

Report of the Faculty Ombuds Review Committee

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The Ombuds Committee was appointed by the Executive Committee of the Academic Council (ECAC) to examine the role of the faculty Ombuds at Duke University and to make recommendations on the definition and charge of this position in Appendix N of the Faculty Handbook.

Our committee talked to a variety of people at Duke University and outside, researched the status of the Ombuds position at a number of other institutions, and solicited feedback from the faculty at Duke via a letter from the Chair of the Academic Council to the faculty at large. The details of these activities are summarized in the Appendix to this report.

Our specific charge was to compare the position at Duke with other institutions and if necessary recommend modifications; to recommend on whether there should be more than one faculty Ombuds; to discuss the need for more formal training and record keeping; and to investigate the issue of confidentiality with regard to current harassment regulations. These issues will be discussed in the report below. In addition we were asked to make suggestions regarding changes in Appendix N. Because we believe there should be a broader review of this position, we do not propose specific language for Appendix N, but instead offer general suggestions.

The Ombuds at Duke University

The Ombuds position at Duke University differs from the majority of institutions we contacted or investigated. Currently at Duke University we have 3 individuals that serve as Ombuds(person): 1) a faculty Ombuds, appointed by the Academic Council who reports to ECAC and formally the President, 2) an Ombuds for students, who reports to the Office of Institutional Equity, and is charged with serving undergraduate, graduate and professional students across the institution (<https://web.duke.edu/equity/Ombudsperson.htm>) and 3) a Medical Center Ombuds, appointed by the Dean of the Medical School, who in different places is described as serving students and faculty at the School of Medicine (<https://web.duke.edu/equity/Ombudsperson.htm>), all postdoctoral fellows at the University (<https://postdoc.duke.edu/resources/conflict#Ombuds>), or students at the School of Medicine (<http://medschool.duke.edu/education/office-student-Ombudsman>).

Most of the institutions we examined have a University Ombuds(person) position. This is a formal, full time office that serves the entire University community – faculty, staff, and students. Many large institutions with medical schools have a separate Ombuds office for the hospital/medical school. A few have no formal Ombuds position that we could identify. No institutions we examined have the system at Duke with a few separate Ombuds that operate for individual constituencies. Although we will make general comments on a potential university Ombuds position below, our charge was specifically to advise on the faculty Ombuds and Appendix N, and we will focus our comments on this position.

Should we have a faculty Ombuds at Duke University?

An Ombuds(person) is generally an individual that is independent of existing administrative structure, who is charged with serving the public, or a population within an institution. As defined by the International Ombudsman Association, an academic Ombuds is a neutral or impartial individual whose major function is to provide confidential and informal assistance to constituents of the university community. Most institutions describe a variety of roles of an Ombuds including facilitating communication, serving as a source of information and referral, and assisting in dispute resolution. While in many cases there are formal means for resolution of disputes, the role of an Ombuds is distinct. Because the Ombuds acts in an informal and unofficial manner, the Ombuds can head off disputes, can serve as a “reality check,” and can help restore proper communication before situations get to the point where formal processes are necessary.

At Duke University we specifically have a faculty Ombuds. In this case, the Ombuds is a faculty member, whose constituency is the faculty. Traditionally this has been a senior or recently retired faculty member. Ideally, the Ombuds is experienced and widely respected. He or she understands Duke University and can see problems from a faculty member’s perspective. A well-known and respected Ombuds is also in a position to make recommendations to administrators about policy issues. We believe an institution with an excellent Ombuds, whose services are well known and easily accessible, is a better institution. We therefore advocate the continuance, and indeed strengthening of the faculty Ombuds at Duke University.

Specific recommendations regarding the faculty Ombuds position

We believe that our model of a faculty Ombuds is a good one. It may be advisable to have more than one individual serving in this role to help ensure the best rapport with a variety of individuals. By “faculty Ombuds” we specifically mean one or more individuals who are faculty members, who are appointed by the faculty (via ECAC) and who are responsible to the faculty. We believe the advantage of a faculty Ombuds, as opposed to an administrator, is that a faculty Ombuds can and should approach issues as a colleague and from the perspective of the faculty. The role of an Ombuds is informal advice and reconciliation. It does not replace formal hearing procedures. Nor is the Ombuds an advocate for the faculty.

Because many individuals at the University have no recourse to informal, neutral and confidential advice or assistance in dispute resolution, we believe Duke University should consider establishing a central Ombuds office that can serve all members of the University. If such an office is established, the faculty Ombuds would work in concert with, but not be replaced by, this office.

The faculty Ombuds is primarily accountable to the faculty, again via ECAC. However, the office should continue to be supported by the President, and authorized under the general authority of the President. This recognizes the importance of this office at the highest level of the University. Reporting should be to ECAC, the President and the Provost.

Currently the role and jurisdiction of the faculty Ombuds as defined in Appendix N is specifically tied to the relatively limited issues of due process, academic freedom and discrimination. Appendix N should be substantially rewritten, both to clarify the role of the Ombuds and to reflect the current practices of the faculty Ombuds. The activities of the Ombuds should be substantially separated from the activities

of the Faculty Hearing Committee (FHC). In the new definition the role of the Ombuds should be defined in a manner that is in line with common practice. Major points include the fact that an Ombuds is available to provide advice on and aid in resolution of a wide variety of issues and that an Ombuds acts in an independent, confidential, impartial and informal manner.

We believe the Ombuds must be able to ensure confidentiality in all cases including sexual harassment (but excluding situations leading to imminent harm or child abuse). The University Counsel's office should aid in drafting language that maintains the confidentiality of this office.

Many believe that there is value in having more than one Ombuds available to faculty with different kinds of backgrounds and problems. If there is more than one Ombuds, or if a central office is established, processes for coordination of activities need to be developed. We recommend that even if there are no significant changes at the University level, there should be greater coordination among the different Ombuds positions at Duke. Currently there is the potential for substantial overlap in the constituencies of the various Ombuds at Duke. Not only does this introduce confusion, but also makes it difficult to identify reoccurring patterns of activity.

Currently there is no specific description of training, record keeping or reporting. The faculty Ombuds should be a member of the International Ombuds Association (IOA), and should undergo training from this organization. Participation in activities of this organization is also of value. Support for such participation should be a part of the support from the University. In addition, we would encourage the faculty Ombuds to participate in local Ombuds networking events. Currently the faculty Ombuds engages in such activities but we believe it is useful for these expectations to be regularized. We recommend a "best practices" document detailing these specific expectations, to be given to the Ombuds by ECAC on appointment.

While records should not be maintained on individual cases in order to ensure confidentiality, the Ombuds should make an annual report to ECAC, the President and the Provost with summaries of the numbers of contacts, the "cases" pursued, and so forth. There should also be a discussion of any "clusters" of issues (types of issues, locations, etc.), and where appropriate, recommendations about changes in policy and procedure should be provided.

The Ombuds should be recruited vigorously from the faculty, and supported in such a manner that the position is attractive. Before reappointment each Ombuds should be reviewed by ECAC.

The faculty Ombuds position needs increased visibility and accessibility. An improved website must be developed and maintained. The responsibility of maintaining a website should be through ECAC or possibly the President's office. If a central office is established, that office would be responsible for its maintenance. At a minimum the webpage should describe the general role and responsibilities of the Ombuds – what an Ombuds does and does not do - and provide very clear contact information. It would be useful for there to be an expanded webpage to cover all the individual Ombuds positions at Duke.

Appendix N

In Appendix N the Ombuds is essentially defined as the gateway to the FHC. Specifically the roles and jurisdiction of both the Ombuds and FHC are targeted towards procedural issues. Jurisdiction is focused on academic freedom and tenure and also equal treatment in employment. In practice at Duke and virtually everywhere else, an Ombuds deals with an almost infinite variety of issues including both

formal complaints and informal issues and disputes. While the FHC should still focus on formal procedural issues, the description of the Ombuds position should be both broader and less formal.

Appendix N should emphasize the fact that the faculty Ombuds is responsible to, and ultimately reports to the faculty. Nonetheless it should recognize that this office is under the umbrella of the President of the University to emphasize its significance.

Again, the language describing the jurisdiction of the Ombuds in Section III is very closely tied into FHC. We believe that the jurisdiction listed applies to the FHC, and the role of the Ombuds is much broader, and while it encompasses these areas it also includes many other types of situations, formal and informal.

In Section IV the procedures defined for the Ombuds are very formal. Again, this section does not describe how the office functions in practice, nor is this the way an Ombudsperson operates as generally defined by the IOA, or at other institutions. While we recognize that it is necessary to have formal procedures upon entering the FHC process, we estimate there are 30-50 contacts with the faculty Ombuds for every case that actually goes to the FHC. We suspect most of this section should be eliminated.

Appendix N in Duke's Faculty Handbook: http://provost.duke.edu/wp-content/uploads/FHB_App_N.pdf