

Comparison Table ¹ for IOA Standards of Practice 2022 version/2009 version		
2022 PROPOSED SOP	2009 SOP	Comment
PREAMBLE		
<p>The Standards of Practice are based upon the fundamental principles and core values stated in the International Ombuds Association [IOA] Code of Ethics. These principles are independence, impartiality, informality, and confidentiality. They describe the essential elements and requirements for operating a sound ombuds program. The core values emphasize the professional qualities underlying ombuds work. The principles and core values guide the Ombuds in fulfilling responsibilities such as assisting individuals at all levels of the organization; resolving conflict; facilitating communication; and assisting the organization by surfacing issues, and through feedback on emerging or systemic concerns. These can be applied in different settings and jurisdictions.</p> <p>With a focus on the core values embedded in the Code of Ethics, these Standards of Practice form the foundation necessary for the unique and valuable role of an Ombuds² in the sponsoring organization.</p>	<p>The IOA Standards of Practice are based upon and derived from the ethical principles stated in the IOA Code of Ethics. Each Ombudsman office should have an organizational Charter or Terms of Reference, approved by senior management, articulating the principles of the Ombudsman function in that organization and their consistency with the IOA Standards of Practice.</p>	<p>The preamble provides a description of how the new Code of Ethics [COE] interfaces with and is integrated into the Standards of Practice [SOPs]. It also emphasizes the important linkage to ombuds core values. Finally, it embraces language recommended by member input and drawn from other benchmarks to include a statement about the overarching focus of “fairness, equity, and respect.”</p> <p>The Preamble also introduces the term “Ombuds” as a recognized title for persons performing the role of an organizational ombudsperson. It incorporates the IOA Board determination to change the IOA title from Ombudsman to Ombuds. The standards embrace this term as essentially a term of art to eliminate any gender association and to further distinguish the organizational model from other ombuds models. A footnote references that “ombuds” refers to anyone practicing to the IOA SOP Standards regardless of the individual program’s nomenclature.</p>

¹ **NOTE:** This table is prepared for convenient review proposed SOP changes. It is not a definitive document, and expresses the analysis of the compiler and others on the Board SOP Working Group. It is not an official policy statement of the IOA, the IOA Board, or others.

² The term “Ombuds” includes all applicable nomenclature in use for an organizational ombudsperson.

Comparison Table for IOA Standards of Practice
2009 version/2022 IOA Board Working Group Version

GENERAL PRACTICE STANDARDS
(Formerly “Informality and Other Standards”)

2022 PROPOSED SOP	2009 SOP	Comment
<p>General commentary: The proposed SOPs reorganize the “Other standards” into an up-front general practice standards section that is designed to describe the overall functions of an ombuds; what they do and don’t do, and includes a provision requiring ombuds programs to have a “charter, terms of reference, or detailed program description.” The 2009 contained references to informality mixed in with general provisions. The 2022 draft separates Informality into a free-standing section with more detailed description of informality in the ombuds context, while the General Practice Standards focus on descriptions of the ombuds role. Paragraph 4.8 of the 2009 SOP version was moved to the updated Code of Ethics. The IOA Board Working Group viewed “endeavoring” as an impossible standard with which to measure compliance.</p>		
<p>1.1 The Ombuds is an independent, impartial, informal, and confidential resource for an organization. An essential element of an ombuds program is compliance with these Standards of Practice.</p>	<p>4.1 The Ombudsman functions on an informal basis by such means as: listening, providing and receiving information, identifying and reframing issues, developing a range of responsible options, and – with permission and at Ombudsman discretion – engaging in informal third-party intervention. When possible, the Ombudsman helps people develop new ways to solve problems themselves.</p>	<p>Succinctly introduces the four pillars of ombuds practice as an introduction to the profession. The objective of this general section is to provide an overview to people who are new to the profession or who have questions about the core scope, roles, and functions of an organizational ombuds. This section includes the requirement to comply with the SOPs, which was not included until paragraph 4.7 in the 2009 SOP version.</p>

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2009 version/2022 IOA Board Working Group Version

GENERAL PRACTICE STANDARDS
(Formerly “Informality and Other Standards”)

2022 PROPOSED SOP	2009 SOP	Comment
<p>1.2 The Ombuds assists people through voluntary consultation and provides information, guidance, and assistance in developing options to address their concerns. When possible, the Ombuds facilitates outcomes that build trust, enhance relationships, and improve communication within the organization.</p>	<p>3.4 If the Ombudsman pursues an issue systemically (e.g., provides feedback on trends, issues, policies and practices) the Ombudsman does so in a way that safeguards the identity of individuals</p> <p>4.2 The Ombudsman as an informal and off-the-record resource pursues resolution of concerns and looks into procedural irregularities and/or broader systemic problems when appropriate.</p>	<p>Paragraph 4.2 of the 2009 Standards was reordered from the end of that version where it was organized with a variety of separate requirements. The rationale of the SOP Task Force, which was carried forward by the IOA Board Working Group, was to place general, descriptive standards statements in an opening section.</p> <p>This paragraph addresses paragraph 4.2 of the 2009 version, but see also, paragraph 5.8 of the IOA Board Working Group draft, which, similar to the 2009 version includes cautions regarding protecting confidentiality when sharing general information.</p>

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GENERAL PRACTICE STANDARDS
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<p>1.3 The Ombuds assists the organization by identifying procedural irregularities and systemic problems. This may include identifying emerging trends, policy gaps, and patterns of problematic behavior in ways that do not disclose confidential communications or information. The Ombuds may provide general recommendations to the organization for addressing these concerns.</p>	<p>4.6 The Ombudsman identifies trends, issues and concerns about policies and procedures, including potential future issues and concerns, without breaching confidentiality or anonymity, and provides recommendations for responsibly addressing them.</p>	<p>The proposed standards organize this concept into the General Practice Standards Section and updates the language. The Board Working Group version is substantially similar to the SOP Task Force version, which, in turn, basically maps the concept forward from the 2009 version.</p>
<p>1.4 The Ombuds keeps professionally current by pursuing relevant continuing education, including opportunities for Ombuds’ staff professional development.</p>	<p>4.7 The Ombudsman acts in accordance with the IOA Code of Ethics and Standards of Practice, keeps professionally current by pursuing continuing education, and provides opportunities for staff to pursue professional training.</p>	<p>The requirement for the ombuds to maintain professional currency is mapped from paragraph 4.7 of the 2009 Standards. The requirement to comply with the IOA SOPs was moved into the opening General Practice Standard, as it is was viewed as an appropriate opening for how the SOPs apply to ombuds.</p>
<p>1.5 Each Ombuds program shall have a charter, terms of reference, or a detailed program description approved by executive leadership of the organization that complies with the provisions of the IOA Code of Ethics and</p>	<p>Preamble: Each Ombudsman office should have an organizational Charter or Terms of Reference, approved by senior management, articulating the principles of the Ombudsman function in that organization and their</p>	<p>Included in the Preamble of the 2009 SOPs, but not as a standard. The SOP Task Force recommended moving this into a practice standard and, by using “shall”, strengthened the requirement for ombuds programs to have a</p>

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Standards of Practice and that articulates the basis on which the Ombuds operates.	consistency with the IOA Standards of Practice.	charter. The IOA Board Working Group mapped this forward, incorporating minor changes recommended from members and the Working Group.

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INDEPENDENCE		
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2.1 The Ombuds is independent in appearance, purpose, practice, and decision-making. The Ombuds operates independently of line and staff reporting structures and without influence from other functions or entities within the organization.	1.1 The Ombudsman Office and the Ombudsman are independent from other organizational entities.	<p>The IOA SOP Task Force Version strengthened and clarified the independent structuring required. The Task Force moved this direction in response to growing evidence of ombuds practice variants that involve reporting into compliance functions, which adversely affect the profession’s ability to assert that it is not an office of notice, an officer of the organization, or a responsible official.</p> <p>The IOA Board Working Group further strengthened the and refined the language to emphasize that the appearance of independence is a requirement of the SOPs.</p>
2.2 In executing the Ombuds’ roles and responsibilities, the Ombuds reports to the highest authority possible within the organization. The Ombuds does not	2.3 The Ombudsman is a designated neutral reporting to the highest possible level of the organization and operating independent of ordinary line and staff structures.	Based on member input the SOP Task Force moved this provision from the Neutrality category of the 2009 SOPs to the Independence category. Members expressed that

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INDEPENDENCE

2022 PROPOSED SOP	2009 SOP	Comment
<p>report programmatically to any function that affects, or is perceived as affecting, the Ombuds' independence.</p>	<p>The Ombudsman should not report to nor be structurally affiliated with any compliance function of the organization.</p>	<p>its location in the 2009 version comingled concepts of independence and neutrality. The SOP Task Force did not significantly change the language. The IOA Board Working group elected to use more comprehensive language rather than to focus on "compliance function" because the Working Group determined that "compliance function" was subject to various interpretations. The intent is to strengthen this provision and make its scope broader.</p>
<p>2.3 The Ombuds holds no other position that compromises, or could be reasonably perceived as compromising, the Ombuds' independence. If the Ombuds has non-ombuds duties, those duties must not interfere with their ombuds duties. The Ombuds must clearly communicate when they are and are not acting as the Ombuds</p>	<p>1.2 The Ombudsman holds no other position within the organization which [sic] might compromise independence.</p> <p>Also duplicated in section: 2.4 The Ombudsman serves in no additional role within the organization which would compromise the Ombudsman' neutrality. The Ombudsman should not be aligned with any formal or informal associations within the organization in a way that might create actual or perceived conflicts of interest for the Ombudsman. <u>The Ombudsman should have no personal interest or stake in, and incur no gain</u></p>	<p>This provision addresses the requirements of paragraphs 1.2 and 2.4 of the 2009 SOPs. The duplication is eliminated. The SOP Task Force added additional language to provide additional guidance regarding limits on collateral duties. The IOA Board Working Group reorganized the provision regarding the prohibition of receiving notice on behalf of the organization from the "Independence" section to the Informality section, based on the rationale that it organized limits to the ombuds authority under the Informality category. The responsibility to address program user concerns</p>

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	<p><u>or loss from, the outcome of an issue.</u></p>	<p>neutrally is also addressed in paragraphs 3.1, .3.2, and 3.3 of the Board Working Group Draft.</p>
<p>2.4 The Ombuds has the authority to select Ombuds program staff and to manage the Ombuds program budget and operations without undue external influence or limitations. However, the Ombuds has no formal policy-making, enforcement, or disciplinary role except internally within the Ombuds program.</p>	<p>1.5 The Ombudsman has authority to select Ombudsman Office staff and manage Ombudsman Office budget and operations.</p> <p>2.4 The Ombudsman serves in no additional role within the organization which would compromise the Ombudsman’ neutrality. The Ombudsman should not be aligned with any formal or informal associations within the organization in a way that might create actual or perceived conflicts of interest for the Ombudsman. The Ombudsman should have no personal interest or stake in, and incur no gain or loss from, the outcome of an issue.</p>	<p>The SOP Task Force version added budget and operations within reasonable parameters, in recognition that, though independent, Ombuds often have external budget constraints. The IOA Board Working group added important emphasis that the ombuds has no management authority, but deemed the “reasonable parameters” language as already implied.</p>
<p>2.5 The Ombuds has sole discretion over whether or how to engage regarding individual, group, or systemic concerns. Acting on their own initiative, an Ombuds may bring a concern to the attention of appropriate individuals.</p>	<p>1.3 The Ombudsman exercises sole discretion over whether or how to act regarding an individual’s concern, a trend or concerns of multiple individuals over time. The Ombudsman may also initiate action on a concern identified through the Ombudsman’ direct observation.</p>	<p>This provision was mapped into the new version with only minor editorial changes.</p>

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INDEPENDENCE		
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2.6 The Ombuds has access to relevant individuals and information within the organization as permitted by law.	1.4 The Ombudsman has access to all information and all individuals in the organization, as permitted by law.	The SOP Task Force version clarified the language to avoid any inference that an organizational ombuds has formal investigative powers or has investigative responsibilities. The IOA Board Working Group lost the important limitation.

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3. IMPARTIALITY		
2022 PROPOSED SOP	2009 SOP	Comment
3.1 The Ombuds functions as an impartial, neutral, and unbiased resource.	2.1 The Ombudsman is neutral, impartial, and unaligned.	Based on membership input, both the SOP Task Force and the Board SOP Working Group elected to use the term "impartiality" in lieu of the term "neutrality" as the primary term for the section. Impartiality was deemed a less passive term for the concept of a balanced, fair approach to an issue. The SOP Task Force expressly addressed the responsibility for an ombuds to strive for institutional fairness while not advocating on behalf of any individual. The Task Force version merged paragraphs 2.1 and 2.2 to reduce redundancy.
3.2 The Ombuds has no personal interest in, and incurs no gain or loss from the outcome of a matter. The Ombuds declines involvement when	2.4 The Ombudsman serves in no additional role within the organization which would compromise the Ombudsman' neutrality. The Ombudsman should	The SOP Task Force did not specifically call out a conflict of interest provision. The IOA Board Working Group separated out the provision to make

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<p>the Ombuds determines that they may have a real or perceived conflict of interest.</p>	<p>not be aligned with any formal or informal associations within the organization in a way that might create actual or perceived conflicts of interest for the Ombudsman. <u>The Ombudsman should have no personal interest or stake in, and incur no gain or loss from, the outcome of an issue.</u></p>	<p>it a free-standing requirement in its own separate section.</p>
<p>3.3 The Ombuds fairly and objectively considers issues and all people who may be affected. The Ombuds promotes equitably administered processes but does not advocate on behalf of anyone.</p>	<p>2.2 The Ombudsman strives for impartiality, fairness and objectivity in the treatment of people and the consideration of issues. The Ombudsman advocates for fair and equitably administered processes and does not advocate on behalf of any individual within the organization.</p> <p>2.5 The Ombudsman has a responsibility to consider the legitimate concerns and interests of all individuals affected by the matter under consideration.</p>	<p>As drafted by the IOA Board Working Group, this paragraph consolidates and addresses provisions in multiple paragraphs in both the 2009 version and the Task Force Version. This provision is also addressed in proposed paragraph 3.1, above. The SOP Task Force eliminated the term “strives” because it was viewed as inadvertently creating a sliding scale. The IOA Board Working Group added language to illustrate the broader considerations that the ombuds must consider. It also specifically addressed the polarizing issue of the scope of independent advocacy that the Ombuds may pursue, striking a balance between conflicting positions advocated by the membership.</p>

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3. IMPARTIALITY

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<p>3.4 The Ombuds facilitates quality communication, dialogue, and collaborative problem-solving and helps identify a range of reasonable options to surface or resolve issues or concerns.</p>	<p>2.6 The Ombudsman helps develop a range of responsible options to resolve problems and facilitate discussion to identify the best options.</p>	<p>The Board Working Group version consolidates the concept into one succinct statement, although related concepts are further expressed in the General Practice Standards Section</p>

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<p>4.1 The Ombuds is an informal and off-the-record resource. The Ombuds does not make business or policy decisions, adjudicate issues, participate in disciplinary or grievance processes, or conduct formal investigations for the organization.</p>	<p>3.3 The Ombudsman does not testify in any formal process inside the organization and resists testifying in any formal process outside of the organization regarding a visitor’s contact with the Ombudsman or confidential information communicated to the Ombudsman, even if given permission or requested to do so. The Ombudsman may, however, provide general, non-confidential information about the Ombudsman Office or the Ombudsman profession.</p> <p>4.1 The Ombudsman functions on an informal basis by such means as: listening, providing and receiving information, identifying and reframing issues, developing a range of responsible options, and – with permission and at Ombudsman discretion – engaging in informal third-party intervention. When possible, the Ombudsman helps people develop new ways to solve problems themselves.</p> <p>4.3 The Ombudsman does not make binding decisions, mandate policies, or formally adjudicate issues for the organization.</p>	<p>The IOA Board Working Group design approach was to discuss limits to the ombuds participation in other processes as a part of the ombuds’ role as an informal off the record resource as opposed to addressing this as a confidentiality provision as the current 2009 standards do.</p> <p>The Board Working Group version addresses concerning language identified by the membership regarding “supplementing” a grievance process (see paragraph 4.4 of the 2009 SOPs). It also reinforces the limitations restricting an ombuds from management and policy decision-making roles. The Task Force Version included language stating that the ombuds is not an “officer” of the organization. The IOA Board Working Group addresses this important limitation in Paragraph 4.4, below. These limitations are carefully articulated to ensure that ombuds are not subject to reporting requirements by U.S. Federal Agencies, such as the U.S. Department of Education, or the Equal</p>

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	<p>4.4 The Ombudsman supplements, but does not replace, any formal channels. Use of the Ombudsman Office is voluntary, and is not a required step in any grievance process or organizational policy.</p>	<p>Employment Opportunity Commission. Other references to participation in formal processes are included here for reference.</p>
<p>4.2 Consultation with the Ombuds is not a required step in any formal disciplinary process or grievance policy.</p>	<p>4.4 The Ombudsman supplements, but does not replace, any formal channels. Use of the Ombudsman Office is voluntary, and is not a required step in any grievance process or organizational policy.</p>	<p>See commentary regarding paragraph 4.1, above</p>
<p>4.3 The Ombuds takes specific action related to an individual's issue only with the individual's express permission and only to the extent permitted, and even then, at the sole discretion of the Ombuds, unless such action can be taken in a way that safeguards the identity of the individual contacting the Ombuds Office.</p>	<p>1.3 The Ombudsman exercises sole discretion over whether or how to act regarding an individual's concern, a trend or concerns of multiple individuals over time. The Ombudsman may also initiate action on a concern identified through the Ombudsman's direct observation. <i>See also,</i> 4.1 The Ombudsman functions on an informal basis by such means as: listening, providing and receiving information, identifying and reframing issues, developing a range of responsible options, and – with permission and at</p>	<p>This carries forward the existing unique concept of the ombuds working as a program-user-directed service while also recognizing the controlling discretion of the Ombuds.</p>

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	<p><i>Ombudsman discretion – engaging in informal third-party intervention. When possible, the Ombudsman helps people develop new ways to solve problems themselves.</i></p>	
<p>4.4 Consistent with these standards, consulting with the Ombuds is completely voluntary. People who use the services of the Ombuds are understood to have agreed to abide by the terms, conditions, and principles under which the program was created and not call the Ombuds to testify or disclose confidential information in any formal, legal, or other matter.</p>	<p>Not included in 2009 SOP version.</p>	<p>This is important new language that builds into the IOA SOPs the concept of a “terms of use” agreement between user receiving services from the program and the sponsoring organization and its ombuds program. When included in an ombuds program’s materials and actively communicated, this becomes an important tool for protecting the ombuds claim to informality and confidentiality. Some may argue that some of the informality provisions could fit elsewhere. Indeed, the Task Force recommended an approach that simply eliminated the Informality section, altogether in favor of placing informality requirements in the General Standards Section. However, the IOA Board deemed the concept of Informality as a fundamental “pillar” of the practice, and the IOA</p>

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		Board Working Group reviewed the draft with goal of including a meaningful "Informality" section.
<p>4.5 The Ombuds is not an agent of the organization authorized to receive notice of claims, complaints, or grievances against the organization unless specifically and expressly required by law. The Ombuds may refer individuals to the appropriate place where formal notice of claims can be made.</p>	<p>3.8 Communications made to the ombudsman are not noticed to the organization. The ombudsman neither acts as agent for, nor accepts notice on behalf of, the organization and shall not serve in a position or role that is designated by the organization as a place to receive notice on behalf of the organization. However, the ombudsman may refer individuals to the appropriate place where formal notice can be made.</p> <p>4.3 The Ombudsman does not make binding decisions, mandate policies, or formally adjudicate issues for the organization.</p>	<p>As noted above, the IOA Board Working Group included important limitations to the ombuds role to ensure that the position is not deemed to be an officer, manager, policy decision-maker, or person with authority to directly resolve concerns by implementing official actions. This important limitation in proposed paragraph 4.4, are carefully articulated to ensure that ombuds are not subject to reporting requirements by U.S. Federal Agencies, such as the U.S. Department of Education, or the Equal Employment Opportunity Commission.</p> <p>The IOA Board Working Group articulates the limitation on the ombuds role in receiving notice as an aspect of the ombuds informality. Previous versions organized the provision as an aspect and natural</p>

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		<p>consequence of confidentiality.</p> <p>See also 2.3 above. The provision focuses on not being organized within or reporting to any entity that accepts notice, and 4.2 focuses on the ombuds role, regardless of organizational placement.</p>
<p>4.6 The Ombuds retains no permanent records containing confidential information. The Ombuds has a consistent practice for the timely destruction of confidential information.</p>	<p>3.5 The Ombudsman keeps no records containing identifying information on behalf of the organization.</p> <p>3.6 The Ombudsman maintains information (e.g., notes, phone messages, appointment calendars) in a secure location and manner, protected from inspection by others (including management), and has a consistent and standard practice for the destruction of such information.</p>	<p>The 2009 SOPs include this provision in the Confidentiality section. The SOP Task Force retained this approach. While important for ensuring confidentiality, the IOA Board Working Group deemed this provision an inherent aspect of informality, in that the function is inherently an “off-the-record” function. The IOA Board Working Group deemed 4.5 as encompassing all of the professional requirements.</p>

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5. CONFIDENTIALITY		
2022 PROPOSED SOP	2009 SOP	Comment
<p>5.1 The identity of those seeking assistance from the Ombuds, as well as all communications with them and information relating to them is confidential information.</p>	<p>3.1 The Ombudsman holds all communications with those seeking assistance in strict confidence and takes all reasonable steps to safeguard confidentiality, including the following: The</p>	<p>The version proposed by the IOA SOP Task Force introduced the concept of “confidential information” as a defined term of art for the ombuds profession. The IOA Board Working Group</p>

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	<p>Ombudsman does not reveal, and must not be required to reveal, the identity of any individual contacting the Ombudsman Office, nor does the Ombudsman reveal information provided in confidence that could lead to the identification of any individual contacting the Ombudsman Office, without that individual's express permission, given in the course of informal discussions with the Ombudsman; the Ombudsman takes specific action related to an individual's issue only with the individual's express permission and only to the extent permitted, and even then at the sole discretion of the Ombudsman, unless such action can be taken in a way that safeguards the identity of the individual contacting the Ombudsman Office. The only exception to this privilege of confidentiality is where there appears to be imminent risk of serious harm, and where there is no other reasonable option. Whether this risk exists is a determination to be made by the Ombudsman.</p>	<p>endorsed this approach. The new version fundamentally changes the approach to protecting confidentiality. The 2009 SOPs require the ombuds to assert a testimonial privilege, which is not widely recognized or even possible in some jurisdictions. Ostensibly requiring the ombuds to assert a privilege was viewed by many members as undercutting the credibility of the professional standards and actually making it more difficult to secure agreement of organizational counsel to support legitimate protections based on other legal bases.</p> <p>Both the Task Force and Board Working Group drafts break up the important requirements and exceptions into clear, distinct, individual statements so that they can be easily referenced.</p>
<p>5.2 To the maximum extent permitted by law, the Ombuds shall protect confidential information, and others cannot waive</p>	<p>3.2 Communications between the Ombudsman and others (made while the Ombudsman is serving in that capacity) are</p>	<p>While the concept of who owns the right to waive a claim of confidentiality has been preserved, the language requiring</p>

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<p>this requirement. The Ombuds and the organization that established the program shall take reasonable measures to safeguard the security of confidential information.</p>	<p>considered privileged. The privilege belongs to the Ombudsman and the Ombudsman Office, rather than to any party to an issue. Others cannot waive this privilege.</p>	<p>ombuds to assert a testimonial privilege is not supported by any jurisdiction and may force the ombuds to choose between violating the SOPs or asserting a spurious position in a jurisdiction that does not recognize the privilege. Asserting a privilege in the absence of any legal recognition undercuts the credibility of the other standards and many member comments and inputs supported removal of the provision. Both the Task Force version and the IOA Working Group version embrace a standard of asserting confidentiality” to the maximum extent permitted by law.” This standard recognizes that there are, in fact, situations where specific legislation or other legal requirements can outweigh the Ombuds claim of privilege. (See more discussion below in paragraph 5.7) Common situations such as child abuse, or elder abuse, or intended criminal acts are examples where the law might override a claim of privilege, just as it does with attorneys, physicians, and other professionals.</p>

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		<p>Note that the proposed 5.2 includes an obligation to protect confidential information on both the ombuds and their chartering organization. In an era of widespread digital recordkeeping, it is often beyond the control of the individual ombuds to ensure confidentiality without the commitment of the organization.</p>
<p>5.3 Except as provided in these standards, the Ombuds does not disclose confidential information in any matter within the organization.</p>	<p>The pertinent analogue in paragraph 3.1 of the 2009 SOPs states: “. . .The Ombudsman does not reveal, and must not be required to reveal, the identity of any individual contacting the Ombudsman Office, nor does the Ombudsman reveal information provided in confidence that could lead to the identification of any individual contacting the Ombudsman Office, without that individual’s express permission, given in the course of informal discussions with the Ombudsman . . .”</p>	<p>The original Task Force version submitted for Board review, tracked more closely to the 2009 SOP version and included a general statement regarding confidentiality as it applies both internally and externally. Following its design construct, the IOA Board Working Group specifically called out the prohibition to internal disclosure, which it views as a condition that a sponsoring organization must acknowledge as a term of chartering an ombuds program. Including this provision was deemed helpful to ombuds who are establishing program expectations or who need to remind internal officials of the requirements of the ombuds role.</p>

5.4 The Ombuds shall oppose disclosing confidential information in any formal, administrative, or legal matter external to the organization, unless an appropriate judicial or regulatory authority determines that disclosure is necessary to prevent a manifest injustice or that disclosure is required because the interests served by disclosure clearly outweigh the interests served by ombuds confidentiality.

3.2 Communications between the Ombudsman and others (made while the Ombudsman is serving in that capacity) are considered privileged. The privilege belongs to the Ombudsman and the Ombudsman Office, rather than to any party to an issue. Others cannot waive this privilege.

This paragraph is the key lynchpin provision governing confidentiality and ombuds practice. The Task Force updated the provision to provide for confidentiality “to the maximum extent provided by law.” The IOA Board Working Group drew from comparable federal legislation recognizing confidentiality but that also includes a standard for exceptions.

The proposed 5.4 also includes a standard for compelled disclosure of confidential information. This is especially important in light of the terms of use provision of paragraph 4.4. This should create clearer definition and a higher standard for any potential compelled disclosure.

This language is now mapped into the IOA Board Working Group version. Also, as noted in commentary above, both the Task Force and the IOA Board Working Group, consciously eliminated the requirement for the ombuds to assert a testimonial privilege, as it is not unilaterally within the IOA’s purview to create such a “privilege.”

5.5 The Ombuds may disclose confidential information as necessary if

3.1 (see full text above, the pertinent part of

Consistent with the Board Working Group design approach, this

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5. CONFIDENTIALITY

2022 PROPOSED SOP	2009 SOP	Comment
<p>the Ombuds determines that the failure to do so could result in imminent risk of serious harm.</p>	<p>section 3.1 of the 2009 SOPs states: “ ... The only exception to this privilege of confidentiality is where there appears to be imminent risk of serious harm, and where there is no other reasonable option. Whether this risk exists is a determination to be made by the Ombudsman.</p>	<p>exception is delineated in a single, provision. The 2009 SOPs fail to include express recognition of other widely accepted exceptions to confidentiality, which are addressed in the Board Working Group version. <i>See below.</i></p>
<p>5.6 The Ombuds may disclose confidential information as necessary to defend themselves against a claim of professional misconduct.</p>	<p>No analogous provision.</p>	<p>This is a widely recognized exception to professional confidentiality for other professions with recognized ability to maintain confidentiality, such as psychologist, physicians, and attorneys. The IOA Board Working Group, determined that, as the ombuds works to expand recognition for confidentiality, including exceptions that are similar to other highly confidential professions strengthened the profession’s position.</p>

**Comparison Table for IOA Standards of Practice
2022 version/2009 version**

5. CONFIDENTIALITY

2022 PROPOSED SOP	2009 SOP	Comment
<p>5.7 Confidential information relating to an individual may be disclosed with their permission to assist with informal resolution of a concern but at the sole discretion of the Ombuds.</p>	<p>The pertinent part of paragraph 3.1, cited fully, above, provides: “. . . nor does the Ombudsman reveal information provided in confidence that could lead to the identification of any individual contacting the Ombudsman Office, without that individual’s express permission, given in the course of informal discussions with the Ombudsman; the Ombudsman takes specific action related to an individual’s issue only with the individual’s express permission and only to the extent permitted, and even then at the sole discretion of the Ombudsman, unless such action can be taken in a way that safeguards the identity of the individual contacting the Ombudsman Office. . . “</p>	<p>The Task Force and Board Working Group Versions both shortened and simplified this fundamental exception and, the Board Working Group took the further step of calling the exception out in a specific paragraph, so that each exception to confidentiality is discussed in its own, autonomous paragraph.</p>

**Comparison Table for IOA Standards of Practice
2022 version/2009 version**

5. CONFIDENTIALITY

2022 PROPOSED SOP	2009 SOP	Comment
<p>5.8 The Ombuds may provide non-confidential information about the ombuds program in any appropriate forum. The Ombuds shares data, trends, or reports in a manner that protects confidential information.</p>	<p>3.3 The Ombudsman does not testify in any formal process inside the organization and resists testifying in any formal process outside of the organization regarding a visitor’s contact with the Ombudsman or confidential information communicated to the Ombudsman, even if given permission or requested to do so.</p> <p>3.4 If the Ombudsman pursues an issue systemically (e.g., provides feedback on trends, issues, policies and practices) the Ombudsman does so in a way that safeguards the identity of individuals</p> <p>3.7 The Ombudsman prepares any data and/or reports in a manner that protects confidentiality.</p>	<p>^Both the Task Force Version and the IOA Board Working Group version eliminate over-broad language proscribing participation in internal processes and include more precise language about participation in such processes, restricting the ombuds from sharing confidential information but potentially allowing the ombuds to share trends or explain ombuds practices. The IOA Board Working Group version sought to succinctly capture the appropriate limitations while eliminating the redundancies inherent to the 2009 SOP version regarding reporting.</p>