

**STATEMENT OF BEST PRACTICES FOR
THE UNIVERSITY OF KANSAS OMBUDS OFFICE**

2008

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University of Kansas Ombuds Office
February 5, 2008**

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I. Introduction and Mission

This document defines and clarifies the highest standards and best practices in the Ombuds profession, as they apply within the context of the University of Kansas and its Ombuds Office. This document is consistent with the International Ombudsman Association (“IOA”) Standards of Practice and Code of Ethics and is not a statement of KU policy or Senate Code. In this document, “Ombuds Office” shall include professional staff (the University Ombuds, the Faculty Ombuds), as well as any support staff.

The intent of this document is to: (1) educate the University community about the role of the Ombuds Office; (2) proactively assist the Ombuds Office to operate in a manner consistent with IOA professional standards, code of ethics, and best practices; and (3) discourage activities and actions which do not comply with best practices.

The mission of the University of Kansas Ombuds Office is to ensure that all members of the University community receive fair and equitable treatment. The Ombuds Office carries out its mission by way of two complementary approaches: (1) receiving and attempting to resolve individual grievances on a confidential, informal basis; and 2) supporting procedures that advance the goal of a fair conflict management system.

One purpose of the Ombuds Office is to act as “an ear to the people” so every voice at the University of Kansas can be heard and receive impartial attention without fear of retaliation and loss of privacy. In doing so, the Ombuds Office serves as an independent, confidential, neutral and informal resource to the entire university community.

The terms “ombuds”, “ombudsperson”, or “ombudsman” carry with them certain professional and legal responsibilities, and therefore offices using these terms should follow the longstanding professional tenets outlined in this document; and the University should discourage the use of the title “Ombuds” for those programs which choose not to operate consistently with IOA professional standards.

II. Purpose and Scope of the University Ombuds Office

An Ombuds at the University of Kansas serves as a designated neutral and operates independently of ordinary line and staff structures. The Ombuds Office should not be affiliated with any compliance function of the University. The Ombuds Office

shall provide informal dispute resolution, coaching, consultation, and referral services to the entire University community, including faculty, staff, and students, and where appropriate, to others who are associated with the university, i.e. alumni, family members, etc. The Ombuds Office shall be a place where members of the University of Kansas community can seek guidance regarding the addressing or resolution of disputes or concerns through a resource which is confidential, neutral, informal, and independent.

Services of the Ombuds Office do not replace other grievance processes at the University; however, when those procedures have not been utilized or have not been successful, the Ombuds Office works to facilitate communication and assist parties in reaching mutually acceptable, fair and equitable resolutions that are consistent with the ideals and objectives of the University. The Ombuds Office shall also report general trends and provide feedback throughout the organization, and suggest systemic change when appropriate without disclosing confidential communications and information.

The Ombuds Office shall confidentially receive complaints, concerns or inquiries about alleged acts, omissions, improprieties, and/or broader systemic problems. In response, an Ombuds will listen, make informal inquiries or otherwise review matters received, offer options, make referrals, and facilitate communication independently and impartially. In addition, the Ombuds Office shall serve as an information and communication resource, consultant, and catalyst for institutional change within the University community. The Ombuds Office shall also provide a list of available trained faculty mediators per University Senate Rules and Regulations, 6.2.3.2 and 6.2.3.3.

The Ombuds Office, as described in Article VI of the U.S.R.R. (6.2.2.2), shall also make annual reports to the University community at large, summarizing office activity and broadly outlining trends and observations gathered from the year's activities.

III. Standards of Practice and Code of Ethics

The Ombuds Office acts in accordance with the IOA Standards of Practice and Code of Ethics (attached as Appendices A and B). These tenets require that Ombuds Offices shall function independently within the structure of the organization, shall be confidential and neutral, and shall limit the scope of their services to informal means of dispute resolution. The IOA Standards and Code delineate minimum standards, and the Ombuds Office shall always strive to operate to “best practices” and to manage the

Ombuds Office in a way that serves the best interests of the University of Kansas community. The Ombuds Office shall take appropriate steps to make this document and the tenets of best practices of the Ombuds profession available to the University community.

A. Independence

The Ombuds Office shall be, and shall appear to be, free from interference in the legitimate performance of its duties. This independence is achieved primarily through organizational recognition, reporting structure, and neutrality. To ensure objectivity, the Ombuds Office shall operate independently of ordinary line and staff structures. An Ombuds will not disclose confidential information about matters discussed in the Ombuds Office with anyone in the organization, including the person to whom the Ombuds Office reports, except as clearly delineated in Section III. B. The Ombuds Office should report administratively to the Provost Office and to University Senate (see “VI. Office Structure”). In all cases, the Ombuds Office shall have unobstructed access to the Chancellor and the Provost of the University.

B. Confidentiality

The Ombuds Office shall not disclose or be required to disclose any information provided in confidence, unless given permission to do so by the visitor. An exception to maintaining any such confidentiality would include if the University or Faculty Ombuds had a reasonable concern regarding imminent risk of violence or physical harm or where disclosure is required by law. The Ombuds Office asserts that there is a privilege with respect to the identity of visitors and their issues, though Kansas does not recognize this privilege by statute. The Ombuds Office shall not confirm communicating with any party or parties, or disclose any confidential information without the party’s or parties’ express permission provided in the course of discussions with the Ombuds Office, and at the discretion of the Ombuds Office. An Ombuds shall not participate as a witness with respect to any confidential communication, nor shall he/she participate in any formal process inside or outside of the University, unless compelled to do so by judicial subpoena or court order. The Ombuds Office considers communication with the Ombuds Office to be privileged. The privilege belongs to an Ombuds and the Ombuds Office, rather than to any party in an issue. The Ombuds Office considers that others cannot waive this privilege.

C. Neutrality

An Ombuds is a designated neutral, operating independently in the structure of the University. An Ombuds shall not take sides in any conflict, dispute or issue. An Ombuds advocates for fair and equitably administered processes and not on behalf of a specific individual. An Ombuds is neutral, impartial, and unaligned. An Ombuds should not serve in any additional role, including participation on committees within the University which would compromise the neutrality of an Ombuds. The Ombuds Office should not report to nor be affiliated with any compliance function of the university.

D. Informality

The Ombuds Office shall be a resource for informal dispute resolution. The Ombuds Office shall not investigate, arbitrate, adjudicate or in any other way participate in any internal or external formal process or action. The Ombuds Office does not keep records for the University, and shall not create or maintain documents or records for the University about individual cases. Notes, if any, taken during the course of working on a case should be routinely destroyed at regular intervals. Use of the Ombuds Office is strictly voluntary and is not a required step in any grievance process.

IV. Authority and Limits of the Ombuds Office

Specific areas of authority and limitations on the authority of the Ombuds Office include those listed below:

A. Authority of the Ombuds Office

The authority and role of the Ombuds Office as well as qualifications for Ombuds staff derives from University Senate Rules and Regulations, Article V., Section 1 and Article VI, Section 2, 6.2.1 – 6.2.2.2:

“ARTICLE V. ORGANIZATION FOR CONFLICT RESOLUTION

Section I. University Ombudsman

5.1.1 Appointment. The University Ombudsman shall be appointed by the Chancellor from among a panel of three candidates presented by the Senate Executive Committee.

5.1.2 Ombudsman's Office. Faculty will be represented in the staffing of the Ombudsman Office through a part time appointment of a faculty member either to the position of Ombudsman or as Assistant Ombudsman.

5.1.3 Term of Office. A faculty member serving in the Ombuds Office shall serve a three-year term. The Ombudsman shall be eligible for reappointment.

5.1.4 Qualifications. The Ombudsman shall possess a comprehensive knowledge of the University organization and procedures and a post-baccalaureate degree. He or she shall, at the time of initial appointment, have completed at least six years of service at the University of Kansas.”

“ARTICLE VI. PROCEDURES FOR CONFLICT RESOLUTION

Section 2. Informal Means of Dispute Resolution

6.2.1 Generally. The collegial atmosphere of the University community is best served through informal compromise resolution of disputes. Thus, before pursuing formal grievance procedures, a grievant should ordinarily attempt to resolve the matter informally through direct or indirect consultation with the other party or through discussions with supervisory personnel.

6.2.2 Ombudsman. The Ombudsman shall be available (a) to receive and attempt to resolve individual grievances of members of the University community; and (b) to recommend procedural changes within the University in response to experience acquired in investigating individual cases.

6.2.2.1 Powers. The Ombudsman shall have access to all administrative officials of the University and, in accordance with law, to all University records, including those of faculty members. He or she shall not have authority to take disciplinary action, reverse decisions, or circumvent existing University rules and procedures. He or she shall supplement, not replace, other means, where they exist, for redress of grievances. All proceedings in individual cases shall be held confidential by the Ombudsman unless otherwise authorized by the complainant.

6.2.2.2 Reports. The Ombudsman shall at least annually make reports to the University community at large.”

The University or Faculty Ombuds shall be entitled to inquire about any issue concerning the University which affects any member of the University community, and shall respect the confidentiality of that information. The University or Faculty Ombuds shall have access to all records and personnel of the University of Kansas, for the purpose of performing his/her duties unless such records are privileged under Kansas or federal law. An Ombuds has the authority to break confidence if an Ombuds believes there is an imminent risk of serious harm.

An Ombuds may, without having received a specific complaint from a member of the University community, inquire about matters which he/she believes to warrant attention.

The Ombuds Office may decline to inquire into a matter or may withdraw its services from a visitor if an Ombuds believes involvement is inappropriate for any

reason, including, but not limited to, matters not brought in good faith, a conflict of interest, or matters which appear to be a misuse of the Ombuds function.

An Ombuds has the authority to discuss a range of options available to the visitor, including both informal and formal procedures.

The Ombuds Office may require legal or other professional advice in order to fulfill its required functions. In the event that the Ombuds Office is asked for documents or testimony related to any litigation or other formal process, or when any other conflict of interest arises between the Ombuds Office, the administration, or General Counsel of the University of Kansas, the Ombuds Office may be provided legal counsel independent from the University through the Office of the Kansas Attorney General.

B. Limitations on Authority of the Ombuds Office

1. Receiving Notice for the University

Communication to the Ombuds Office shall not constitute notice to the University. The Ombuds Office shall publicize its non-notice role to the university community. This includes allegations that may be perceived to be violations of laws, regulations or policies, such as sexual harassment, issues covered by the Whistleblower policy, or incidents subject to reporting under the Clery Act. Since the Ombuds Office is informal, off-the-record, confidential, and independent, an Ombuds is not required to report allegations to the University. If a visitor would like to put the University on notice regarding a specific situation, or wishes for information to be provided to the University, an Ombuds will provide the visitor with information and refer the visitor to an official who represents the University so that the visitor may do so himself/herself.

2. Collective Bargaining Agreements

The Ombuds Office shall not address any issues arising under a collective bargaining agreement (“CBA”), unless allowed by specific language in the CBA (e.g., Kansas Association of Public Employees (KAPE)). This means that while the Ombuds Office may provide services to union members, those services may not include addressing issues that are covered in the CBA, including, but not limited to, issues such as grievable claims for termination of employment or formal discipline. In those cases, an Ombuds shall refer the employee to the CBA and to their union representative.

3. Formal Processes and Investigations

The Ombuds Office shall not conduct formal investigations of any kind. An Ombuds shall also not participate in formal dispute processes or outside agency complaints or lawsuits, either on behalf of a visitor to the Ombuds Office or on behalf of the University, subject to compliance with a judicial subpoena or court order. Because confidentiality and informality are critically important to the Ombuds Office, all communications with an Ombuds are made with the understanding that communication is confidential, off-the-record, and that no one from the Ombuds Office will be called to testify as a witness in any formal or legal proceeding to reveal confidential communications, unless compelled by judicial subpoena or court order. The Ombuds Office provides an alternate channel for dispute resolution, and all use of ombuds services shall be voluntary.

4. Record Keeping and Electronic Communication

The Ombuds Office does not keep records for the University, and shall not create or maintain documents or records for the University about individual cases. Notes, if any, taken during the course of working on a case shall be routinely destroyed at regular intervals. All materials related to a case should be maintained in a secure location and manner, and should be destroyed once the case is concluded. An Ombuds may maintain non-confidential statistical data to assist an Ombuds in reporting trends and providing feedback to the University.

Due to confidentiality concerns, the University Ombuds Office discourages the use of e-mail to communicate with visitors. If anyone wishes to communicate with an Ombuds via e-mail, confidentiality cannot be guaranteed. The University Ombuds Office will delete e-mail correspondence on a regular basis.

5. Advocacy for Parties

An Ombuds shall not act as an advocate for any party in a dispute, nor shall it represent management or visitors to the Ombuds Office.

6. Adjudication of Issues

The Ombuds Office shall not have authority to adjudicate, impose remedies or sanctions, or to enforce or change policies or rules.

7. Conflict of Interest

Individual ombuds shall avoid involvement in cases where there may be a conflict of interest. A conflict of interest occurs when an Ombuds' private or professional interests, real or perceived, supersede or conflict with his or her dedication to the impartial and independent nature of the role of the Ombuds. When a real or perceived conflict exists, an Ombuds should take all steps necessary to disclose and/or avoid the conflict.

8. Grievance Procedure and Mediation

As described in Article VI of the U.S.R.R. ("Procedures for Conflict Resolution," Section 2, "Informal Means of Dispute Resolution"), the Ombuds Office shall maintain a list of individuals willing to serve as mediators and with training and/or experience in dispute resolution, in consultation with others throughout the University community. The role of the Ombuds Office in formal mediation is limited to maintenance of this list and to providing assistance with locating an appropriate mediator. The Ombuds Office plays no other role in the mediation process.

V. Retaliation for Using the Ombuds Office

All members of the constituencies served by the Ombuds Office shall have the right to consult with an Ombuds without reprisal. The Ombuds Office should work with the University of Kansas to create policies to protect visitors from reprisals.

VI. Office Structure

Because of the independent nature of the Ombuds Office, and in congruence with IOA Standards of Practice, 2.3.: "**The Ombudsman is a designated neutral reporting to the highest possible level of the organization and operating independent of ordinary line and staff structures. The Ombudsman should not report to nor be structurally affiliated with any compliance function of the organization,**" the Ombuds Office shall report to the Provost and to University Senate for administrative and budgetary purposes only.

The Ombuds Office, in consultation with the Provost and University Senate, shall determine appropriate mechanisms for accountability, including regular evaluation of the Ombuds Office (see below, “VII. Evaluation of the Ombuds Office and Staff”). To fulfill its function, the Ombuds Office shall have a specific allocated budget, adequate and appropriate space, sufficient resources to meet operating needs, and continuing professional development of its staff.

Policies for staffing the University Ombuds Office are described under Article V, Section I of U.S.R.R., including the qualifications and terms of office for the University Ombuds and the Faculty Ombuds.

VII. Evaluation of the Ombuds Office and Staff

The Senate Executive Committee and the Provost is responsible for conducting an annual evaluation of the Ombuds Office and its staff and reporting its findings to the Provost. A user survey completed by visitors to the office is utilized as part of the annual evaluation and survey data will be summarized and sent to the University Senate Executive Committee.

VIII. Procedures for Revisions and Amendment of this Document

This document reflects current best practices in the ombuds profession. It may be revised as needed by the University of Kansas Ombuds Office, in consultation with the Office of the Provost and the University Senate Executive Committee.

APPENDIX A

INTERNATIONAL OMBUDSMAN ASSOCIATION STANDARDS OF PRACTICE

PREAMBLE

The IOA Standards of Practice are based upon and derived from the ethical principles stated in the IOA Code of Ethics.

Each Ombudsman office should have an organizational Charter or Terms of Reference, approved by senior management, articulating the principles of the Ombudsman function in that organization and their consistency with the IOA Standards of Practice.

STANDARDS OF PRACTICE

INDEPENDENCE

1.1 The Ombudsman Office and the Ombudsman are independent from other organizational entities.

1.2 The Ombudsman holds no other position within the organization which might compromise independence.

1.3 The Ombudsman exercises sole discretion over whether or how to act regarding an individual's concern, a trend or concerns of multiple individuals over time. The Ombudsman may also initiate action on a concern identified through the Ombudsman's direct observation.

1.4 The Ombudsman has access to all information and all individuals in the organization, as permitted by law.

1.5 The Ombudsman has authority to select Ombudsman Office staff and manage Ombudsman Office budget and operations.

NEUTRALITY AND IMPARTIALITY

2.1 The Ombudsman is neutral, impartial, and unaligned.

2.2 The Ombudsman strives for impartiality, fairness and objectivity in the treatment of people and the consideration of issues. The Ombudsman advocates for fair and equitably administered processes and does not advocate on behalf of any individual within the organization.

2.3 The Ombudsman is a designated neutral reporting to the highest possible level of the organization and operating independent of ordinary line and staff structures. The Ombudsman should not report to nor be structurally affiliated with any compliance function of the organization.

2.4 The Ombudsman serves in no additional role within the organization which would compromise the Ombudsman's neutrality. The Ombudsman should not be aligned with any formal or informal associations within the organization in a way that might create actual or perceived conflicts of interest for the Ombudsman. The Ombudsman should have no personal interest or stake in, and incur no gain or loss from, the outcome of an issue.

2.5 The Ombudsman has a responsibility to consider the legitimate concerns and interests of all individuals affected by the matter under consideration.

2.6 The Ombudsman helps develop a range of responsible options to resolve problems and facilitate discussion to identify the best options.

CONFIDENTIALITY

3.1 The Ombudsman holds all communications with those seeking assistance in strict confidence and takes all reasonable steps to safeguard confidentiality, including the following:

The Ombudsman does not reveal, and must not be required to reveal, the identity of any individual contacting the Ombudsman Office, nor does the Ombudsman reveal information provided in confidence that could lead to the identification of any individual contacting the Ombudsman Office, without that individual's express permission, given in the course of informal discussions with the Ombudsman; the Ombudsman takes specific action related to an individual's issue only with the individual's express permission and only to the extent permitted, and even then at the sole discretion of the Ombudsman, unless such action can be taken in a way that safeguards the identity of the individual contacting the Ombudsman Office. The only exception to this privilege of confidentiality is where there appears to be imminent risk of serious harm, and where there is no other reasonable option. Whether this risk exists is a determination to be made by the Ombudsman.

3.2 Communications between the Ombudsman and others (made while the Ombudsman is serving in that capacity) are considered privileged. The privilege belongs to the Ombudsman and the Ombudsman Office, rather than to any party to an issue. Others cannot waive this privilege.

3.3 The Ombudsman does not testify in any formal process inside the organization and resists testifying in any formal process outside of the organization regarding a visitor's contact with the Ombudsman or confidential information communicated to the Ombudsman, even if given permission or requested to do so. The Ombudsman may, however, provide general, non-confidential information about the Ombudsman Office or the Ombudsman profession.

3.4 If the Ombudsman pursues an issue systemically (e.g., provides feedback on trends, issues, policies and practices) the Ombudsman does so in a way that safeguards the identity of individuals.

3.5 The Ombudsman keeps no records containing identifying information on behalf of the organization.

3.6 The Ombudsman maintains information (e.g., notes, phone messages, appointment calendars) in a secure location and manner, protected from inspection by others (including management), and has a consistent and standard practice for the destruction of such information.

3.7 The Ombudsman prepares any data and/or reports in a manner that protects confidentiality.

3.8 Communications made to the ombudsman are not notice to the organization. The ombudsman neither acts as agent for, nor accepts notice on behalf of, the organization and shall not serve in a position or role that is designated by the organization as a place to receive notice on behalf of the organization. However, the ombudsman may refer individuals to the appropriate place where formal notice can be made.

INFORMALITY AND OTHER STANDARDS

4.1 The Ombudsman functions on an informal basis by such means as: listening, providing and receiving information, identifying and reframing issues, developing a range of responsible options, and – with permission and at Ombudsman discretion – engaging in informal third-party intervention. When possible, the Ombudsman helps people develop new ways to solve problems themselves.

4.2 The Ombudsman as an informal and off-the-record resource pursues resolution of concerns and looks into procedural irregularities and/or broader systemic problems when appropriate.

4.3 The Ombudsman does not make binding decisions, mandate policies, or formally adjudicate issues for the organization.

4.4 The Ombudsman supplements, but does not replace, any formal channels. Use of the Ombudsman Office is voluntary, and is not a required step in any grievance process or organizational policy.

4.5 The Ombudsman does not participate in any formal investigative or adjudicative procedures. Formal investigations should be conducted by others. When a formal investigation is requested, the Ombudsman refers individuals to the appropriate offices or individual.

4.6 The Ombudsman identifies trends, issues and concerns about policies and procedures, including potential future issues and concerns, without breaching confidentiality or anonymity, and provides recommendations for responsibly addressing them.

4.7 The Ombudsman acts in accordance with the IOA Code of Ethics and Standards of Practice, keeps professionally current by pursuing continuing education, and provides opportunities for staff to pursue professional training.

4.8 The Ombudsman endeavors to be worthy of the trust placed in the Ombudsman Office.

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APPENDIX B

International Ombudsman Association Code of Ethics

PREAMBLE

The IOA is dedicated to excellence in the practice of Ombudsman work. The IOA Code of Ethics provides a common set of professional ethical principles to which members adhere in their organizational Ombudsman practice.

Based on the traditions and values of Ombudsman practice, the Code of Ethics reflects a commitment to promote ethical conduct in the performance of the Ombudsman role and to maintain the integrity of the Ombudsman profession.

The Ombudsman shall be truthful and act with integrity, shall foster respect for all members of the organization he or she serves, and shall promote procedural fairness in the content and administration of those organizations' practices, processes, and policies.

ETHICAL PRINCIPLES

INDEPENDENCE

The Ombudsman is independent in structure, function, and appearance to the highest degree possible within the organization.

NEUTRALITY AND IMPARTIALITY

The Ombudsman, as a designated neutral, remains unaligned and impartial. The Ombudsman does not engage in any situation which could create a conflict of interest.

CONFIDENTIALITY

The Ombudsman 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.

INFORMALITY

The Ombudsman, as an informal resource, does not participate in any formal adjudicative or administrative procedure related to concerns brought to his/her attention.