



Terms of Reference for the Ombudsperson

1. Introduction

The College is committed to the just and fair treatment of each and every member of the College community. In keeping with this commitment, the College joined with the Student Union of Confederation College (SUCCI) in 2007 to support the development of a jointly funded Ombuds Office. The Ombuds Office is not meant to replace established channels of assistance but may be used if a student needs assistance in identifying where to go, would prefer to discuss a problem with a neutral party, or has already gone through established channels without satisfaction.

These Terms of Reference will be reviewed every three years by the Ombudsperson and the College Planning Committee (CPC).

2. Definitions

Wherever the word 'Ombudsperson' or 'the Office' is used in these Terms of Reference, it is intended to cover not only the Ombudsperson, but also other staff who may be authorized from time-to-time to carry out certain functions of the Office.

Wherever the word 'student' is used in these terms of reference, it is intended to include any member holding status as a student of the College community, by former members of the student body or by student applicants to the College (dependent on the discretion of the Office), whether accepted or not at the time of the complaint.

3. Mandate

The mandate of the Office is twofold in nature. First, the Office provides an independent, impartial and confidential process through which students of the College community may find assistance and advice in the just, fair and equitable resolution of any College-related concern. Secondly, the Office makes recommendations when trends, patterns, policies or procedures of the College generate concerns or conflicts, and to promote discussion on institution-wide concerns.

4. Structure and Reporting

The Ombudsperson is appointed by the CPC on the recommendation of the President. The Ombudsperson reports directly to the President of the College and the President of SUCCI, and is accountable to the CPC,

the Executive Director of SUCCI and the Director of Student Success. The CPC will review the operations of the Office utilizing the annual report and other tools as appropriate.

The Ombudsperson shall make an annual report to the College community through the CPC and such other special reports as may be required from time to time by CPC. The annual report shall contain statistical information, highlight general trends and include recommendations as necessary. The College shall respond through the President to the annual report of the Ombudsperson and to any other such special reports. The published annual report shall be widely distributed within the College and made available to the public.

5. *Jurisdiction*

Complaints may be made by any member holding status as a student of the College community.

The Office shall not deal with complaints or grievances from students who do not present that complaint or grievance personally. Any third party attempting to initiate action on behalf of another student shall be informed of this policy and instructed to persuade the injured party to contact the Office.

The Ombudsperson will not undertake a complaint where the student has had knowledge of the acts for more than one year before making a complaint, and has no reasonable explanation for not pursuing a remedy, appeal or filing a complaint.

6. *Protection from Reprisals*

Any student member of the College community has the right to seek the assistance of the Office without reprisal or threat of reprisal from any other College member or office. Any individual or body found to make such reprisals or threats will be subject to disciplinary action.

7. *Principles*

The Office is founded on 4 basic principles as well as accessibility, integrity and a commitment to fair treatment. The Office will publicize the confidential, independent, neutral and informal nature of its services and will explain these principles to each student.

Independence

The Office is independent of all administrative / management structures, departments or academic areas. The Office will exercise sole discretion over whether and how to investigate a complaint. In addition, the Ombudsperson holds no other position within the College which might compromise that independence.

Impartiality

The Office shall assess and investigate all complaints with impartiality. The Ombudsperson shall not take sides in any conflict, dispute or issue. The Office shall consider the interests and concerns of all parties involved in a situation in an impartial manner, free from bias and conflicts of interest.

Informality

The Office shall be a resource for informal dispute resolution until such time as formal steps become necessary. Whenever practical, the Ombudsperson shall seek the resolution of a student's grievance or problem informally and at the lowest level within the organization.

Confidentiality

All dealings with the Office are deemed to be confidential.

The Ombudsperson is responsible for the development, recommendation and the implementation of appropriate procedures to protect an individual's use of the services of the Office.

Confidentiality Guidelines

- The Ombudsperson shall respect and ensure the strict confidentiality of all personal information of students, and confidential information or materials to which they have access.
- The Ombudsperson shall not confirm communicating with any party (ies) and shall not reveal or release any information or undertake any course of action on the students' behalf without the express consent of the student, except to the extent required by law.
- The Ombudsperson is not required to maintain confidentiality in cases involving the commission of a serious crime or where there is an imminent risk of physical harm or abuse.
- The Ombudsperson may disclose a matter in order to establish grounds for conclusions or recommendations in a report, provided the identity of the individuals involved is not made known without their permission.
- Should a student request anonymity, the Ombudsperson will respect this decision even though acceding to such a request may prevent resolution of a problem.

8. Scope of Services

8 a) Conflict Resolution

The Ombudsperson helps students to resolve problems related to any College-related concern or complaint and may inquire into the application of any College policy, rule or procedure.

Conflict Resolution Guidelines

- The Office functions on a first-come, first-served basis, though the Ombudsperson shall have discretion to make exceptions.
- Cases will be handled promptly.
- The Ombudsperson attempts to provide all possible assistance to a student so the student may act on his/her own behalf.

- It shall be the special concern of the Ombudsperson that:
 - i.* Decisions affecting individual students are made with reasonable promptness;
 - ii.* Procedures used to make decisions about students are fair and the criteria upon which they are based appropriate;
 - iii.* Procedures and policies used to reach decisions affecting students are adequate and consistently applied, and that criteria and rules on which the decisions in question are based, are appropriate.

8 b) Inquiries / Information / Advice

The Office is an information resource for students, providing advice on policy and procedure, rights and responsibilities, general guidance on where and to whom complaints and inquiries are appropriately directed, and assistance in generating options and determining an appropriate course of action.

Inquiries / Information / Advice Guidelines

- The Ombudsperson shall search actively for the answers to all such inquiries and provide them to the inquiring parties. The Ombudsperson may seek information from, and make referrals to, appropriate bodies within the College community and external contacts if warranted.
- The Ombudsperson will encourage students, where appropriate, to approach the other party or office in a dispute directly and to act on their own behalf in resolving concerns.
- After concluding an inquiry, the Ombudsperson shall evaluate the merits of the concern and notify the parties of her/his findings. When the Ombudsperson concludes that a concern is not substantiated, s/he shall explain her/his findings to the individuals involved.
- Where a student had been advised to confer with another College office for the resolution of complaints or the provision of information, the Ombudsperson shall emphasize the student's responsibility for initiating appropriate actions and for returning to the Ombudsperson if not satisfied with the outcome.

8 c) Intervention

In cases where the Ombudsperson deems it appropriate and with the consent of the student, the Ombudsperson may intervene to attempt the resolution of a concern.

Intervention Guidelines

- The method of intervention for conflict resolution remains at the discretion of the Ombudsperson but may include:
 - i.* requesting that a College official meet with a member of the College community;
 - ii.* meeting directly with the other party (ies);
 - iii.* conducting shuttle diplomacy between students and College staff who have the

- responsibility and authority to resolve specific problems;
 - iv. arranging and facilitating communication between the parties;
 - v. reviewing any relevant College record, policy or procedure;
 - vi. making informal inquiries into a matter;
 - vii. providing mediation and advisory support;
 - viii. formally investigating a claim; and
 - ix. offering recommendations for a fair resolution
- The Ombudsperson may choose to intervene following the completion of informal procedures and prior to the commencement of more formal procedures.
 - Once a formal procedure has been commenced, the Ombudsperson shall not intervene except in cases of serious procedural irregularities. This will not prohibit the Ombudsperson from continuing to offer advice and assistance to the party (ies) without becoming directly involved in the process.
 - Where a matter is pending in a legal forum and both parties have retained a solicitor, the Ombudsperson may only intervene if both parties and their solicitors consent.
 - The Ombudsperson may always provide information pertaining to College policies and procedures and may discuss a range of options available to the student, including both informal and formal processes.

8 d) Investigation

An investigation by the Ombudsperson will be undertaken at the Ombudsperson's discretion for any issue concerning the College or the Student Union which affects any student member of the College community.

Investigation Guidelines

- The Ombudsperson shall not be required to explain why the information is being sought. All reasonable requests for information pertinent to the functions and purposes of the Office will be honoured.
- Normally, the Ombudsperson will investigate only if:
 - i.* the person or persons affected agree the matter should be investigated;
 - ii.* the matter is related to the College;
 - iii.* other avenues or means to address the concern are exhausted, unavailable or for good reason unacceptable; or
 - iv.* a remedy has not been properly applied.
- The Ombudsperson sets the procedures for investigations in such manner as s/he sees fit.
- An investigation by the Ombudsperson normally culminates in a written, confidential report. A draft report will be provided to each party for comment. A final report will typically contain:

- i.* a summary or description of the information gathered in the course of the investigation;
 - ii.* an analysis of the information and its significance and relevance to the claims of the parties; and
 - iii.* the Ombudsperson's reasoned conclusions and recommendations.
- The report will not disclose any information without the agreement of the party providing it. If a party is unwilling to have key information included in the report or shared with other parties, the Ombudsperson has the option of terminating the investigation without making any findings or recommendations. The Ombudsperson will close a file with a summary or statement.
 - After concluding the investigation, the Ombudsperson shall evaluate the merits of the concern and notify the parties of her/his findings. When the Ombudsperson concludes that a concern is not substantiated, s/he shall explain her/his findings to the individuals involved.
 - The Ombudsperson may request that s/he be informed of any actions taken and recommendations followed or the reasons for not complying with them.

9. Records and Case Management

The Ombudsperson shall maintain suitable records of inquiries, complaints, cases, findings and recommendations.

Records and Case Management Guidelines

- The files and records of the Office shall be for the exclusive use of the Ombudsperson and shall not be released to anyone else for any purpose.
- Materials received from parties to the case, copies of documents submitted to the Ombudsperson in his/her formal capacity, and the Ombudsperson's personal notes left in the case record files at his/her discretion, are deemed to be the property of the Office.
- Case records will normally be maintained for two years or longer at the discretion of the Ombudsperson and such files shall be destroyed according to the retention schedule as set out in provincial legislation.
- Destruction of files or records will not take place while any proceedings are pending in the College, the Courts or any outside tribunal, and until after all rights or appeal mechanisms are exhausted or times of appeal have expired.

10. Policy Analysis

The Ombudsperson will identify any gaps, inequities and inadequacies in existing College policies, rules or procedures that affect the ability of individuals to function as members of the College community or which might jeopardize their human rights, freedoms or natural justice, and bring these to the attention of the proper authority.

11. Recommendations

The Ombudsperson may bring the case findings to the attention of those in authority and may make recommendations with a view to remedying a student's situation.

The Ombudspersons may suggest changes to the existing policies, rules or procedures or offer advice on the development of new policies, rules or procedures.

The Ombudsperson may identify systemic and recurring problems and make appropriate recommendations for changes in structures and procedures.

The Ombudsperson may, at his/her discretion, recommend inquiries or investigations to CPC concerning matters which s/he feels are systemic and warrant such treatment.

Recommendations issued by the Office shall not be construed as reflections of the operating philosophy of the funding organization(s) or any other body on campus, or as policy statements and shall explicitly state this whenever such recommendations are issued.

12. Case Termination

The Office may decline to inquire into a matter or may withdraw from a case if the Ombudsperson deems a case to be unjustified, frivolous, premature or inappropriate for any reason, including matters not brought in good faith or which may appear to be a misuse of the function of the Office. A statement of reasons for the refusal or termination of the case shall be issued by the Office to the party concerned.

Where the Ombudsperson is satisfied that the requirements of the principles of natural justice and procedural fairness have been met, the Ombudsperson has the right to terminate his or her involvement in a case.

In the event that a period of one month should elapse without contact between the Ombudsperson and the student and after all reasonable attempts have been made by the Office to contact the student, the case may be considered withdrawn.

13. Authority

The Ombudsperson shall have access to all official College files, records and information necessary to the performance of duties in accordance with the College's policy on Freedom of Information and Protection of Privacy.

The Ombudsperson shall not be required to explain why the information is being sought and requests for information must be given priority by every employee of the College.

The Ombudsperson shall have unrestricted access to all College officials who shall respond to all reasonable requests for information pertinent to the mandate of the office as stated herein and requests for copies of student academic records when accompanied by written authorization of the student(s)

concerned.

“Access” to files shall be understood in its functional sense and will include the right of the Office to have copies of any document pertaining to the particular case that it deems necessary for its file. Copies will be made available only on the express understanding that they are in the sole custody of the Ombudsperson, that the contents will be well protected and that there will be strict adherence to the confidentiality of information of a personal or confidential nature.

The Office shall be given upon request, written reasons for any administrative decision taken within the College with regard to a student where the Office requests such for the purpose of advising or assisting.

Should any information be withheld by officers or agents of the College and the Student Union, the President of the College / President of SUCCI from which the information is denied, shall give reasons in writing to the Ombudsperson as to why any information is withheld. The President may deny access to a document if s/he reasonably believes that there is a legal duty to deny access.

14. Limitations

The Office is not an office of record; advising the Office of a situation is not a substitute for advising the appropriate authority.

The College will endeavour to protect the Ombudsperson from subpoena by others, both inside and outside the College.

Although authorized to function in the widest possible context and with a minimum of constraints, the Ombudsperson shall not:

- i. Be a voting member of any committee, hiring board or council of the College, but may be a non-voting member or a consultant on policy and procedure development;
- ii. Make College or Student Union or other policy, or replace established legislative or judicial procedures, although any or all of these may be investigated or questioned and recommendations may be made for their improvement;
- iii. Intervene in any matter covered by a collective agreement or terms and conditions of employment unless all parties consent to the Ombudsperson’s informal involvement;
- iv. Be compelled to give evidence about anything s/he learns in the exercise of his or her duties;
- v. Be required to give evidence before a College tribunal about anything that s/he may have learned in the exercise of his/her duty;
- vi. Intervene if a matter is currently pending in a legal forum;
- vii. Exercise a judicial function or make binding decisions in any case;
- viii. Act as the advocate of any party in a dispute;
- ix. Impose remedies or sanctions and enforce or change any policy, rule or procedure;
- x. Exercise authority beyond the legal authority of the College.

15. Conflict of Interest

A conflict of interest will be deemed to arise when the Ombudsperson's private interests supersede or compete with his/her dedication to the impartial and independent nature of the role of Ombudsperson.

Conflict of Interest Guidelines

- The Ombudsperson shall avoid involvement in cases where there may be a conflict of interest.
- In the case of an actual or threatened conflict of interest, the Ombudsperson shall make this fact known to the student and/or major parties concerned, and shall ensure that the student is aware of any other possible methods of resolving the matter.
- In the case of a conflict of interest, another member of the College community may be requested to assume the role of Ombudsperson for the purposes of this individual case and shall, in such role, be governed by The Terms of Reference for the Office.

16. Complaint Against the Ombudsperson

If a member of the College community believes that the Ombudsperson has committed a procedural or substantive violation of these Terms or Reference, s/he may submit a written complaint detailing the alleged violation to the President of the College and the President of the Student Union. The complainant must be a party to the matter in question and no complaint shall be considered while a case is ongoing. The President of the College and the President of the Student Union may personally investigate the matter (or if they are personally involved, an independent, mutually selected third party may investigate and report back to them as to his/her/their findings). The Ombudsperson shall be provided a fair opportunity to answer any allegations. Following the investigation, the President of the College and the President of the Student Union shall, acting jointly, take whatever action they deem appropriate including requesting further investigation, dismissing the complaint if it has been successfully answered, or taking appropriate disciplinary action, up to and including dismissal for cause.

Note: Nothing in this document is intended to affect the rights and responsibilities of any person under the law of Ontario or Canada.

Revised and approved by the College Planning Committee
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