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Charter Agreement

Charter Agreement for the Office of the Ombuds at the University of California, Santa Barbara

I. INTRODUCTION

In 1970 the Academic Senate action passed a "sense motion" recommending the establishment of the Office of the Ombuds at UCSB. The first Ombuds, Geoffrey Wallace, was appointed on October 21, 1970.

Geoffrey Wallace served in the role of Ombuds until he retired in 2004, at which time the office was closed temporarily. A Task Force on Dispute Resolution and Mediation was appointed by the Executive Vice Chancellor Gene Lucas "to consider the support [the office] provide[s] for dispute resolution and mediation in the context of the current budget constraints and the structural changes that have occurred on the campus since the inception of this program." The Task Force report recommended the reopening of the Office of the Ombuds, and the Executive Vice Chancellor supported the recommendation and reopened the Office of the Ombuds.

This Charter Agreement defines the privileges and responsibilities of the Ombuds and the Office of the Ombuds [Office].

II. PURPOSE AND SCOPE OF SERVICES

The Office will provide informal dispute resolution services to UCSB faculty, staff, students, and anyone with a University-related concern. The Office will be a place where members of the University community can seek guidance regarding disputes or concerns at no cost and at any stage in the resolution process.

The Office will confidentially receive complaints, concerns, or questions about alleged acts, omissions, improprieties, and/or broader systemic problems. The response of the Office is tailored to the dynamics of the situation and the visitor's concerns. The Ombuds will listen, make informal inquiries or otherwise review matters received, offer resolution options, make referrals, and mediate disputes independently and impartially. Services of the Office supplement, but do not replace, other processes (formal or informal) available to the University community.

In addition, the Ombuds will serve as an information and communication resource, consultant, mediator, dispute resolution expert, and source of recommendations for institutional change for the University. The Ombuds will provide feedback to the University when trends, patterns, policies, or procedures of the University generate concerns or conflicts.

III. STANDARDS OF PRACTICE AND CODE OF ETHICS

The Office will practice under the International Ombudsman Association (IOA) Standards of Practice and Code of Ethics, and this Charter adopts and incorporates by reference the IOA Standards of Practice, IOA Code of Ethics, and IOA Best Practices. The Office will function independently of other organizational entities, be confidential and impartial, and limit the scope of services to informal means of dispute resolution. The Ombuds will be a member of IOA, and will attend IOA conferences and trainings as they are available. The IOA Standards, Code, and Best Practices are minimum standards, and the Office will also strive to operate to best practices in a way that serves the interests of the University community, including adhering to the "Declaration of Best Practices for University of California Ombuds Offices."

The Office will publicize the confidential, independent, neutral, and informal nature of its services and will explain these ethical standards to each visitor.

A. Independence

The Office will be, and appear to be, free from interference in the performance of its duties. This independence is effected primarily through organizational recognition, reporting structure, and neutrality. The Office will operate independent of ordinary line and staff structures. The Ombuds will exercise sole discretion over whether and how to act regarding individual matters or systemic concerns.



To fulfill its functions, the Office will have a specific allocated budget, adequate space, and sufficient resources to meet operating needs and pursue continuing professional development. The Ombuds will have the authority to manage the budget and operations of the Office and will report to the Executive Vice Chancellor regarding administrative and budgetary matters only.

B. Confidentiality

The Office will not confirm communicating with any party or disclose any confidential information without the party's express permission and, even with that permission, any communication will be at the sole discretion of the Office. Confidentiality will be respected even if disclosure may prevent resolution of a problem. The Office may, however, disclose confidential information if and when there is an imminent risk of physical harm.

The Office will assert that it holds a privilege with respect to the identity of visitors and their issues. Therefore, the Office will not participate in any formal process inside or outside the University, even if given permission by a visitor who has initiated a formal process.

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 the mission and policies of the University.

The Office will avoid involvement in matters where there may be a conflict of interest. (A conflict of interest occurs when the Ombuds' private interests, real or perceived, supersede or compete with their dedication to the neutral and independent role of the Office.) When a conflict of interest exists, the Ombuds will take all steps necessary to disclose and/or avoid the conflict.

D. Informality

The Office will 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. Use of the Office will be voluntary and not a required step in any grievance process or University policy.

IV. AUTHORITY AND LIMITS OF THE OFFICE OF THE OMBUDS

The authority of the Office derives from the University administration as manifest by the endorsement of the University's Executive Vice Chancellor.

A. Authority of the Office

1. Initiating Informal Inquiries

The Office will be entitled to inquire informally about any issue concerning the University and affecting any member of the University community. Therefore, the Office may initiate informal inquiries into matters that come to its attention without having received a specific complaint from an affected member of the University community.

2. Access to Information

The Office may request access to information related to visitors' concerns from files and offices of the University. Campus individuals who are contacted by the Office with requests for information are expected to cooperate and, as much as possible, to provide appropriate information as requested. The Office will not request a department or individual to breach confidentiality. University departments are expected to respond with reasonable promptness to requests made by the Office.

3. Ending Involvement in Matters

The Office may discontinue providing service and disassociate from a matter at any time.

4. Discussions with Visitors and Others

The Office has the authority to discuss a range of options available to its visitors, 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 will have no actual authority to impose remedies or sanctions or to enforce or change any policy, rule, or procedure.

5. Access to Legal Counsel

On occasion, the Office may require legal advice or representation in order to fulfill its required functions. The Office may be provided with 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 arising out of the Office of the Ombuds' activities.

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 the existence of a problem. Such communication may include but is not limited to alleged violations of laws, regulations, or policies, such as sexual harassment, issues covered by whistleblower policy, or incidents subject to reporting under the Clery Act. Although the Office may receive such allegations, it is not a "campus security authority" as defined in the Clery Act, nor is it required to report these allegations to the University. In addition, if the visitor discloses such allegations and expresses a desire to make a formal report, the Office will refer the visitor to the appropriate office(s) for administrative or formal grievance processes.

2. Putting the University on Notice

If visitors would like to put the University on notice regarding a specific situation, or wish information to be provided to the University, the Office will provide the visitors with information so that the visitors may do so themselves.

3. Formal Processes and Investigations

The Office will not conduct formal investigations of any kind. It will not participate willingly in the substance of any formal dispute processes, outside agency complaints or lawsuits, either on behalf of a visitor to the Office or on behalf of the University.

4. Collective Bargaining Agreements

The Office may not inquire (informally or otherwise) into the application or interpretation of a collective bargaining agreement, or into the alleged violation of the duty of fair representation against a certified union.

5. 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 once the Office concludes its involvement in a matter.

6. Advocacy for Parties

The Office will not act as an advocate for any party in a dispute, nor will it represent management or visitors to the office.

7. Adjudication of Issues

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

V. RETALIATION FOR USING THE OFFICE OF THE OMBUDS

The University and its agents will not retaliate against individuals for consulting with the Office.

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