



FREQUENTLY ASKED QUESTIONS

Proposed Revisions to Standards of Practice and Ethical Principles

Who was on the Task Force that studied and recommended changes and how did they approach it?

The Ethics and Professional Standards Task Force was chaired by Bruce MacAllister and Dave Carver. Serving with them were David Miller, Jessica Kutcha-Miller, and Isabel Calderon. In addition to the individual Task Force members, the Task Force appointed a Standards of Practice Task Force Advisory Panel, consisting of sixteen senior practicing ombuds, and collected information from the IOA Board and Committee Chairs in two rounds of surveys. In addition to collecting and analyzing the survey responses, the Task Force also conducted global benchmarking to seek out the best practices among all sectors and aspects of the ombuds field.

Who is responsible for approving any changes to the Standards of Practice?

The Bylaws of IOA vest authority for making any changes in the Standards of Practice and Code of Ethics in the IOA Board of Directors.

What was the process used by the Task Force to arrive at recommended changes?

See the attached background document, which describes what the Task Force did and the changes it has recommended.

Were all of the Task Force's recommended changes approved by the Board?

Most of the Task Force's recommended changes were accepted by the Board but not all of them. In particular, the Task Force recommended eliminating a separately named section on "Informality," and instead, integrated the concept into other sections of the Task Force draft. After much discussion, the Board decided that the draft of the proposed changes presented to leadership and members for comment should include a separately itemized set of standards on Informality, because this term is used to articulate a basic principle, e.g., "not an office of notice", on which many ombuds programs have been established and operate and to maintain continuity with the existing Standards as much as possible. Additional language changes have been made with the approval and concurrence of the Task Force.

Why is there an expanded Preamble in the Proposed Standards of Practice?

The Task Force and the Board believed that an expanded Preamble was appropriate to provide a context for the ensuing Standards, to clarify that they should serve as a guide when establishing new programs, to emphasize the duality of the role of ombuds serving both individuals and their organizations, and to anchor ombudsman practice to the fundamental principles of fairness, equity, respect, and fair process. The expanded preamble was developed in part as a result of extensive review of international practices and benchmarks. These fundamental principles are also incorporated in the proposed Ethical Principles.

Why does the first section of the Proposed Standards begin with "I. General Practice Standards"?

Simply put, it made sense to begin with the beginning. Standard 1.1 states in one declarative sentence what an ombuds is. Standards 1.2 and 1.3 describe how they assist individuals and organizations, respectively. Standard 1.4 informs ombuds that the Standards derive from the Code of Conduct, now

renamed as the IOA Ethical Principles. Standard 1.5 describes the need for basic program documentation, and Standard 1.6 restates the current obligation of the ombuds to endeavor to be worthy of the trust that has been placed in them.

Why were some provisions of the Standards moved to new locations?

One of the goals of the Task Force was to eliminate redundancy and reduce the use of legalese. To this end, the Task Force scrupulously reviewed each provision of the standards to ensure that their placement within the new standards was more logical and appropriate.

Why was the Standard for "Neutrality" renamed "Impartial"?

Based on its extensive canvassing of practicing ombuds, the Task Force found that "neutrality" was seen as confusing and that other professional standards in similar contexts had used the term "impartiality" to convey the same concept that was intended by "neutrality" but with less risk of confusion. Based on input the Task Force received, it appeared that many practitioners found the term "neutrality" to convey a degree of passivity that does not accurately convey the active "fair process" promotion role of the ombuds.

Why was the order of the presentation of the Standards changed from beginning with Independence, Neutrality and Impartiality, Confidentiality, and Informality and Other Standards to General Practice Standards, Independent, Impartial, Confidential, Informal, and Confidential?

The Task Force found that the current Standards ended with what appeared to be a catch all section, which gives the impression that some standards were not as important or that they were "after thoughts". To this end, the Task Force very consciously designed the revised Standards to begin with overall descriptive statements and then to provide focused standards that clearly fit within their particular category.

Why was the Code of Ethics renamed as Ethical Principles?

There was a consensus that the Code of Ethics was not really a "code" as much as it was a statement of the key ethical principles on which organizational ombuds practice and the Standards of Practice are based, so that was reflected in the name change.

Why do the proposed Standards of Practice eliminate a reference to an ombuds privilege?

As explained in the Methodology Memo background document, the Task Force concluded that claiming a legal "privilege" in the Confidentiality Standard had been undercutting the credibility of other Standards because such a privilege had not received wide recognition. Although the proposed Standards do not assert a legal privilege, there is nothing in the proposed Standards that would preclude an ombuds program from asserting a privilege if permitted under the applicable rules of a particular jurisdiction and when supported by a sufficient factual basis.

Why do the proposed Standards of Practice no longer require an ombudsman to report to a CEO or comparable official?

There are many external constraints on reporting relationships, depending on the size, type, and particular culture of an organization. The proposed changes recognize that the creation of an ombuds program in an existing organization must be in harmony with that organization's approach to reporting relationships. Accordingly, the proposed Standards of Practice resolve this issue by stating (in proposed Standard 2.2) that the "Ombudsman reports to the highest level possible within the organization and should not report programmatically to any business or compliance function or entity that could affect, or be perceived as affecting the Ombudsman's independence."

Why do the proposed Ethical Principles and Standards of Practice still refer to "Ombudsman" instead of "Ombuds"?

As described in the Methodology Memo background document, both the Task Force and the Board considered this issue, but there were conflicting views on this issue. A decision was made to defer making a final decision until the proposed drafts of these documents had been circulated and IOA members had an opportunity to express their views on the issue. Another reason for deferring a final decision until after comments and opinions could be voiced by the membership is that it might also impact the very name of the International Ombudsman Association. For these reasons, we urge all members to consider the issue and express their view via the Standards of Practice and Ethical Principles feedback survey at <https://www.surveymonkey.com/r/IOA-SOP-EP-Feedback>.

Why do the proposed Standards of Practice create an exception ("except as mandated by law") to the prohibition against being a formal reporting channel for the organization?

This language appears in Standard 4.1 (under "Informal"), and a similar provision appears in Standard 2.3 (under "Independent"). Both of these provisions were to reconcile mandatory reporting required by law in certain situations (such as all employees, including ombuds, in K-12 schools under the new Title IX regulations, and laws dealing with reporting of child abuse, elder abuse, etc.) with reporting obligations that might be mandated only by an organization. Nothing in any IOA Standard of Practice could affect or alter the former reporting obligation required by law, but the proposed Standards of Practice would make it a violation of the Standards for ombuds to be made mandatory reporters in the absence of a positive requirement of law. It is for that reason that proposed Standard 4.1 goes on to provide: "The Ombudsman is not authorized to act as an agent for and does not accept notice on behalf of the organization in connection with confidential communications or information." See also similar language in proposed Standard 2.3.

Why is the phrase "to the maximum extent permitted by law" used in proposed Standards 5.1 and 5.3?

This phrase was added to encourage ombuds to assert confidentiality to the greatest extent possible even though the express claim of privilege was eliminated from the proposed Standards. It also is an acknowledgement that on some issues and in some cases, an ombuds may have a legally mandated reporting obligation. Note that as described above, the exception for mandated reporting is where it is required by law and not where it might be imposed by an organization.