




3074 FLEMING ADMINISTRATION BUILDING
503 THOMPSON STREET
ANN ARBOR, MICHIGAN 48109-1340
734 764-9290 FAX: 734 764-4546

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(April 21, 2022 - footnote 1 updated)

TO: Michael J. Welsh
University Ombuds

FROM: Lori J. Pierce 
Vice Provost for Academic and Faculty Affairs

Christina B. Whitman 
Vice Provost for Academic and Faculty Affairs

RE: University of Michigan Office of the University Faculty Ombuds

In an effort to bring increased transparency and clarity to the Office of the University Faculty Ombuds and based on our discussions and the draft document you developed, the following is an overview of the Office.

MISSION

The Office of the University Faculty Ombuds provides a neutral, independent, informal, and confidential resource to facilitate fair, equitable, and expeditious resolutions of concerns and conflicts expressed by faculty at the Ann Arbor campus of the University of Michigan.

I. INTRODUCTION

The University Faculty Ombuds Office is established to complement other dispute resolution offices and activities of the University. The University Faculty Ombuds Office provides an informal and confidential mechanism for amicable, prompt, and economical dispute resolution, which may in many instances be preferable to formal grievance procedures and judicial proceedings. The University administration and University faculty recognize that a Faculty Ombuds Office serves an important role and public interest by providing an independent, confidential, impartial, and informal mechanism to resolve disputes, identify systemic problems or concerns, and provide a resource for faculty who may seek guidance on how to report possible violations of University policy.

This document outlines the privileges and responsibilities of the University Faculty Ombuds [Ombuds] and the Office of the University Faculty Ombuds [Office].

II. PURPOSE AND SCOPE OF SERVICES

The Office will provide an informal, neutral and confidential environment for resolution of disputes to University of Michigan faculty with concerns related to their faculty roles. The Office will be a place where members of the University faculty¹ can seek information and guidance regarding concerns, conflicts, or disputes at no cost and at any stage in the resolution process to the extent possible based on laws and the policies governing the Office. The scope of the Office is limited to addressing matters directly involving University faculty.

The Office will confidentially receive complaints, concerns, or questions about alleged acts, omissions, improprieties, and/or broader problems. The response of the Office is tailored to the dynamics of the situation and the visitor's² concerns. The Ombuds will listen, make informal inquiries to facilitate resolution, or otherwise review matters received, offer options for resolution, make referrals, and mediate disputes independently and impartially. The Ombuds will not function as a fact-finder or arbitrator; where the Ombuds thinks an investigation is appropriate, the Ombuds may request that the Provost's Office or another office as appropriate conduct an investigation. Services of the Office supplement, but do not replace, other processes (formal and informal) available to the University community. In addition, the Ombuds will serve as an information and communication resource, consultant, mediator, dispute resolution practitioner, and source of recommendations for institutional change for the University. The Ombuds will provide feedback to the University administration when trends, patterns, policies, or procedures of the University generate concerns or conflicts.

III. STANDARDS OF PRACTICE

To the extent possible, the Office will practice in a manner consistent with the International Ombudsman Association (IOA) Standards of Practice and Code of Ethics.

As described below, the Office shall exercise its functions independently, be confidential and impartial, and limit the scope of services to informal means of dispute resolution. The Office will strive to operate to best practices in a way that serves the interests of the University community.

The Office will publicize the confidential, independent, neutral, and informal nature of its services through a website, promotional materials, and will explain the ethical standards referenced above to each visitor to the Office.

A. Independence

The Office shall be, and will appear to be, free from interference in the performance of its duties. This independence is effected primarily through University recognition of the Office,

¹ For purposes of this document, "University faculty" include instructors, assistant professors, associate professors, professors, and emeriti faculty of research, clinical, or tenure tracks, as well as lecturers, librarians, archivists, and curators on the Ann Arbor campus who are not subject to a collective bargaining agreement (4/21/22 - updates shown in bold and underlined).

² A visitor is any person who seeks the service of the Ombuds.

reporting structure, and neutrality. The Office shall operate independently, outside of the ordinary line and staff structures of the University. Consistent with the role of the Ombuds described in this document, the Ombuds shall exercise sole discretion regarding whether to become involved in a matter and what steps to undertake as Ombuds regarding individual matters or systemic concerns.

To fulfill its functions, the Office shall have adequate and secure space and administrative support. The budget for the Ombuds will be sponsored and handled by the Office of the Provost.

B. Confidentiality

Unless required by law or court order, the Office will not confirm communicating with any visitor to the Office or disclose any confidential information without the visitor's explicit permission and, even with that permission, any communication will be at the sole discretion of the Ombuds. The Office will, however, disclose confidential information if and when there is, as judged by the Ombuds, an imminent risk of physical harm to any person.

The Office will not participate in any formal process inside or outside the University (such as a grievance procedure or an action in a court of law), even if given permission by a visitor who has initiated a formal process, unless compelled to do so by law or court order.

C. Neutrality

The Office will be neutral in its activities and will not take sides in any conflict, dispute, or issue. The Ombuds will impartially consider the interests and concerns of all parties involved in a situation, with the aim of facilitating communication and assisting the parties in reaching mutually acceptable agreements that are fair, equitable, and consistent with University policies and the law.

The Office will avoid involvement in matters where there may be a conflict of interest. When a conflict of interest exists, or appears to exist, the Ombuds will disclose the conflict to the visitor and to any other members of the University community who are involved in the matter (e.g., department chair, dean). The Ombuds will take all steps necessary to manage or avoid the conflict and if the conflict cannot be managed or avoided, the Ombuds will notify the visitor and any other involved parties that the Ombuds cannot assist in the particular matter. When a conflict of interest does occur, the Provost may appoint a substitute Ombuds to assist with the particular issue that constitutes a conflict.

D. Informality

The Office shall be a resource for informal dispute resolution only. The Office will not formally investigate, arbitrate, adjudicate, or in any other way participate in any internal or external formal process or action. The Office does not give legal advice. Use of the Office is voluntary and not a required step in any grievance process or University policy. No one is required to meet with the Ombuds. The Office is not an office of notice to the University.

IV. AUTHORITY AND LIMITS OF THE OFFICE OF THE UNIVERSITY FACULTY OMBUDS

A. Authority of the Office

1. Initiating Informal Inquiries

The Ombuds is entitled to inquire informally about any issue concerning the University that directly affects a University faculty member. The Ombuds may initiate informal inquiries into matters that come to its attention without having received a specific complaint from an affected member of the University faculty. If a more serious investigation is necessary, the Ombuds may ask the Provost's Office to undertake an investigation.

2. Access to Information

The Ombuds may request access to information related to a visitor's concerns from files and offices of the University. The purpose of the access is to provide a context for understanding the concerns raised by the faculty member. Consistent with applicable policies and within applicable constraints, University personnel contacted by the Office with requests for information should respond with reasonable promptness to the requests for information. The Office will have access, as appropriate, to the highest levels of the University. The Office will not breach confidentiality nor will it request a department or individual to breach confidentiality. The Office may share such information with the visitor only if the University personnel who provided the information specifically authorizes such disclosure.

3. Ending Involvement in Matters

The Ombuds may discontinue providing service and disassociate from a matter at any time. In such a case, the Ombuds will provide notice to the visitor and all others involved in the matter.

4. Discussions with Visitors and Others

The Ombuds has the authority to discuss a range of options available to a visitor, including both informal and formal processes. The Office may make any recommendations it deems appropriate with regard to resolving problems or improving policies, rules, or procedures. However, the Office has no authority to impose remedies or sanctions or to enforce or change any policy, rule, or procedure.

B. Limitations on the Authority of the Office

1. Receiving Notice for the University

Communication to the Office will *not* constitute notice to the University about existence of a problem including, but not limited to, alleged violations of laws, regulations, or policies such as sexual harassment, issues covered by whistleblower laws, or policy or incidents subject to reporting under the Clery Act. Although the Office may

receive such allegations, the Office is not a “security authority” as defined by the Clery Act, nor is the Office required to report these allegations to the University.

2. Putting the University on Notice

If a visitor discloses allegations that would constitute notice to the University and expresses a desire to make a formal report, the Office shall refer the visitor to the appropriate office(s) for formal administrative or grievance processes, or the Office will assist the visitor to disclose the allegation to the appropriate office(s).

3. Formal Processes and Investigations

The Office shall not conduct formal investigations of any kind. It will not participate in the substance of any internal or external formal dispute processes, outside agency complaints or lawsuits, either on behalf of a visitor to the Office or on behalf of the University, unless compelled to do so by law or court order.

4. Record Keeping

The Office will not keep records for the University and will not create or maintain documents or records for the University about individual matters. Notes and any other materials related to a matter will be maintained in a secure location and manner and will be destroyed when the Ombuds deems it appropriate to do so, unless legally required to retain the documents (e.g., pending FOIA request, litigation hold).

5. Advocacy for Parties

The Office will remain neutral and impartial. The Ombuds shall not act as an advocate for any party in a dispute; the Ombuds will not represent administration, management or visitors to the Office.

6. Adjudication of Issues

The Ombuds does not have the authority to adjudicate, to impose remedies or sanctions, to compel others to impose remedies, or to enforce or change University policies or rules.

7. Evaluation and Reporting

Evaluation of the activities of the Ombuds Office by the Provost and the Senate Advisory Committee on University Affairs (SACUA) will occur periodically on the basis of information from results of an anonymous feedback survey distributed to visitors to the Office by the Ombuds and returned to the Provost’s Office. Information provided by the Ombuds to SACUA and the Provost will consist of a tally of approximate numbers of visits to the Office and reporting of the general nature of issues brought to the Ombuds. Confidentiality of visitors will be scrupulously maintained, and no information that might lead to identification of any person, or any department, or school or college will be made available in this report.

V. RETALIATION FOR USING THE OFFICE OF THE OMBUDS

The University and its agents will not retaliate against any individual for consulting with the Office. The Ombuds will not be disciplined or removed from office, nor will the Office budget be reduced, for performing the duties of the office in good faith.

VI. APPOINTMENT AND COMPENSATION OF THE OMBUDS

The Ombuds will be appointed by the Provost for a term of three years, which will be renewable. The search for a new Ombuds will be handled by the Provost's Office using a process that provides for input/consultation from SACUA, the Office of the General Counsel (OGC), staff in the Provost's Office, unit ombuds, and deans.

Renewal of an Ombuds' term will follow a review conducted by the Provost's Office with input from SACUA, OGC, senior staff in the Provost's Office, unit ombuds, deans, and visitors. Arrangements will be made to ensure that visitors have the ability to provide anonymous input to the review process.

The Ombuds position is a part-time position. The Office of the Provost will provide compensation and will negotiate the terms of the compensation with the prospective Ombuds' dean. The Ombuds' workload in his or her department or school of appointment will be reduced in proportion to time dedicated to the Ombuds' position.

VII. REMOVAL FROM OFFICE

The Ombuds may be removed from the Ombuds position before the end of the term of office at the discretion of the Provost, and SACUA will be informed in a timely way. If removal is made under this paragraph, the Provost will work with the home unit of the Ombuds to determine appropriate transitional support and an appropriate return-to-service plan.

CBW/lpb

cc: Philip Hanlon, Provost and Executive Vice President for Academic Affairs
Jeffery Frumkin, Associate Vice Provost and Senior Director, Academic Human Resources
Christine Gerdes, Associate General Counsel, Office of the General Counsel
Karen Gibbons, Chief of Staff, Office of the Provost
Stephanie Riegle, Acting Chief of Staff and Assistant Vice Provost for Academic and Budgetary Affairs
Kate Barald, Chair, SACUA
Thomas Schneider, Director, Faculty and Operational Support Activities, SACUA