



# The Unique—and Effective—Quartet of Standards of Practice of Organizational Ombuds: Each Standard is Necessary—and Requires the Other Three Standards

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## ABSTRACT

Employers in many sectors consider adding an organizational Ombuds (OO) to their conflict management system. However, employers often have questions about this unusual profession. How are the International Ombuds Association (IOA) Standards of Practice different from the standards of other human services professionals within organizations—and different from the standards of other Ombudsmen? How do the IOA Standards of Practice contribute to the effectiveness of OOs?

Organizational Ombuds practice to a unique quartet of Standards of Practice. One or more of the IOA Standards will be familiar to many, based on some similarities in other professions: Independence, Impartiality/Neutrality, Confidentiality, and Informality. But the set of four Standards *taken together* appears to be unique to OO practice. The four IOA Standards enable OOs to serve an organization and its members effectively—by creating a zero-barrier office (a safe, accessible, fair and

credible place) for every organizational constituent to discuss good ideas and difficult or painful concerns. This article explains *why* each of the four Standards is necessary to create the organizational Ombuds model—and *how* each Standard supports the other three.

## KEYWORDS

Organizational Ombuds, Standards of Practice, Independence, Impartiality/Neutrality, Confidentiality, Informality, Ombuds Effectiveness

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Organizational Ombuds (OO) offices are spreading around the world. New Ombuds have been appointed at the rate of one or more a week, in new and existing Ombuds offices, according to Tom Kosakowski, publisher of the Ombuds Blog. OOs work to Standards of Practice (SOP) that were developed specifically to support a practice that is different from that of classical or advocate ombudsmen (the professionals who serve citizens and other external constituents and have some formal functions.) (Administrative Conference of the United States 2016). OOs, by contrast, work *informally*, and most work inside their organizations for constituents who are inside their organizations. OOs also work to a unique set of standards that are different from those of other intra-organizational services, such as Human Resources, Employee Assistance, and Ethics Officers (Rowe and Williams 2014). OOs, who are informal practitioners, are a support to formal systems; OOs are designated to be independent, neutral/impartial and nearly entirely confidential. Organizational Ombuds also are different from some corporate compliance officers who are called “ombudsmen.” These compliance officer “ombudsmen” are not designated as independent, neutral/impartial, or nearly-completely confidential practitioners and they do have formal responsibilities, such as serving as a formal reporting channel within their organization.

A growing number of employers around the world are asking about adding an organizational Ombuds office to their conflict management system. And they often have questions about this unusual profession. How are the IOA Standards of Practice different? And how is it that these Standards help an organizational Ombuds office to be effective?

Organizational Ombuds are fundamentally different because they practice to a *unique* quartet of Standards of Practice: Independence, Impartiality/Neutrality, Confidentiality, and Informality. (IOA 2022) One or more of these four Standards of Practice may seem familiar to the reader who knows the standards of other professions. The four IOA Standards *taken together* create a professional approach that is unique to the Organizational Ombuds model and distinguishes it from other ombudsman models and approaches. The quartet of Standards provides an effective capability for OOs to provide a safe, accessible, credible and fair office to serve an organization and its members. OOs provide safety for fearful constituents when they need help and offer safe options to help constituents get information where it needs to go for management action. As we explain here, the IOA Standards are deeply interwoven and highly interdependent.

## THE FOUR IOA STANDARDS

- *Independence* means that the OO is “independent in appearance, purpose, practice and decision-making” and “operates independently from line and staff reporting structures.” (IOA 2024) The Ombuds reports to the highest possible authority in the organization to minimize the potential for undue influence from other organizational functions. The Ombuds holds no other position within the organization that could be viewed as compromising their independence (IOA 2024) This independence, combined with strict confidentiality requirements, may even, on rare occasions, require the Ombuds to consult separate legal counsel so as not to compromise independence or confidentiality.
- *Impartiality/Neutrality* means that the organizational Ombuds is designated by the organization and Standards of Practice as a neutral or impartial professional. Other ombudsmen (such as classical ombudsmen or advocate ombudsmen) may begin working on a case impartially or neutrally. However, they often draw non-neutral conclusions and may advocate for a specific outcome or response. An *organizational Ombuds*, by contrast, begins with neutrality/impartiality and remains thus, throughout their work. OOs are not “neutral” about laws and ethical behavior, but they do not advocate for a specific outcome or specific individual in an organization. They are instead an advocate for fairness and fair processes. Neutrality/Impartiality is often discussed among Ombuds. Tom Sebok wrote a heartfelt

discussion about the complexity of neutrality—with a neutrality checklist for the OO practitioner, and a poem. (Sebok 2011). In a foundational, brilliantly detailed and extensive discussion of the concept of “neutrality,” Howard Gadlin and Elizabeth Walsh Pino (1997) wrote: “It is neutrality that differentiates us from all others in our organizations and it is neutrality that legitimizes our function.” In this article we agree with the Gadlin and Pino statement but make the case that *each* Standard similarly plays a role in reinforcing and legitimizing the other IOA Standards and the OO profession.

- *Informality* is a broad concept. The designation of “informality” was widely discussed among practitioners and then proposed and promulgated as a standard by OO Ella Wheaton, then of UC/Berkeley and later the first OO for the US Department of Justice, at an ABA meeting about ombudsmen. Wheaton had had a major career in Human Resources and immediately recognized that OOs had to be designated as informal if they were to be permitted to be independent, confidential and impartial.

Informality means that OOs have no management decision-making authority outside their own offices. They have no authority to perform formal investigations, to adjudicate, or to redress wrongs. They do not take part in any formal conflict management process inside or outside the organization. And, they have broad discretion in exploring options with an OO program user (also known as a “visitor”). Because of the informal nature of the OO model, its mandated independence from the ordinary line and staff functions of the organization, and because of their mandated confidentiality, OOs do not accept “notice” for the organization or speak for their organization. Working with an Ombuds is always entirely voluntary; no one in an organization can be required to work with an Ombuds.

The concept of informality may be the least well understood IOA Standard. “Informality” has its own JIOA issue which includes discussions of the bumpy development of informality as the last recognized Standard. (JIOA 2012) For example, there was concern that the term informality may conjure for some people a mistaken image of informal dress and manners. In this 2012 JIOA issue, Howard Gadlin suggested that the term might signal to some people “weakness” in addressing injustice and unfairness, in organizations where the many sources of power of organizational Ombuds (Rowe, 2024) are not well understood. Interestingly, an initial concern about “informality” was that it might only have been adopted as a Standard just to differentiate organizational Ombuds from other ombudsmen. As the OO profession has developed however, informality *does* differentiate OOs, and that differentiation is, in fact, an asset. (Rowe 2024) Because the Ombuds is never placed in a formal role that might favor one person or group of people over another—thereby compromising actual and perceived impartiality/neutrality, and independence—OO informality helps to ensure that the Ombuds remains credibly viewed as neutral and independent. Likewise, because the Ombuds has no direct decision-making authority relevant to a specific matter, the precept that the Ombuds is not an appropriate point of contact to place the organization on notice is reinforced. These points are so important that one purpose of this article is to illustrate how the addition of *informality* produced a uniquely effective quartet of Standards for an office serving in organizational conflict management systems.

- *Confidentiality* means that the Ombuds holds as confidential the identity of those seeking assistance and any information received or relating to them. The OO only shares such information with permission from the person seeking assistance and, even then, only in the Ombuds’ own discretion. OOs do not keep identifiable case records. Ombuds *breach* confidentiality (in their sole discretion) only in the very rare cases of imminent risk of serious harm, or as required by a specific law, such as reporting elder or child abuse. (Disclosures

required by law typically overlap with the Ombuds' own assessment of imminent risk of harm.) IOA has published a detailed IOA primer about OO confidentiality. (IOA 2023).

Ombuds do not accept notice for the organization, with the narrow exception of K-12 Ombuds. Serving as a point of notice for an organization derives from the concept of imputed notice as a fundamental principle of 'agency law.' If a person serves in a position that has authority and direct responsibility to respond to a claim, such as one of harassment or discrimination, a court may deem that reporting a concern to that person places their organization "on notice" and triggers an obligation to respond. When the Ombuds program is properly structured, the Standards of the American Bar Association, a large volume of American case law, and the current U.S. Department of Education Regulations interpreting Title IX of the Educational Amendments Act of 1973 all acknowledge that conversations with an Ombuds do not place the organization "on notice." (Jurisdictions vary on the degree of confidentiality afforded based on the specific legal test the jurisdiction applies to review the claim of confidentiality.) The exception to this acknowledged status exists with K-12 Ombuds because K-12 Ombuds may be perceived by a vulnerable population as someone with authority to act. Yet the rationale deeming K-12 Ombuds as someone who can receive notice simply reinforces the importance of proper structure for all other Ombuds to avoid the potential that they may be perceived as having authority to act. (IOA 2023.)

## HOW IS EACH STANDARD SUPPORTED BY THE OTHERS?

In this article we assert that it is the conjunction of the four Standards that makes the foundation of OO practice unique and effective, and that each of the four Standards of Practice is needed to support the other three Standards. We share several examples illustrating how the standards are interdependent and mutually reinforcing and now focus on that point.

**How is Confidentiality Supported by the other Standards?** As noted above, OOs may breach confidentiality when they judge there is an imminent risk of serious harm, but otherwise, (subject to some mandatory exceptions such as child or elder abuse disclosure requirements, and limitations that some jurisdictions may impose) Ombuds assert a confidentiality that is nearly absolute. How does this assertion depend on the other three Standards? The OO office would be considered "an office of notice" if the OOs did not practice *informally*, for example by keeping records. As Carolyn Noorbakhsh has noted, OOs could not keep *confidentiality* if they made management decisions and represented their organization formally; they could reasonably and constantly be asked for their records. (Noorbakhsh 2012) The standard of confidentiality is also supported by the Ombud's *independence*. It is because the OO is not directly linked to or reporting to line and staff offices that the OO can offer almost complete confidentiality. Likewise, the standard of *confidentiality* is supported by the designation of being "*impartial*" or "*neutral*." The OO is not advocating for persons or parties, but, rather, for fair and ethical processes, which makes it possible to maintain almost complete confidentiality about people who contact the Ombuds.

**How is Independence Supported by the Other Standards?** The standard of *independence* is supported by *informality*, *confidentiality*, and *neutrality/impartiality*. For example, it would be hard to be *independent* if one were making formal management decisions—or keeping formal case records for the organization. It would be hard to act as an *independent* professional if one could not keep almost complete *confidentiality* about the identities of those who have contact with the office. In very rare cases, the concept of independence must even be extended to securing separate and independent legal counsel when necessary to preserve confidentiality within the organization itself. It would be

difficult to maintain *independence* from all line and staff offices without the designation of *impartiality/neutrality*—for example, if one took sides or made decisions on behalf of persons or groups.

**How is Impartiality/Neutrality Supported by the Other Standards?** Impartiality/neutrality also requires the other Standards of Practice. It would be hard to be perceived as *impartial or neutral* if the OO did not maintain near-absolute *confidentiality* about the identities of those who come to the office. *Impartiality/neutrality* would also be difficult if one were not *independent*—that is, if one were reporting to an ordinary line or staff office, especially if that office were a compliance office. And OOs would not be seen as *impartial or neutral* without *informality*—for example, if they made formal decisions on behalf of the organization or participated in formal processes such as formal grievance procedures where they were making decisions for the organization.

**How is Informality Supported by the Other Standards?** *Informality* is supported by *independence*, *impartiality/neutrality*, and *confidentiality*. If the OO were not *independent* and reported to a line or staff office (especially if that office were a compliance office), it would hard to practice informally; for example, the OO would need to maintain records which would be relevant in formal processes. If the OO were not designated as *impartial or neutral*, it would be hard to remain informal; the OO would be under constant pressure to take sides and act on behalf of persons and groups inside the organization.

While the Ombuds is an advocate for systemic, procedural, and substantive fairness, to remain truly impartial the Ombuds must do so in ways that support managers and authorities to act when action is needed, instead of the Ombuds acting directly and formally (Rowe et al 2024a). For example, an Ombuds may identify a troubling new issue, pattern, or theme within their organization and then find ways consonant with confidentiality to communicate with managers about the new issue, pattern, or theme (Rowe et al 2024b). Ombuds often recommend that management consider action and offer options for managerial action. As an example of such an option, managers could collect data relevant to a problem, and then hold discussions with stakeholders about new policies, procedures or structures. (Rowe et al 2024c) However, if Ombuds were, themselves, to write the definitive draft of a specific solution, policy change, or corrective action, Ombuds would risk placing themselves in a non-neutral, non-independent and possibly formal role. This could identify the Ombuds as the “owner” of that policy and compromise the IOA Standards of Practice.

In these ways each of the four standards is supported and needed by the other three standards. It is the conjunction of the four that creates a sturdy and effective quartet of IOA Standards of Practice. It is essential that OOs practice to the key concepts of each IOA Standard so as not to compromise the organizational Ombuds model.

## WHY ARE THESE STANDARDS IMPORTANT FOR THE ORGANIZATION?

As a society, we are “in desperate need . . . of embracing the different and more effective way of approaching conflict resolution and risk management that a high performing Ombuds approach can offer.” (MacAllister 2016) The OO profession has taken major steps to update its Standards of Practice and to add rigor to them. The quartet of Standards provides an effective tool that enables Ombuds to perform their roles effectively—and to communicate effectively about the novel Ombuds model. The Standards of Practice, taken together, provide a platform for the unusual array of functions that Ombuds do—and do *not*—provide. (Rowe et al 2024a) These permit OOs to help constituents to deal with concerns and to help them to get information to get where it needs to go, within the organization, for management decision-making. (Rowe et al., 2024b).

Leadership in every organization needs information about good ideas and serious problems that have not yet surfaced. A misconception that some people have is that OOs serve only non-management



employees. However, OOs serve every level within the organization including its leadership, and, in fact, often disproportionately so, as senior managers come in with concerns. Leaders need information in a clear and timely fashion if they wish to build community and improve productivity—and manage risks. And they also need a safe and confidential sounding board to explore their concerns and challenges in a safe and confidential way. However, our research (Rowe et al 2009 and Rowe 2018) shows there is a long list of barriers that block the flow of information from getting where it needs to go on a timely basis. People in the organization who *have* vital information often perceive that they, personally, face many risks in coming forward. People, including complainants, responders and bystanders, often do not know where to go and how to begin to communicate about delicate issues. People, including leaders, need help and a safe environment in which to discuss their concerns and explore options to address them (Rowe 2018, 2024).

## HOW ARE ORGANIZATIONAL OMBUDS DIFFERENT AND HOW ARE THEY EFFECTIVE?

By adhering to the unique quartet of IOA Standards of Practice, the OO office is usually the *only* “zero-barrier” office—that is, a safe, accessible, fair, and credible office—in an organization’s conflict management system (Rowe, 2003). A zero-barrier office sharply reduces risks for constituents who wish to discuss unacceptable behavior, painful dilemmas, and good ideas because—with very rare exceptions—it is only the OO’s visitor who decides whether anyone is to be informed of discussions in the office. OOs can help constituents to find safe ways, like generic approaches, a detailed anonymous letter, or—with permission—mediation, or discussions with a manager or other authority who has the power to fix a problem. (Rowe et al., 2024b). In addition, because of the four Standards, OOs can receive almost any work-related concern from all members of an organization, all ranks, all demographics, and all units. (Rowe 2024c) This provides a very wide “catchment area” for serious concerns and good ideas for the organization.

As explained in this article, we show why OO office will *only* be viewed as a zero-barrier office when operating to well-balanced IOA Standards of Practice. This may be especially true with respect to the confidentiality standard, because all four Standards are required to protect almost complete confidentiality—and be *perceived* as protecting confidentiality. The four Standards are essential to identify, assess, and find options for the wide range of concerns captured by the unusual OO portfolio of functions of OOs (Rowe et al., 2020). The IOA Standards form the platform for the Ombuds’ sources of influence in supporting the systems of the organization to which they belong (Rowe, 2024). The integrated quartet of IOA Standards is required for organizational Ombuds. If the Ombuds, or their sponsoring organization, were to try to pick and choose among standards while ignoring others, the organization’s Ombuds model will likely collapse. Furthermore, *ineffective* program variations may undercut other programs who uphold the standard quartet. (MacAllister 2016)—and damage the whole organizational Ombuds profession.





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