

TERMS OF REFERENCE OF THE OMBUDS OFFICE

Effective Date: December 5, 2017

Originating Office: Board of Governors

Supersedes /Amends: June 17, 2010

Policy Number: BD-2

SCOPE

1. The Ombuds Office shall be independent of all existing administrative structures of the University.
2. For the purposes of these Terms of Reference:

“Member” means, employees, students, student applicants, exchange students, visiting student, postdoctoral fellows, interns, academic visitors, stagiaires or researchers.
3. The Ombudsperson shall provide an impartial and confidential service to Members who have been unable to resolve their concerns about the application of any policy, rule or procedure.
4. The Ombudsperson does not have jurisdiction regarding the application or interpretation of a collective or employee agreement nor into any alleged violation of the duty of fair representation against a certified union.
5. The Ombudsperson may not impose remedies or sanctions, or enforce any policy, rule or procedure. However, the Ombudsperson may make appropriate recommendations with regard to resolving complaints or improving policies, rules or procedures.

Functions of the Ombuds Office

6. Specifically, the Ombudsperson shall:
 - a. assist Members to resolve complaints informally and quickly and, when appropriate, recommend solutions to help resolve complaints;
 - b. explain decisions taken by University authorities when complaints are not substantiated;
 - c. inform Members about existing policies, rules and procedures and advise them as to the appropriate channel of redress for any concern or complaint they may have;

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- d. when appropriate, conduct an independent and objective inquiry into complaints when normal recourses have been exhausted;
- e. when appropriate, conduct an independent and objective inquiry into the application of any policy, rule or procedure of the University;
- f. bring to the attention of University authorities any policies, rules or procedures which appear unclear or inequitable or which might jeopardize the rights or freedoms of any Member. The Ombudsperson may suggest changes to existing policies, rules or procedures or offer advice on the development of new policies, rules or procedures;
- g. actively promote these Terms of Reference and the services of the Office.

The Role of the Ombuds Office

- 7. The role of the Ombuds Office is to promote:
 - a. fairness;
 - b. reasonable promptness in decisions affecting Members;
 - c. decision-making that is based on adequate and appropriate procedures, criteria and rules;
 - d. clear communication, to those affected, of the procedures, criteria and rules used in making decisions .

Complaints

- 8. In dealing with complaints, the Ombudsperson shall act impartially, acting neither as an advocate for the Member seeking assistance nor as a defender of the University but rather, shall seek to promote procedural fairness and a reasonable outcome. In so doing, the Ombudsperson shall endeavour to maintain harmonious relations with all Members using tact, diplomacy and sensitivity.

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9. The Ombudsperson shall have prompt access to such University records, reports or documents as are required to fulfill each function. Requests for such access shall receive priority from all Members.
10. A complaint should be brought to the attention of the Ombudsperson within three (3) months of the Member seeking assistance becoming aware of the situation giving rise to the complaint. This period may be extended at the discretion of the Ombudsperson.
11. If the Ombudsperson decides to inquire into a matter, the Ombudsperson shall make every effort to consult the relevant parties and give such parties the opportunity to reply.
12. Upon the conclusion of an inquiry, the Ombudsperson shall advise the Member seeking assistance of any findings and any formulated recommendations.
13. In addition, the Ombudsperson may bring any such findings to the attention of the University authorities and make whatever recommendations deemed appropriate and to whomever within the University deemed appropriate. Such recommendations may bear either on the actions or decision of an individual or a group, or on the policies, rules and procedures which gave rise to them. If, upon receipt of such findings or recommendations, a University authority proceeds to disciplinary action in order to resolve the matter, the procedure of any relevant University policy, collective or employee agreement shall be followed.
14. The Ombudsperson shall use judgement as to the appropriateness of intervention and may refuse to take up a case or may withdraw from a case if continued involvement is ill-advised. In such cases, the Ombudsperson shall inform the Member seeking assistance as to the appropriate channel of redress, if applicable.
15. If the Ombudsperson refuses to take up a case or withdraws from a case, a written statement of the reason shall be provided, upon request, to the Member seeking assistance.
16. The Ombudsperson shall not inquire into any matter that is before a court of law or is pending at or before any administrative tribunal outside the University. In addition, upon being informed that a legal claim or that a notice of a potential legal claim has been received by the University, the Ombudsperson shall immediately withdraw from a case and shall cease any communication with the Member seeking assistance.

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17. Under no circumstances shall the mere fact of bringing a complaint to the attention of the Ombudsperson constitute a formal notification, for legal purposes, to the University.
18. The Ombudsperson shall avoid involvement in cases where the Ombudsperson perceives there may be a conflict of interest.

Confidentiality and Protection from Reprisals

19. The Member seeking assistance shall be informed that should the pursuit of any inquiry necessitate the disclosure of details, any disclosure shall be limited to those who, in the opinion of the Ombudsperson, have a need to know.
20. Should a Member seeking assistance decide to withdraw an application, the Ombudsperson shall respect this decision. The Ombudsperson's decision to proceed, notwithstanding the Member's withdrawal, shall only be taken in extraordinary circumstances such as but not limited to situations where the safety of a person and/or the community may be at risk.
21. The Ombudsperson shall respect the confidentiality of any confidential information or materials which is accessed or consulted.
22. Should the Ombudsperson consider that the response to a recommendation has been unsatisfactory, the Ombudsperson shall be entitled to make the recommendation public, provided that, subject to Article 19, the confidentiality of the parties is respected.
23. Notwithstanding articles 19-22, confidentiality rights are subject to disclosure required by law and specifically situations outlined in the *Policy on the Emergency Release of Personal Information* ([SG-5](#)).
24. No Member who seeks the assistance of, files a complaint with, or cooperates in any manner with the Ombudsperson, shall be subject to any reprisals for so doing. The appropriate procedure set out in the relevant University policy or collective or employee agreement shall be followed in cases of alleged reprisals.

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Files

25. The Ombudsperson shall maintain suitable records of complaints, findings and recommendations which shall be accessible only to the staff of the Ombuds Office or as required by law. Such files shall be destroyed according to a retention schedule determined in accordance with provincial legislation.

Appointment of Ombudsperson

26. The Ombudsperson shall be appointed by the Board of Governors (“the Board”) upon the recommendation of a representative advisory committee struck for this purpose by the Board. The Committee shall be composed of representatives of the University constituencies, including at least one (1) undergraduate and one (1) graduate student and shall be chaired by the Secretary-General.
27. The Secretary-General shall act as the link between the Board and the Ombudsperson for administrative purposes.
28. The appointment shall be made for an initial term of two years, renewable for further terms of five years. During the fourth year of each such term, the Board shall appoint an appraisal committee, chaired by the Secretary-General, and composed of representatives of the University constituencies, including at least one (1) undergraduate and one (1) graduate student which shall:
- a. review the operations of the Office;
 - b. make recommendations with respect to the Office;
 - c. make a recommendation with respect to the renewal of the Ombudsperson.

This review shall include, but shall not be limited to, consultations with the University community as well as an external appraisal.

29. The Ombudsperson shall submit an annual report to the Board by November 1st of each year covering the previous academic year. The report shall detail activities of the Ombuds Office, including statistics on the concerns and complaints received, and shall make recommendations, as necessary. The Secretary-General shall ensure that the appropriate University authorities consider and respond to the recommendations contained in the report.

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30. The annual report shall be published in the University's news site and submitted, for information purposes, to the Senate.

Complaints Relating to the Operations of the Ombuds Office

31. If a Member considers that the Ombudsperson has committed a procedural or substantive violation of these Terms of Reference, with respect to any matter to which the Member has been a party, the Member may submit a written complaint, detailing the alleged violation, to the Secretary-General. The Secretary-General shall investigate the complaint and inform the Member of the results of the investigation.
32. If the Member is not satisfied with the response of the Secretary-General, the Member may request, in writing, within fifteen (15) working days of receiving the response, that the Appeals Committee of the Board review the complaint against the Ombudsperson.