

## Dixie State University Ombuds Office Charter

### **DIXIE STATE UNIVERSITY OMBUDS OFFICE CHARTER**

The Ombuds Office provides assistance in resolving problems and conflicts. It is an independent, impartial, informal, and confidential resource available to all members of the Dixie State University community. In the spirit of these important functions, this Charter Agreement defines the privileges and responsibilities of the Ombuds Office.

Chartered in Summer 2013 at the recommendation of then President Stephen Nadauld, the Office is staffed by one or more professionally trained Ombuds who act as the University's designated third-party neutral, and who practice in accordance with accepted professional standards set by the International Ombudsman Association (<http://www.ombudsassociation.org/>).

#### **Office Mission**

The mission of the Office is to provide a confidential place for faculty, staff, and students to voice concerns, develop options, and problem-solve. The Ombuds Office supplements but does not replace or substitute for formal, investigative or appeals processes made available by the University. The office functions to assist parties in reaching mutually acceptable agreements in order to find fair and equitable resolutions to concerns that arise at the university. Use of the office is voluntary.

Through its mission, the Office helps further the University's strategic objectives within a culture that is ethical and civil, and in which differences can be resolved and mutual understanding created through respectful dialogue and fair processes.

The Ombuds performs a variety of functions in carrying out his/her duties and responsibilities. They include: listening and providing a respectful, "safe," and "humanized" place within the University for individuals to discuss problems; helping individuals to clarify concerns and develop options; explaining University policies and procedures; providing referrals to other offices; coaching visitors on how to help themselves; looking into problems by gathering data and the perspectives of others; engaging in shuttle diplomacy; conducting structured mediations or facilitating conversations; and other measures consistent with the mission of the Office. The Ombuds may withdraw from or decline to look into a matter if he/she believes involvement would be inappropriate for any reason.

After meeting with the Ombuds, some visitors may give permission to take an action that would reveal their identity. Others, however, may request that the Ombuds not disclose information or take any action that might risk having their identity revealed. Except in very limited circumstances, the Ombuds will disclose identifiable information or concerns raised *only with the permission of the visitor* or if compelled by law.

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The Ombuds may take any number of steps towards responsibly addressing concerns raised. However, the Office is empowered to provide *informal* assistance only. Formal actions are the purview of other officers of the University, including Human Resources.

The Ombuds provides information to university officials on general trends and patterns of complaints so that problems may be prevented from escalating or recurring. However, the Ombuds will never disclose names or other identifying information of persons who visit the office, unless compelled to do so by court order, other applicable law, or university policy, as this would violate the Ombuds' strict adherence to the principle of confidentiality.

The Ombuds Office functions independently with respect to case handling and issue management and reports to the Office of the President for administrative and budgetary purposes. To fulfill its functions, the Ombuds Office shall have a specific allocated budget, adequate space, and sufficient resources (e.g., computer, phone, furniture, locked file cabinets, general office supplies, professional reference books, IOA membership, printing) to meet operating needs and pursue continuing professional development.

### **Principles of Practice**

In accordance with the International Ombudsman Association, the Ombuds Office adheres to the principles outlined in these documents:

(1) Code of Ethics

[http://www.ombudsassociation.org/sites/default/files/IOA\\_Standards\\_of\\_Practice\\_Oct09.pdf](http://www.ombudsassociation.org/sites/default/files/IOA_Standards_of_Practice_Oct09.pdf)

(2) and, Standards of Practice

[http://www.ombudsassociation.org/sites/default/files/Code\\_Ethics\\_1-07.pdf](http://www.ombudsassociation.org/sites/default/files/Code_Ethics_1-07.pdf)

To summarize, there are four fundamental principles which define Ombuds practice at Dixie State University:

- i. Confidentiality.
  - Strict confidentiality is essential to the Ombuds function and helps create a safe place for visitors to voice concerns, evaluate issues, and identify options.
  - The Ombuds does not disclose the identity of visitors to the office or the content of conversations unless permission has been given to do so or compelled by law or university policy.
  - If a visitor has given permission to do so, the Ombuds may disclose information to other offices or individuals whose help is necessary to explore or resolve a problem. The Ombuds confidentiality privilege, with the exception of legal privilege (see below), belongs to the Ombuds office and cannot be waived by the visitor to the office. Thus,

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even with the consent of the visitor, an Ombuds will not testify or otherwise participate in formal proceedings unless compelled by law or university policy.

- All contacts, conversations, and information exchanged with an Ombuds shall be treated as confidentially as possible and should not be disclosed without the consent of the parties involved and the Ombuds unless otherwise required by law or University policy. Such information is not legally privileged. Thus, confidentiality does not apply when disclosure is necessary to protect an individual or the University from harm; when child abuse or sexual harassment is indicated; or when otherwise required by law or university policy. Confidentiality also does not apply when failure to disclose certain information to proper authorities may put the Ombuds at risk of criminal prosecution. An Ombuds will try to avoid participation in any formal process inside or outside the University, unless compelled to do so by court order, other applicable law, or university policy.
- The University will make every effort to protect the confidentiality of the Office. Neither the University nor members of the University community will ask the Ombuds to provide information about visitors or to testify on the University's behalf in internal or external proceedings, unless compelled by court order, and the University will take appropriate steps to protect the Ombuds from subpoena by others.

### ii. Independence.

- The Office functions outside existing administrative structures and reports directly to the President of Dixie State University for administrative and budgetary purposes.
- The Ombuds neither compels other offices to take specific action nor receives compulsory orders about how to approach a particular issue.
- The Office complements but does not duplicate existing grievance procedures and compliance channels such as University Vice Presidents, College Deans, Department Chairs, or the offices of Human Resources, Internal Audit, or Dixie State University Police.
- The Ombuds has no authority to establish, change, or set aside any University rule or policy, nor may the Ombuds override the decisions of University officials.
- The Ombuds has access to all university officials and records as needed to carry out the functions of the Office.
- The Ombuds takes all steps to avoid conflicts of interest, whether actual or perceived.

### iii. Impartiality/Neutrality.

- The Ombuds provides objective assessments of concerns brought to the Ombuds Office.

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- As a third-party neutral, the Ombuds is an advocate for equity, fair process, and the fair administration of process. The Ombuds does not take sides on behalf of any individual, cause, or dispute.
- The Ombuds takes into consideration the rights of all parties, as well as the welfare of the University and University community.

### iv. Informality.

- The Ombuds Office shall be a resource for informal dispute resolution only. All consultations are conducted “off the record” and may not constitute legal notice to the University. The Ombuds has no authority to accept legal notice or make decisions on behalf of the University.
- Persons wanting to establish “legal notice” to the university should contact an administrator or administrative office, or he/she should initiate a formal proceeding. For those wishing to go on-record, the Ombuds makes referrals to appropriate formal channels so that individuals may make informed choices about which process is best for them to pursue. Individuals using the services of an Ombuds retain their rights to all formal procedures ordinarily available to them. If a visitor chooses to pursue a formal resolution process, the Ombuds may no longer be involved once the formal procedures take effect.
- The Ombuds maintains only anonymous, aggregate data. Formal records are not created, nor are personally identifiable documents preserved. Informal notes may be temporarily created only insofar as they are necessary for case management.
- The Ombuds may request data from and explore a concern with University officials. However, the Ombuds does not conduct formal investigations or participate in formal actions. The following are also *outside* the purview of the Office: adjudicating cases, acting as an advocate or witness in any case inside or outside the University; keeping case records for the University; assessing wrongdoing or innocence; determining sanctions; and making, changing, or setting aside any rule, policy, or administrative decision.

## Limitations on the Authority of the Ombuds Office

### i. Receiving Notice for the University

As noted above, the Ombuds Office shall not constitute legal notice to the University. The Ombuds Office shall publicize its non-notice role to the university. If a user of the Ombuds Office would like to put the University on notice regarding a specific situation, or wishes for information to be provided to the University, the Ombuds will provide that person with information so that the person may do so himself/herself. In extremely rare situations, the

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Ombuds Office may have an ethical obligation to put the University on notice (such as in cases of sexual harassment, child abuse, or other cases involving imminent harm to individuals or the university). This will take place only when there is no other reasonable option.

### ii. Formal Processes and Investigations

The Ombuds Office shall not conduct formal investigations of any kind. The Ombuds Office staff shall not willingly participate in formal dispute processes or outside agency complaints or lawsuits, either on behalf of a user of the Ombuds Office or on behalf of the University. The Ombuds Office provides an alternate channel for dispute resolution, and all use of Ombuds services shall be voluntary. Because confidentiality, neutrality, and informality are critically important to the Ombuds Office, all communications with the office are made with the understanding that they are confidential, off-the-record, and that appropriate steps will be taken by the university to ensure that no one from the office will be called to testify as a witness in any formal or legal proceeding to reveal confidential communications unless compelled by court order.

### iii. Record Keeping

The Ombuds shall not keep records of its communications with visitors for the University for use in formal proceedings, unless required by law, and shall not create or hold documents or personally identifying records for the University about individual matters.

### iv. Advocacy for Parties

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

### v. Adjudication of Issues

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

## **Protection From Retaliation For Using The Ombuds Office**

The University is committed to protecting faculty, staff, and students who visit the Ombuds Office from any form of reprisal or retaliation by others in the University community.

## **Legal Counsel**

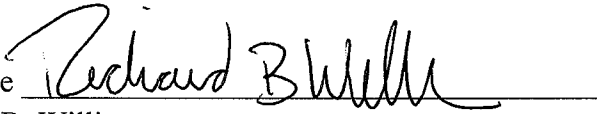
On occasion, the Ombuds may require legal advice or representation in order to fulfill his/her required functions. The Ombuds shall be provided with legal counsel as necessary and appropriate to protect the integrity of the Ombuds office.

## **Removal from Office**

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The assignment as an Ombuds may be terminated by the President for such things as a violation of university policy or of willful or careless violations of the Standards of Practice of the International Ombudsman Association.

Signature



Richard B. Williams

President of Dixie State University

Date

8/17/2015

### Reference Documents for Organizational Ombuds Offices:

American Bar Association, Section of Administrative Law and Regulatory Practice. *Standards for the Establishment and Operation of Ombuds Offices*. Washington, DC: August, 2001.

Howard, Charles, *The Organizational Ombudsman: Origins, Roles and Operations - A Legal Guide*, (Chicago, IL, American Bar Association, Jan. 2010)

International Ombudsman Association: <http://www.ombudsassociation.org/>

Rowe, Mary. *Options, Functions and Skills: What an Organizational Ombudsperson Might Want to Know*. Dallas, TX: The Ombudsman Association, 1995.

### Acknowledgment

Information contained in this document was informed by the International Ombudsman Association, Boston University, Oregon State University, Northern Arizona University, and University of California at Irvine. Some language has been directly appropriated and used, with permission, from the Weber State University Ombuds Charter.