In this case any student who requests a grade raise has this request granted.

Possible effectiveness: Good for cases involving failing grades and for those unsatisfied with their grades; removes a motive to file a complaint.

Pros: Simple; cheap; good for students with scholarship issues who want higher grades.

Cons: Unethical; may cause accreditation and licensing problems; school reputation may suffer; degraded academic environment; eventually all students will make appointments to have their grades raised.

3.2 PREVENTION BY SHIFTING "BLAME":

In these strategies, the responsibility ("blame") for an academic decision leading a student to fail is shifted away from the instructor to another agent.

Idea #3: Third Party response to grade complaints

Requests for grade increases or re-grading go directly to a 3rd party and not the instructor. This 3rd party could be an AI. This removes the interaction between the complaining student and the instructor.

Possible effectiveness: May be effective in deterring complaints from unsatisfied students; may increase risk for designated responder.

Pros: Simple (unless an AI is used); ethical.

Cons: May shift false complaints to the person handling the request; quality of student interactions regarding their work may decline; requires a dedicated person to handle grade increase requests, this person's workload could spike during each term for the person handling the requests; there may be challenges with an AI solution; the designated responder may themselves become the target of false complaints from unsatisfied students; and may

only deflect the problem of false complaints without solving it.

Idea #4: Separate evaluation from teaching

All grading is done by someone other than the instructor; grading is double-blind. Provided students understand this approach, it removes instructor from possible claims of bias in grading.

Possible effectiveness: Very effective - removes the instructor from all grade culpability.

Pros: Removes chance of bias in grading; ethically sound, frees instructors to focus on instruction.

Cons: Some extra cost and logistics; some roll-out costs first round; need duplicate expertise.

Idea #5: Computer grading.

This is a special case of idea #3. This could be multiple choice only exams, or artificial intelligence (AI) based text response analysis as it becomes available.

Possible effectiveness: Very good as it removes the potential accusation of instructor bias.

Pros: Very low operating costs, capital costs for automation software; fast grading; highly repeatable; ethical.

Cons: AI might make culturally differential determinations of answer quality or other errors; data privacy issues; constrains the question type; loss of judgement regarding part marks and “near” correct answers; data storage and security issues.

3.3 INTERACTION MONITORING:

These strategies attempt to deter false complaints by making it clear that the student-instructor interactions are monitored so closely as to make falsifying these exchanges pointless.

Idea #6: Facilitated meetings

All student-instructor interactions would be witnessed by a designated 3rd party observer/assistant. Observer would provide backup regarding the propriety of the interaction.

Possible effectiveness: Moderate; may deter false some false complaints; student might accuse both parties of complicity or invent a non-observed interaction (e.g., a hallway interaction between student and instructor).

Pros: Ethical; simple.

Cons: Operating costs for the observer; scheduling may pose a problem; student may make false claims against both instructor and partner; observer may have recall problems note-taking may be required; data integrity and preservation of notes pose challenges; may affect student-instructor interaction quality.

Idea #7: Video recording meetings

Have all student consultations video recorded and archived via a secure video storage system.

Possible effectiveness: May deter some complaints; students may invent unrecorded “hallway” interactions.

Pros: Ethical (assuming student is aware of recording); efficient; cheaper than an observer.

Cons: Data security and privacy issues; capital and operating costs a concern; may compromise student-instructor interaction quality.

Idea #8: Paid full-time shadow

Instructor has a full-time observer to monitor everything said and done to provide witness in the case of false complaints.

Possible effectiveness: Would inhibit students from making false claims.

Pros: Allows for monitoring hallway interaction (as opposed to just scheduled observed meetings); ethical.

Cons: Costs for shadows; shadow may have memory problems – needs approach to note taking; is a bit creepy; possible logistics challenges - if all instructors have shadows larger meeting rooms will be needed; may affect student-instructor interaction quality.

Idea #9: Instructors to wear a Body Camera

Providing a body camera for instructors would create a full-time record of all activity and communications while on campus. The recordings would be tamper-proof and provide direct evidence disproving complaints of instructor malfeasance.

Possible effectiveness: Probably effective; would act as a deterrent where false claims of malfeasance can be easily disproven.

Pros: Discrete; reliable; indisputable.

Cons: Some capital costs, data management and storage costs; logistics; privacy issues; might not cover off-campus activities; may inhibit student-instructor interaction quality; might be hackable.

3.4 PREVENTION BY AVOIDANCE

These ideas revolve around separating the instructor from the students so as to reduce the opportunity to make false claims of human rights violations based on some real interaction.

Idea #10: Minimise student contact

Instructor avoids all live interactions with students regarding their grades beyond required in-class time. E-mail or recordable telecommunications could be included as permissible exchanges.

Possible effectiveness: Might be somewhat effective, by eliminating unsupervised unrecorded interactions; does not include possible “hallway interactions” in which students claim to have had an exchange in a corridor of the university.

Pros: Cheap; may give instructors time to develop more virtual teaching methods and prepare courseware; instructors have more time to dedicate to research, etc.

Cons: Reduced student contact eliminates an avenue of teaching; possible ethical issues, may affect student-instructor interaction quality; data recording and storage security issues; very selective.

Idea #11: Separate students from instructors

Students and instructor interactions could be controlled and monitored using all digital and recordable contacts. This could include a completely online process with video lectures, discussion with aliases, students only use numbers, no personal or synchronous interactions. The online learning system acts as a mediator. This might appear as a “distance education” type solution.

Possible effectiveness: Highly effective – all interactions are recorded and false claims quickly disproven.

Pros: Might support modern high-tech and asynchronous teaching strategies (e.g. MOOC, distance learning); ethical.

Cons: Very Expensive; might be hackable; data privacy and management issues; may affect student-instructor interaction quality.

Idea #12: Instructor Exit

Instructors leave the profession and retire from teaching either by retirement or other means of severance. All interactions between that instructor and the student body cease.

Possible effectiveness: Completely effective from Instructor perspective; not effective from institutional perspective.

Pros: Easy; ethical; instructor gains free time.

Cons: Income loss for instructor; replacement costs to university; knowledge loss for students; does not protect the replacement instructor; possible legal repercussions against institution.

4. DISCUSSION

This thought experiment has revealed twelve ideas that might help reduce the probability of harmful false accusations of human rights violations being directed against university instructors. All ideas identified had significant drawbacks. Drawbacks were identified in terms of cost, ethical issues, privacy issues, and negative impacts on the academic environment. Some ideas, such

as separating instructors from students via technological media, are consistent with current trends in distance and virtual education approaches. Online teaching may provide advantages in terms of reducing the opportunity for students to make false claims about instructors’ statements and deeds. Interaction monitoring and separating grading from instruction both seemed to provide a good balance of cost and prevention effectiveness and might warrant further investigation. Of all the ideas presented only “exit”, where instructors leave the profession, provided complete protection from harassment via human rights complaints processes.

Missing from this examination is the presence and engagement of the institution. At this time, there seems to be no sign that the institution is concerned with minimising the occurrence of false claims or minimising the considerable harm caused by these investigation processes with negative effects to instructors, instructor families, and the academic environment. This lack of engagement by organisations has been noted previously as a problem. There appears to be evidence [1] suggesting the annual volume of investigations is increasing and the institution is hiring more investigators to handle the increased number of complaints. There is no sign that the institution is willing or able to deal with the issue of false complaints – or to balance the health and safety of instructors against the right of students to make human rights complaints. This problem notwithstanding, there remains a need for process improvement that avoids the current “guilty until proven innocent” approach and that is more consistent with democratic ideals of civil jurisprudence.

There is a dearth of research and empirical data on the growing problem [3] of false accusations against others, in this case university instructors. Current secretive processes are unable to handle false complaints, which are a known fraction of all complaint systems. The substantial harm these processes cause to instructors, their families, graduate students, and the teaching environment makes this an important, if unfortunate, issue in education [5]. This issue has also been identified in health care contexts and those dealing with such claims need to be wary that the complainant may be a predator [11]. As O’Donohue and Bowers indicate: “It is naïve and harmful to operate with the heuristic: ‘All claims are true’.” [3], which, unfortunately, may be the current status quo in Ontario Universities [5]. To the authors’ knowledge this is the first effort to address this problem in the context of engineering education. The authors are concerned about the growth of this thorny problem.

5. CONCLUSION

There is a growing problem of students, who are unsatisfied with their academic grade, making false accusations against instructors of human right violations.

Lengthy and invasive investigation procedures are harmful for instructor health and wellbeing, damage their family and personal relations, erode trust in the institution, and damage both pedagogical and research environments – raising the need for prevention considerations. In a thought exercise the authors identified 12 viable ideas that might help reduce the probability of a student making false accusations when unsatisfied with their grades. These ideas could be clustered as “Acquiesce”, “Shift Blame”, “Interaction Monitoring”, and “Separation”. All ideas had problem associated with them. Some ideas, like separation, were consistent with current pedagogical trends in distance and asynchronous education. In the face of a lack of institutional engagement in the current problem, the only idea identified that could secure instructor safety and wellbeing was to leave the profession. Further investigation is needed.

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