

# CHARTER FOR THE UNIVERSITY OF KANSAS OMBUDS OFFICE (November 4, 2022)

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## I. Background

University of Kansas (KU) Ombuds Office (Office or Ombuds Office) is a place where all members of the KU community can seek informal, independent, confidential, and impartial assistance in addressing conflicts, disputes, or complaints. The Office was established in 1977 as a response to campus concerns that began during the mid-1960's, related to the civil rights movement, the Vietnam War, and women's issues. The administration and University Senate agreed that establishing an Ombudsman Office would assist in a more open environment conducive to better communication between constituents and in serving the needs and interests of the campus community.

The word, "Ombudsman," is Swedish in origin and means "representative" or "a person who has an ear to the people". In 2007, the name of the office at KU changed from "Ombudsman," to "Ombuds" and the titles changed "Ombudsperson" or "Ombuds" to reflect a gender-neutrality. Much like the title, the practice of ombuds and the Office itself has grown and evolved over the years.

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 International Ombuds Association's (IOA) professional [Standards of Practice and Code of Ethics](#).

This document sets forth the terms, conditions, and principles on which the KU Ombuds Office operates and 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 IOA's 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 the University Ombuds and all professional staff 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 within the profession.

## II. Purpose, Mission, and Scope of Services

The Ombuds Office at the University of Kansas serves as a designated impartial 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., regarding current matters involving the University. 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, impartial, informal, and independent.

The Ombuds Office assists all members of the University community to receive fair and equitable treatment. The Ombuds Office carries out its mission by way of two complementary approaches: (1) exploring options to resolve differences and disagreements with individuals and groups on a confidential, informal, and human-centered basis; and 2) supporting and advocating for fair process, procedures, practices, and policies. One purpose of the Ombuds Office is to act as “an ear to the people” to help every voice at the University of Kansas to 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, impartial, and informal resource to the entire university community.

## III. Standards of Practice

The Ombuds Office services in an Organizational Ombuds capacity and adheres to and has adopted the IOA Standards of Practice and Ethical Principles, and this Charter adopts and incorporates by reference the [IOA Standards of Practice and Code of Ethics](#). The Ombuds Office will operate confidentially and impartially and limit the scope of its services to informal means of dispute resolution and problem-solving support. The Ombuds will be a member of IOA and will attend regular relevant training and the annual IOA conferences whenever possible.

The Ombuds will establish and follow consistent policies, which will be posted on the Ombuds Office website. The Ombuds will also publicize the key principles on which the Office is based, including the confidential, independent, impartial, and informal nature of the Office's services and will clearly explain each of these Standards of Practice to each visitor.

- A. **Independence:** The Ombuds Office will be, and will take action to appear to be, free from interference in the performance of their duties. KU will not attempt to direct or exert undue influence on the substantive work of the Ombuds, including with whom the Ombuds meet and how they manage any given concern. KU will also not attempt to interfere with or control the substance of any recommendations for KU change that the Ombuds might offer. The independence of the Ombuds is affected through KU's recognition of it, a reporting structure in which the Ombuds reports to the Provost and Executive Vice Chancellor of KU, freedom from direction or interference in the substance of its work, and by being distinct from all other organizational entities. The Ombuds Office' professional staff has discretion over how or whether to address visitors' concerns.
- B. **Impartiality:** The Ombuds will strive for impartiality and fairness in consideration of all visitors and the issues they raise. The Ombuds will operate with the aim of supporting all visitors and parties in the most effective way possible and will facilitate communication and problem-solving in a way that is impartial and that does not take sides or favor a particular outcome.

The Ombuds will avoid involvement in any matter in which their private interests, real or perceived, may conflict with their ability to be impartial and independent in their role. To avoid such conflicts in the first place, the Ombuds will not serve as a voting member on KU committees, will not participate in adjudication processes, and will not serve in a formal policy making capacity, except with regard to Ombuds policies. If a potential conflict of interest nonetheless exists, the Ombuds will take all steps necessary to disclose the potential conflict and/or remove the conflict. If it is not possible to sufficiently address a conflict of interest in a given case, the Ombuds will recuse themselves from involvement in it.

- C. **Confidentiality:** The Ombuds will hold all communications in strict confidence and will not reveal - and must not be required to reveal - the identity of visitors to the

Ombuds. The Ombuds will not reveal any information disclosed to them in confidence except in accordance with the IOA Standards of Practice, including not disclosing such information without a visitor's express permission, and then only at the discretion of the Ombuds. The Ombuds may, however, disclose otherwise confidential information if they determine what might be an imminent risk of serious physical harm or as permitted by the IOA Standards of Practice. Because the Ombuds is a purely voluntary resource that no one is required to use, those who do so will be understood to have agreed to the terms, conditions, and principles upon which the Ombuds Office was created and it operates and not disclose or call on the Ombuds to testify or produce documents relating to confidential communications in any legal, administrative, or other proceedings. KU has also agreed to respect the terms, conditions, and principles on which the Ombuds was created and not call on the Ombuds to testify or produce documents relating to visitors' identities and confidential communications in any legal, administrative, or other proceedings.

The Ombuds will resist any attempts by visitors or third parties to compel disclosure by the Ombuds of visitors' identities and confidential communications or documents by invoking the terms and conditions of this Charter and by asserting a claim of confidentiality under any applicable rule or statute under which confidential communications may be protected, including where applicable, rules or statutes dealing with mediation and other methods of alternative dispute resolution. The confidentiality of visitors' identities and communications is held by the Ombuds and cannot be waived by others, including the University administration, unless an appropriate judicial or regulatory authority determines that disclosure is necessary to prevent a manifest injustice or that disclosure is required because the interests served by disclosure clearly outweigh the interests served by ombuds confidentiality.

The Ombuds will not keep any permanent written records or notes with identifying information for the Ombuds Office and on behalf of the organization. The Ombuds will maintain any and all visit, visitor, and/or case-related information (e.g., notes, phone messages, appointment calendars) in a secure location and manner, reasonably protected from inspection by others (including management) and will have a consistent and standard practice for the regular destruction of such information. The Ombuds case handling and tracking process is ideally independent of the organization's technology system, with access allowed only to Ombuds Office

personnel. In cases where this is or is not possible, the KU administration, KU IT, and Ombuds will collaborate to develop and maintain appropriate process and practices for preservation of confidentiality. The Ombuds will prepare any data or reports to be shared with the University or otherwise made public in ways that protect visitor confidentiality.

- D. **Informality:** The Ombuds will be a resource for informal dispute resolution and problem-solving services. The Ombuds will not participate in formal investigative or adjudicative procedures, whether internal or external. The Ombuds will, however, endeavor to provide visitors with information about relevant formal grievance or complaint processes to help educate them about their options. Use of the Ombuds will be voluntary and will not be a required step in any grievance process or KU policy.

#### IV. Authority and Limits of the Ombuds Role

The authority of the Ombuds derives from the approval of this charter for the Ombuds Office by KU administration.

- A. **Ombuds Authority.** KU recognizes that the Ombuds has the independent authority to engage in the following actions as an integral part of their role:
1. **Have Discussions with Visitors and Others.** The Ombuds has the authority to discuss with visitors their concerns, available informal and formal pathways for resolution for KU-related issues, options for next steps, relevant information, and resources, and so forth. The Ombuds also has the authority to invite parties to engage in voluntary facilitated conversations as appropriate.
  2. **Initiate Informal Inquiries.** The Ombuds is committed to engaging in meaningful conversations with various entities at KU that support students, staff, faculty, administrators, including University Governance. Regular two-way communication will allow for frequent opportunities for upward feedback and collective support for the unique missions of each of those, and other KU entities. The Ombuds Office is also entitled to inquire informally about any issue concerning visitors or members of the

KU community served by the Ombuds. The Ombuds may therefore initiate informal inquiries into matters that come to the attention of the Office without having received a specific complaint from a directly affected member of the KU community.

3. **Access to Information.** The Ombuds is authorized to have access to KU information related to visitors' concerns and all departments are expected to respond to such requests from the Ombuds by providing reasonably responsive information with reasonable promptness. The Ombuds will respect and preserve the confidentiality of information they receive.
4. **Decline/Withdraw from Participation in a Concern.** The Ombuds may withdraw from or decline to participate in a concern if there is conflict or perceived conflict of interest or if the Ombuds determines that a visitor's effort to use the Ombuds Office is not in good faith or is inappropriate.
5. **Access to Outside Independent Legal Counsel.** KU will provide the Ombuds Office with access to the Office of the General Counsel in situations or on issues that do not implicate the Ombuds' independence or confidentiality. If the need arises, the Ombuds may require independent legal advice or representation in order to fulfill their required job functions. Where appropriate, KU will provide outside independent legal counsel if the Ombuds Office is asked for documents or testimony related to any litigation or other formal process related to the Ombuds Office's activities, or as otherwise necessary to protect the integrity of the Office's ability to function under the terms of this Charter.
6. **Consistent with Applicable University Senate Rules and Regulations.** Ombuds Office will perform its duties consistent with the applicable provisions of the [University Senate Rules and Regulations](#).

## B. Limitations on the Authority of the Ombuds

1. **The Ombuds Office is Not Authorized to Receive Notice of Claims Against KU.** Accordingly, communication to the Ombuds Office does not constitute notice of claims or complaints against the University. This includes allegations that may be perceived as violations of laws, regulations, or policies, such as sexual harassment or incidents subject to

reporting under the Clery Act or Title IX. Although visitors may discuss such issues with the Ombuds, KU has determined that Ombuds are not a “campus security authority” under the Clery Act because they have neither significant responsibility for campus or student activities nor a mandatory reporter under Title IX because they are not an official of the University and have no authority to institute any corrective action on behalf of KU. Some legal rights are affected by when the university is informed of allegedly inappropriate or wrongful conduct and when formal action is initiated against the university. Given the Ombuds Office commitment to confidentiality, informality, and independence, the Ombuds Office is not a formal channel for receiving notice of claims against the university.

While the Ombuds Office may help a visitor address a problem or concern effectively, it has no authority or obligation to take action to seek to protect the legal rights of the visitor.

If a visitor to the Ombuds wants to put a concern “on the record,” put KU on notice regarding a specific situation, or file a formal complaint or grievance with KU, the Ombuds will provide the visitor with appropriate information so that the visitor may do so themselves.

2. **No Participation in Formal Processes and Investigations.** The Ombuds has no authority to conduct formal investigations of any kind. The Ombuds will also not participate willingly in the substance of any formal dispute process, including outside agency complaints or lawsuits, either on behalf of a visitor to the Ombuds Office or on behalf of KU.
3. **Organizational Record Keeping.** The Ombuds Office has no authority to keep records on behalf of KU and will not create or maintain permanent documents or records for KU about individual matters. Temporary notes and any other materials related to a given matter will be maintained in a secure location and manner and will be destroyed once the Ombuds concludes its involvement in a matter. Any reports made and shared with KU or others will be sufficiently de-identified to protect the identity of the visitor and their confidential communications.



4. **Advocacy for Individual Parties or Entities.** The Ombuds Office has no authority to serve as an advocate, lawyer, representative, or counselor for any party. Rather, the Ombuds will advocate for fair processes, respectful treatment, and equitable policies.
5. **Business and Policy Decisions; Adjudication of Issues.** The Ombuds Office has no authority to make business or policy decisions on behalf of KU. The Ombuds also has no authority to adjudicate, impose remedies or sanctions, or to enforce or change KU policies or rules.
6. **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.

## V. Reports

The Ombuds Office will issue reports to the Provost and Executive Vice Chancellor on an annual basis. A copy of that report will also be provided to University Governance Leaders. That report may be distributed by the Provost to the Provost’s direct reports, senior leadership, and other appropriate bodies. Regular reports will include, at a minimum, information on Office statistics and trends, systemic issues identified by the Office, and descriptions of outreach and educational activities. The Ombuds Office will publish its reports on its intranet site and/or website. The Ombuds may also report systemic issues or other matters of concern through discussion from time-to-time.

## VI. Accountability and Evaluation

The work of the Ombuds will be evaluated annually by the Provost and Executive Vice Chancellor. The Provost’s evaluation will include two main categories 1) survey information gathered in collaboration with the Office of the Provost, University Governance Leaders, and the Ombuds Office and 2) self-assessment information provided by the Ombuds Office. Responses

to the survey will be aggregated and shared by the Office of the Provost with the Ombuds Office to then be shared with the University Governance Leaders for review, consideration, and feedback.

Complaints about the Ombuds Office should be directed to the Provost and Executive Vice Chancellor of KU, who may remove the Ombuds for failure to perform the duties of the office or violation of the standards of professional conduct outlined in this Charter.

## VII. Retaliation for Using the Ombuds Office

All visitors to the Ombuds Office have the right to consult with the Ombuds Office without reprisal. The Ombuds Office will work with KU to support the use of and/or creation of policies and processes that will robustly protect visitors from reprisals for using the Ombuds.

## VIII. Amendment and Revocation

This Charter may be amended only at the agreement of the University Ombuds, the Provost, the Chancellor, and with approval by the Office of the General Counsel. Proposed amendments will be reviewed in consultation with University Governance Leaders prior to its approval. The Charter remains in effect unless revoked by the Provost and the Chancellor, after providing reasonable notice and engaging in consultation with the University Ombuds, General Counsel, and University Governance Senate Leaders.\*

KU Chancellor \_\_\_\_\_ Signed 11/4/22 \_\_\_\_\_ date \_\_\_\_\_

KU General Counsel \_\_\_\_\_ Signed 11/4/22 \_\_\_\_\_ date \_\_\_\_\_

KU Provost and Executive Vice Chancellor \_\_\_\_\_ Signed 11/10/22 \_\_\_\_\_ date \_\_\_\_\_

KU University Ombuds \_\_\_\_\_ Signed 11/11/22 \_\_\_\_\_ date \_\_\_\_\_

\*This document was revised from the original 2008 “Statement of Best Practices for the University of Kansas Ombuds Office” and now entitled *Charter of the University of Kansas Ombuds Office*. This document was revised with input from the then-executive director of the International Ombuds Association, Chuck Howard; University of Kansas University Ombuds Ada Emmett, Associate Ombuds, Mike Rozinsky; University of Kansas Senior Associate General Counsel, Mike Leitch, and in consultation with the following of University of Kansas Governance Leaders between April and June 2022: University Senate President, Staff Senate President, Faculty Senate President, Student Senate President of the 2022-2023 session. University Governance Leaders endorsed the document on June 20th, 2022. The Provost and Executive Vice Chancellor of the University of Kansas, Barbara Bichelmeyer approved the document in August 2022. The University of Kansas Chancellor, Douglas Girod and General Counsel, Brian White approved the document in November 2022.