2012-2013 Report of the Office of the Ombudsman

Thadious M. Davis, University Ombudsman

Founded in 1971 after an initiative by the Faculty Senate, the Office of the Ombudsman provides an impartial, informal, confidential space to assist in improving conditions and communication and is open to all members of the University community: students, administrators, staff or faculty. The Office is led by Thadious M. Davis, PhD., the largest member of the standing faculty; the Associate Ombudsman Marcia Martinez-Helfman, JD, MSW, is a full-time staff member. Both are available by phone (215) 898-8284, and email thad@pobox.upenn.edu for scheduling confidential appointments. The office does not have secretarial or support staff assistance, but strives to respond to phone or email queries within 24 hours and to schedule a meeting within a week of an initial request.

The guiding principles of the Office of the Ombudsman have remained consistent since the 1970s. It provides an informal way to assist individuals within the University community with issues, complaints, problems or questions. A major part of the assistance offered is providing a sounding board in order to air, articulate and identify issues or conflicts such as interpersonal difficulties, administrative challenges or academic concerns that might be resolved informally. The Office does not participate in any formal grievance procedures or adjudicative measures. After 41 years, the primary objective of the Office remains meeting any need for assistance with questions or complaints that impact individuals within the University community.

In providing assistance, the Office treats each issue separately. There are no pre-assigned steps or fixed procedures; instead each query receives personalized consideration and each visitor is treated as an individual. In every instance, confidentiality and fairness are part of the work of considering options, formulating interventions or mediating solutions. Every query receives thoughtful attention, with the primary purpose being to facilitate resolutions that will reduce workplace tensions and open lines of communication within the work or study environment. But the Office of the Ombudsman does not function as an advocate for any visitor; it maintains a neutral and impartial stance, even though committed to helping to mediate and bring about resolutions. The informal nature of the mediating work the Office of the Ombudsman means, however, that the earlier a problem or conflict comes to our attention, the better chance we have in assisting with a resolution. The rationale is that before tensions around an issue escalate or before parties become too fixed in adversarial positions, the Office can help in mediating differences and diffusing hostilities.

PENN’s Office adheres to the ethical principles that have emerged out of the developing professionalization of ombudsman offices in academia and out of the procedures provided by the International Ombudsman Association (IOA). The principles are: independence, neutrality, confidentiality and informality. They are central to the code of ethics advocated by the IOA to maintain a common set of principles. They function to preserve the integrity of the Office by codifying and making transparent and accessible the guiding procedures that have been in place in the PENN Office since its founding in 1971. The four as standards of practice, largely also accepted by PENN’s peer institutions, distinguish the Ombudsman Office from the working of other service units on campus.

The Office takes confidentiality seriously as a mandate in all interactions with visitors and in all follow up discussions. The Ombudsman does not reveal the sources or the content of any communication brought by anyone seeking assistance, unless given specific permission to do so in the process of mediation; the only exception is in an instance in which there is the potential for serious harm. In protecting the privacy of visitors and confidential information, the Office does not keep any permanent files and does not participate in any formal hearings or grievances. All temporary materials related to visitors are coded for confidentiality and placed in secure password-protected electronic files, and all paper files or notes are routinely shredded. Regarding its informality function, the Office of the Ombudsman does not participate in formal grievance procedures or adjudicative processes; however, it does refer visitors to other University resources that might be more appropriate for such issues.

In an ongoing effort to clarify its role for the University community, the Office of the Ombudsman produced a new information brochure that was then distributed to all 12 schools. The brochure emphasized the independence and neutrality of the Office, as well as the potential for serious harm. In protecting the privacy of visitors and anyone seeking assistance, unless given specific permission to do so in the process of mediation, the Office does not participate in any formal grievance procedures or adjudicative processes, however, it does refer visitors to other University resources that might be more appropriate for such issues.

In Penn’s Office of the Ombudsman, the role of the Ombudsman is to facilitate resolutions that will reduce workplace tensions and open lines of communication within the work or study environment. But the Office of the Ombudsman does not function as an advocate for any visitor; it maintains a neutral and impartial stance, even though committed to helping to mediate and bring about resolutions. The informal nature of the mediating work the Office of the Ombudsman means, however, that the earlier a problem or conflict comes to our attention, the better chance we have in assisting with a resolution. The rationale is that before tensions around an issue escalate or before parties become too fixed in adversarial positions, the Office can help in mediating differences and diffusing hostilities.

Penn’s Office of the Ombudsman made a concerted effort during the past year to gather data from other ombudsman offices about their operations and procedures. As part of that effort to achieve a better understanding of how ombudsman offices at peer institutions operated, the Ombudsman, the Associate Ombudsman and the Vice President for Institutional Affairs, Joann Mitchell, visited the Columbia University Office of the Ombudsman and the Cornell University’s Scheinman Institute on Conflict Management to discover more about best practices at a peer institute and more about skills for resolving disputes. The Scheinman Institute offers professional interdisciplinary programs in training and research in dispute resolution and development for academics, students and practitioners. Founded in 1996, it operates in connection with Cornell’s Law School and ILR School but not in relation to a specific ombudsman office. Established in 1991, the Columbia University Office of the Ombudsman has an online link to its charter and its position as a designated neutral. It has a full-time ombudsman who has been in the position since the inception of the office, a full-time associate ombudsman and both full and part-time office staff. Their office adheres to the Code of Ethics and Standards of Practice of the International Ombudsman Association but does not collect as many fields of information as the IOA’s software enables and instead records only names, status and university location but shreds its records or notes three or four times a year. While offering services at any point in a resolution process, it functions as a supplement to resources already in place for resolving conflicts or upholding fair practices within Columbia.

A major aspect of information gathering involved a survey of ten ombudsman offices at peer institutions, including MIT, Yale School of Medicine and Harvard’s Schools of Medicine, Dental Medicine and Public Health. Vice President Mitchell and Associate Ombudsman Martinez-Helfman
Helfman conducted the survey via phone and Skype interviews in order to collect information on practices in other offices that might then be compared to those in place at Penn. Questions included the staffing of offices, relation to university legal officers and connections to service units. As a result of these efforts, the Office anticipates moving forward in analyzing the procedures at Penn and, where necessary or advisable, aligning the Office of the Ombudsman’s standards with those peer offices currently practice and that national and international ombudsmen typically follow.

Attracting attention from the Ombudsman involves the difficulty of making clear what to expect from bringing a conflict forward. Neither the authority for decision-making nor the power to adjudicate outcomes resides with the Office. While it is encouraged, the Office of the Ombudsman cannot assure visitors that a satisfactory resolution will result from opening communication and initiating mediation. The Office can provide a mechanism for conversation and discussion with the intention of enabling a fair process and a resolution, but it cannot assure visitors of a specific outcome. Consequently, visitors experience dissatisfaction with the process of the Office or its inability to provide clarifying follow-up information. The Office may, however, bring a problematic issue to the attention of a particular University unit with the authority to examine question policies or implement procedural changes. It may also make a recommendation that an issue be considered, but it has no way to ascertain when or if a forwarded issue or recommendation will be considered or if a change will be implemented. As a result both visitors and the Ombudsman may not be aware of how or whether the issue ultimately receives further attention or if it will have any impact in ameliorating a problem area that may hold some significance for the larger University community. Similarly, parties that have been involved in a mediation that moves forward to administrative structures beyond the Office of the Ombudsman are not required to inform the Office of the outcome or resolution. The lack of a systemic structure for following up in these various scenarios may be perceived as inaction or inattention, though neither of which may be the actual state of affairs.

A recurrent concern expressed by visitors from every sector of the University is the fear of retaliation. Three previous reports from the Office of the Ombudsman have called attention to the issue (John Keene, Almanac, April 7, 2009, Joan Goodman, Almanac, October 25, 2011 and Thadious Davis, Almanac, September 18, 2012). Despite reassurances that the University has in place a policy against retaliatory measures and threats, as well as that the Office of the Ombudsman maintains confidentiality, visitors worry that either sharing a concern or seeking advice could result in measures being taken against them. Perhaps surprisingly, staff, students and faculty seem equally vulnerable when voicing fears that supervisors, chairs or directors might retaliate against them. Uninformed and non-standing faculty members are also reluctant to make queries about procedural issues, whether for tenure, promotion, sabbatical or leave policies. Both staff and faculty members have pointed out that the location of guidelines for procedures are not easily accessible or are difficult to interpret without out assistance, but that asking questions might create problems or generate negative impressions of them. Better and clearer access to procedural guidelines and guidelines in departments, programs and schools would alleviate part of the problem, but the larger issue of fear of retaliation requires a sustained effort to educate all members of the University community about how to create lines of communication and how to maintain an environment of trust, respect and cooperation. Going forward, the Office of the Ombudsman anticipates renewing its work toward these ends particularly because of the increase in abrasive, abusive or inappropriate treatment of subordinates in the workplace environment.

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