

# Report on the Office of the Ombuds

University of Mississippi  
Faculty Senate Governance Committee  
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## Motivation and Background

In the spring of 2012, the Governance Committee was asked a question by an anonymous faculty member, wanting to know if being forced to teach a course is a violation of academic freedom. The Committee felt that it could not render a judgement on the question without more facts, which would obviously jeopardize the anonymity of the faculty member.

Two problems were brought to light by this incident. First, there is currently no way for members of the University community to get advice on complaints or potential complaints with complete confidentiality. Second, there is a class of complaints that do not fall under the jurisdiction of existing enforcement mechanisms (e.g. civil rights, sexual harassment, etc.) but are nonetheless damaging to institutional harmony and noxious to a sense of fair play.

These issues are not unique to the University of Mississippi. Discussions of “faculty collegiality” and “faculty bullying” have become a topic of interest at universities across the country. Similar issues between combinations of faculty, staff and students have also generated concern.

## Definitions

The term *ombudsman* has several variants, including *ombuds*, *ombudswoman*, and *ombudsperson*. This document uses “ombuds”, which has become increasingly common in recent years due to its brevity. The International Ombudsman Association (IOA), a prominent professional organization, recognizes several different kinds of ombuds, but is primarily concerned with *Organizational Ombuds*[1]. An Organizational Ombuds is “a designated neutral who is appointed or employed by an organization to facilitate the *informal* resolution of concerns of employees, managers, students and, sometimes, external clients of the organization[3].” Because of this informal nature, interaction with an Organizational Ombuds is always voluntary. In contrast, the *Legislative* and *Executive Ombuds*, as described by the American Bar Association (ABA), are able to conduct *formal* investigations that require members of the organization to provide testimony and evidence.

In the interest of clarity, we will use the term *facilitator* instead of “organizational ombuds”, and *investigator* to refer to an ombuds that can conduct formal investigations. We will use the term *client* to refer to a person in contact with an ombuds regarding a complaint or potential complaint.

## Essential Characteristics of an Ombuds Office

Both the ABA and the IOA agree on three essential characteristics of an Ombuds Office [4,5,6]:

**Independence** — The Office should be free from outside interference. It should not be possible for someone within the Office’s jurisdiction to control or eliminate the Office, or reduce its budget or resources.

**Impartiality** — The Office should conduct any inquiries and investigations in an impartial manner, free from initial bias or conflict of interest. The Office may become an advocate for change within the institution where the process demonstrates a need for it [4].

**Confidentiality** — The Office holds all communications with those seeking assistance in strict confidence, and does not disclose confidential communications unless given permission to do so. The only exception to this privilege of confidentiality is where there appears to be imminent risk of serious harm [5].

With regard to confidentiality, the ABA and IOA both state that the Ombuds Office should not serve as an “agent of notice” for the institution. For example, if a client brought a sexual harassment or civil rights complaint to the Office’s attention, the institution has not been officially informed, so the client still has control over whether to pursue a formal remedy through EO/RC procedures.

In a similar vein, the decision to seek assistance from the Ombuds Office lies entirely with the client, and their options with regard to formal procedures do not change in any way due to a visit with the Ombuds Office. It is also important to note that an Ombuds Office can never replace or influence existing formal procedures.

## The Facilitator Role

The Facilitator Ombuds role consists of two major responsibilities [1]:

1) to work with individuals and groups in an organization to explore and assist them in determining options to help resolve conflicts, problematic issues or concerns

2) to bring systemic concerns to the attention of the organization for resolution. This must be done in a manner that preserves the confidentiality of communications with the Office.

The IOA lists the following examples of activities and functions most frequently undertaken by a facilitator [1]:

- Listens and understands issues while remaining neutral with respect to the facts. The ombudsman doesn't listen to judge or to decide who is right or wrong. The ombudsman listens to understand the issue from the perspective of the individual. This is a critical step in developing options for resolution.
- Assists in reframing issues and developing and helping individuals evaluate options. This helps individuals identify the interests of various parties to the issues and helps focus efforts on potential options to meet those interests.
- Guides or coaches individuals to deal directly with other parties, including the use of formal resolution resources of the organization. An ombudsman often seeks to help individuals improve their skill and their confidence in giving voice to their concerns directly.
- Refers individuals to appropriate resolution resources. An ombudsman may refer individuals to one or more formal organizational resources that can potentially resolve the issue.
- Assists in surfacing issues to formal resolution channels. When an individual is unable or unwilling to surface a concern directly, the ombudsman can assist by helping give voice to the concern and /or creating an awareness of the issue among appropriate decision-makers in the organization.
- Facilitates informal resolution processes. An ombudsman may help to resolve issues between parties through various types of informal mediation.
- Identifies new issues and opportunities for systemic change for the organization. The unique positioning of the ombudsman serves to provide unfiltered information that can produce insight to issues and resolutions. The ombudsman is a source of detection and early warning of new issues and a source of suggestions of systemic change to improve existing processes.

The IOA also provides a list of roles or activities that a facilitator does **not** typically perform [1]:

- Participate in **formal** investigations or play any role in a formal issue resolution process.
- Serve in any other organizational role that would compromise the neutrality of the ombudsman role.
- Receive notice for the organization
- Make binding decisions or mandate policies.
- Create or maintain records or reports for the organization.

## The Investigator Role

Facilitators can informally gather information from around the institution, but such information is provided to the ombuds voluntarily. In contrast, the investigator ombuds role includes the ability to conduct a *formal* investigation, for which the institution and its employees must give the investigator access to all relevant information. This role is similar to the *Executive* and *Legislative* Ombuds described by the American Bar Association [4].

The investigator is meant to serve as a last resort for a client when other avenues of resolution within the institution have been exhausted, and the client still feels they have been treated unfairly. In such cases, the investigator will gather the facts of the situation as confidentially as possible, and take an action appropriate to the facts. In an academic environment, typical actions may include dismissal of the complaint, referral to the facilitator for mediation or informal resolution, or a written recommendation and report sent to the Chancellor and the Chair of the Faculty Senate.

## Addressing Faculty Collegiality and Bullying

Researchers studying the problem of workplace bullying offer the following definition [7,8]:

Bullying at work means harassing, offending, socially excluding someone or negatively affecting someone's work tasks ... It has to occur repeatedly and regularly (e.g., weekly) and over a period of time (e.g., at least six months). Bullying is an escalating process in the course of which the person confronted ends up in an inferior position and becomes the target of systematic negative social acts.

*Faculty Bullying* is somewhat more specialized, partly due to the mix of tenured and untenured faculty, and the long-term nature of the relationships [8]. In addition to social discomfort, faculty bullying may entail obstructional behavior designed to prevent targets from gaining access to resources such as money, space, time, or access to strong students [8].

In any case, an Ombuds Office can help to address the bullying problem in two major ways:

- Through the facilitator role, by advising the target on how to address the issue, and through informal confidential mediation, if all parties agree to meet. These methods help address issues *before* they become unmanageable.
- Through the investigator role, by reporting on whether the client is in fact the target of workplace bullying, and the parties involved. Providing an avenue to expose bullying behavior should serve to reduce its frequency. The investigator's report may also be useful for increasing the fairness of other institutional processes and decisions.

## **Common Practice**

The Education Advisory Board (EAB) prepared a brief on Ombuds Offices in Academia, sampling seven anonymous private research universities with medical schools. They make several key observations, including the following points[9]:

- Sampled institutions employ between one and three full or part time ombuds.
- Academic ombuds are typically senior faculty, although professionals with ombuds experience and training are also found in the role.
- Establishment of a private and confidential environment, adherence to IOA guidelines, and continued professional development of ombuds personnel are all important factors contributing to the success of the office.

The EAB report does not reveal the size of the faculty at each school, so they do not quantify the ratio of ombuds personnel to the served population. However, the Governance Committee was able to gather some information via an informal web survey, taking advantage of a list of 357 Academic Ombuds Offices [10]. From examining a small sample of those offices, we observe that if an office serves students as well as faculty and staff, it is very likely to have a full time Ombuds, possibly assisted by part time personnel.

The Facilitator Ombuds role (or something very similar) is found almost universally in Academic Ombuds offices (e.g. [13, 14]). The Investigator role is not universal, but can also be seen in existing Academic Ombuds offices (e.g. [11,12]).

## **Benefits to the University**

The Governance Committee has identified several important benefits to the formation of an Ombuds Office at the University of Mississippi, including the following:

- Timely identification of issues that apply across the Institution, but are not easily seen by a single department or school.
- Strengthening the already excellent reputation of this University as a high quality workplace, useful for recruiting and publicity.
- Pre-emptive action and management of conflicts at an early stage.
- Increased productivity and effectiveness.
- A confidential channel for the reporting of malfeasance.
- A safe, comfortable and confidential environment for pre-tenure faculty to obtain advice from someone with more experience in higher education in reference to acceptable collegial behavior and how to address the issue.

## References

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