

**University of California, Irvine
Office of the Ombudsman
Charter**

I. Introduction

The Office of the Ombudsman at the University of California Irvine, was established in 1978 to provide informal dispute resolution to students, faculty and staff, predicated on the principles of fairness and equity. The structure and practice of the office is built on independence, impartiality and confidentiality. In the spirit of these important functions, this Charter Agreement defines the privileges and responsibilities of the Office of the Ombudsman.

II. Purpose & Scope of Services

The Office of the Ombudsman provides confidential, impartial, independent and informal dispute resolution and mediation services. The office is available to faculty, staff, students, and UCI community members, who seek assistance with matters brought to the attention of the ombudsman.

The Office of the Ombudsman shall confidentially receive complaints, concerns or inquiries about alleged acts, omissions, improprieties, and/or broader systemic problems within the Office's defined jurisdiction. In response, the Office of the Ombudsman will listen, review matters received, make informal inquiries, offer options, make referrals, and facilitate resolutions independently and impartially. In addition, the Office of the Ombudsman shall serve as an information and communication resource, consultant, dispute resolution expert and catalyst for institutional change.

The Office of the Ombudsman supplements but does not replace or substitute for formal, investigative or appeals processes made available by the University. The office functions to assist parties in reaching mutually acceptable agreements in order to find fair and equitable resolutions to concerns that arise at the university. Use of the office is voluntary. The Office of the Ombudsman also reports general trends of issues and provides feedback throughout the organization, and recommends systems change when appropriate without disclosing confidential communications.

III. Reporting

The Office of the Ombudsman functions independently with respect to case handling and issue management and reports to the Offices of the Chancellor for administrative and budgetary purposes. To fulfill its functions, the Office of the Ombudsman shall have a specific allocated budget, adequate space, and sufficient resources to meet operating needs and pursue continuing professional development.

IV. Standards & Ethics

The Office of the Ombudsman staff shall adhere to The International Ombudsman Association Code of Ethics and Standards of Practice which may be found on its website at www.ombuds.uci.edu. This Charter adopts and incorporates by reference the IOA Standards of Practice, IOA Code of Ethics, and IOA Best Practices. These tenets require the Office of the Ombudsman to function independently of the organization, to be confidential and neutral, and to limit the scope of its services to informal means of dispute resolution. The IOA Standards, Code, and Best Practices delineate minimum standards, and the Office of the Ombudsman shall always strive to operate to “best practices” and to serve the best interests of all concerned. The Office of the Ombudsman also adheres to best practices within the University of California system, as delineated in the “Declaration of Best Practices for University of California Ombuds Offices”.

A. Independence

Independence is essential to the effective functioning of the Office of the Ombudsman. The Office of the Ombudsman shall be, and shall appear to be, free from interference in the legitimate performance of its duties. This independence is achieved primarily through reporting structure, neutrality and organizational recognition and respect for the independent role of the Office of the Ombudsman. To ensure objectivity, the Office of the Ombudsman shall function independently from administrative authorities. This includes not disclosing confidential information about matters discussed in the Office of the Ombudsman with anyone in the organization, including the person to whom the Office of the Ombudsman reports, except as clearly delineated in Section III.B. In addition, the Office of the Ombudsman will have the authority to manage the budget and operations of the office.

B. Confidentiality

The Office of the Ombudsman shall not disclose any information provided in confidence, unless in the course of discussions with an inquirer, the ombudsman asks for and receives permission to make a disclosure or unless the ombudsman determines that there is an imminent risk of serious harm. The Office of the Ombudsman asserts that there is a privilege of confidentiality with respect to the identity of visitors and their issues, and therefore can not be required to disclose confidential communications.¹ The Office of the Ombudsman shall not confirm communicating with any party or parties. The Office of the Ombudsman shall neither willingly participate as

¹ As stated in the Declaration of Best Practices of University of California Ombuds Offices, “In accordance with the California Mediation Act (California Evidence Code Section 1115-1128), UC Ombudsman are neutrals who meet the definition of mediators and whose communications with visitors are for the purpose of initiating, considering, or reconvening a mediation or retaining the ombuds, and thus assert the mediator’s privilege for all communications with visitors. Additionally, UC Ombuds assert that all communications with their offices are made with the expectation of confidentiality and are therefore entitled to a protection under the California State Constitution. By providing visitors with a confidential reporting mechanism, Ombuds Offices also assist the University in meeting the important public objectives set forth in the Federal Sentencing Guidelines and the Sarbanes-Oxley Act.” The UCI Office of the Ombudsman will assert any and all legal privileges related to confidential communications made with the office.

witnesses with respect to any confidential communication, nor participate in any formal process inside or outside the University.

C. Impartiality

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

D. Informality

The Office of the Ombudsman shall be a resource for informal dispute resolution and mediation services. The Office of the Ombudsman shall not investigate, arbitrate, adjudicate or in any other way participate in any internal or external formal process or action. The Office of the Ombudsman does not keep records for the University, and shall not create or maintain documents or records for the University about individual cases. Use of the Office of the Ombudsman will be voluntary and not a required step in any grievance or University policy.

V. **Authority and Limits of the Office of the Ombudsman**

A. Authority of the Office of the Ombudsman

The Office of the Ombudsman 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 Office of the Ombudsman is authorized to address issues which fall under federal, state, local labor and employment laws, rules and regulations. The Office of the Ombudsman shall have access to records and personnel at UCI for the purpose of facilitating informal resolutions. The Office of the Ombudsman has the authority to break confidence if the ombudsman believes there is an imminent risk of serious harm.

The Office of the Ombudsman may, without having received a specific complaint from a member of the University community, act on its own discretion, and initiate inquiries concerning matters the Office of the Ombudsman believe warrant such treatment. The Office of the Ombudsman may decline to inquire into a matter or may withdraw from a case if the ombudsman believes involvement is inappropriate for any reason, including matters not brought in good faith, or which appear to be misuses of the ombudsman function.

The Office of the Ombudsman has the authority to discuss a range of options available to the visitor, including both informal and formal processes. However, the Office of the Ombudsman will have no actual authority to impose sanctions or to enforce or change any policy, rule or procedure.

The Office of the Ombudsman may require legal or other professional advice, from time to time, in order to fulfill their required functions. The Office of the Ombudsman may be provided legal counsel separate and independent from the University in the event it is asked for documents or testimony related to any litigation or other formal process, or when a conflict of interest arises between the Office of the Ombudsman and the administration or the University.

B. Limitations on the Authority of the Office of the Ombudsman

1. Receiving Notice for the University

Communication to the Office of the Ombudsman shall not constitute notice to the University. The Office of the Ombudsman shall publicize its non-notice role to the university. 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. Because the ombudsman does not function as part of the administration of the University, even if the ombudsman become aware of such allegations, the ombudsman is not required to report it to the University.

If a user of the Office of the Ombudsman would like to put the University on notice regarding a specific situation, or wishes for information to be provided to the University, the ombudsman will provide that person with information so that the person may do so himself/herself. In extremely rare situations, the Office of the Ombudsman may have an ethical obligation to put the University on notice. This will take place only when there is no other reasonable option.

2. Collective Bargaining Agreements

The Office of the Ombudsman shall not address any issues arising under a collective bargaining agreement (“CBA”), unless allowed by specific language in the CBA. This means that while the Office of the Ombudsman 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, the ombudsman shall refer the employee to the CBA and to his or her union representative. The Office of the Ombudsman may work with union members regarding all other issues not covered by the contracts, such as communication issues with co-workers.

3. Formal Processes and Investigations

The Office of the Ombudsman shall not conduct formal investigations of any kind. The Office of the Ombudsman staff shall not willingly participate in formal dispute processes or outside agency complaints or lawsuits, either on behalf of a user of the Office of the Ombudsman or on behalf of the University. The Office of the Ombudsman provides an alternate channel for dispute resolution, and all use of ombudsman services shall be voluntary. Because confidentiality, neutrality and informality are critically important to the Office of the Ombudsman, all communications with the office are made with the understanding that they are confidential, off-the-record, and that no one from the office will be called to testify as a witness in any formal or legal proceeding to reveal confidential communications.

4. Record Keeping

The Office of the Ombudsman 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 are routinely destroyed at regular intervals and at the conclusion of a matter. All materials related to a case should be maintained in a secure location and manner, and should be destroyed once the case is concluded. The ombudsman may maintain non-confidential statistical data to assist the ombudsman in reporting trends and giving feedback.

5. Advocacy & Psychological Counseling

The Office of the Ombudsman shall not act as an advocate for any party in a dispute, nor shall they represent management or visitors to their office. In addition, the Office of the Ombudsman does not provide legal or psychological assistance.

6. Adjudication of Issues

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

7. Conflict of Interest

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

VI. Retaliation for Using the Office of the Ombudsman

All members of the constituencies served by the Office of the Ombudsman shall have the right to consult the Office of the Ombudsman without fear of retaliation or reprisal.

VII. Office of the Ombudsman Structure

The Office of the Ombudsman reports to the Offices of the Chancellor for administrative and budgetary purposes only. The Office of the Ombudsman should be protected from retaliation (such as elimination of the Office or the Ombudsman, or reduction of the Ombudsman budget or other resources) by any person who may be the subject of a complaint or inquiry.

References:

IOA Standards of Practice (<http://www.ombudsassociation.org/standards/Std%20Practice%201-07.pdf>)

IOA Code of Ethics ([http://www.ombudsassociation.org/standards/Code Ethics 1-07.pdf](http://www.ombudsassociation.org/standards/Code%20Ethics%201-07.pdf))

IOA Best Practices: A Supplement to IOA's Standards of Practice – Version 2, March 31, 2008 (<http://www.ombudsassociation.org/standards/IOABestPractices.pdf>)

IOA Guidance for Best Practices and Commentary on the American Bar Association Standards for the Establishment and Operation of Ombuds Offices, revised February 2004; March 14, 2006 ([http://www.ombudsassociation.org/members/documents/GuidanceOnABAStandards%20_final.pdf](http://www.ombudsassociation.org/members/documents/GuidanceOnABAStandards%20final.pdf))

Declaration of Best Practices for University of California Ombuds Offices