ESTABLISHMENT OF AN OMBUDS OFFICE AT LSU:

EXECUTIVE SUMMARY

PREFACE

This Executive Summary presents the outline of our recommendations about the establishment of an Ombuds Office at LSU. The rationale for specific items can be found in the Ombuds Reference Document that accompanies this summary. As we emphasize in the preface to the reference document, some of the conditions for operation represent ideals towards which the program should strive rather than necessities for initial operation. Nonetheless, our concern is that the program begin with as solid a foundation as possible. At the end of the summary we have briefly outlined major points of discussion which will need to be negotiation before the program’s inauguration.

INTRODUCTION

A. History

Initial faculty efforts to establish a wider-range ombuds program at LSU resulted in passage (Jan. 20, 1986) of Faculty Senate Resolution 87-7. During the Spring of 1997, the Faculty Senate Executive Committee brought the issue to Chancellor William L. Jenkins, who informally approved choosing candidates for the position and defining the ombuds position and program.

B. Purpose of the Ombuds Office

The Ombuds Office will provide an independent, objective, and confidential program through which members of the LSU community can address issues of concern. Alternative modes of dispute resolution will enhance the quality of the University environment for faculty, administrators, staff, and students. The Ombuds Office will supplement, not replace, existing channels that address grievances, and will not deal with cases in litigation.

C. Function

The Ombuds Office will provide an independent, impartial, objective, and confidential resource to

* assist clients in resolving individual concerns
* provide information regarding policies and procedures of the University
* proactively "educate" the LSU community regarding those policies and procedures pertinent to the most frequent complaints and concerns
* identify areas where systemic problems exist
* make recommendations for policy, procedural, or institutional change
C.1. **What the ombudsperson will do**

The ombudsperson WILL

* be an advocate for fairness
* listen to faculty, staff, students, and administrators
* be impartial
* answer questions
* analyze the situation
* explain university policies, procedures and problem-solving channels
* help the client develop options
* assist the client in pursuing a resolution
* recommend changes in policies and procedures

C.2. **What the ombudsperson can do**

The ombudsperson has the power to

* mediate and/or negotiate non-binding settlements in disputes
* make recommendations for change in a policy or practice
* bring issues to the attention of those with authority to address clients' concerns
* meet with other faculty, department heads, deans, vice chancellors, and upper level administration
* expedite administrative processes
* persuade in decision-making

C.3. **What the ombudsperson cannot do**

The ombudsperson WILL NOT

* replace or circumvent existing channels
* serve as an advocate for the client, respondent, or the University
* attempt to require any University office to change a decision
* offer legal advice
* deal with legal counsel rather than (or on behalf of) the principals involved
* make decisions for clients
* take sides
* exact judgment
* impose penalties

D. **Impact**

An ombuds program will benefit LSU as an institution and individual members of the LSU community. These benefits include

* minimization of formal grievance procedures
* reduction of litigation
* enhanced communication among individuals and groups
* improved collegial atmosphere
* recourse to those with complaints who may feel isolated or anonymous within a large and complex university
* cost effectiveness
I. OPERATING PRINCIPLES

I.A. Cornerstones

I.A.1. Objectivity

Maintenance of this standard is necessary for credibility and effectiveness of the Ombuds Office. The ombudsperson

* must have no stake in the outcome of any investigation, inquiry or other action taken by the Office
* must have no allegiance to a specific individual, group or administrative unit
* must operate in an unbiased manner so that all parties will be given equal time and opportunity to express views and present facts

I.A.2. Independence

Independence from all institutional pressures is essential for effective operation of the Office. The ombudsperson

* must not be perceived as a pawn of the administration or of any constituent group
* must not be perceived as partisan or biased

I.A.3. Confidentiality

Within limits established by law, the promise of confidentiality must be kept by all personnel associated with the Ombuds Office. Pursuant to meeting this standard, the ombudsperson:

* will not unilaterally reveal the identity of persons who contact the Office
* will not unilaterally reveal specifics of topics discussed or brought to the Office that would identify users of the Ombuds service
* must be protected from subpoena by the University when possible and indemnified
* will secure a confidentiality status similar to that of the Faculty Senate Grievance Committee in relation to records access
* must be assured as part of the Office's mandate that neither the administration, the Faculty Senate, nor any other campus group will request that files be surrendered

I.A.4. Accessibility

The ombudsperson is

* readily available to all members of the LSU community
* committed to pursuing timely solutions

I.A.5. Justice

By action and attitude, the ombudsperson must show a firm commitment to equity and fairness. He or she must be an obvious advocate for principles of justice and demonstrate conscious and determined attention to this cornerstone.
I.B. **Foundation**

I.B.1. **Access**

The ombudsman must have:

* full access to people
* full access to records other than (a) medical and mental health records protected by law if the client's permission is not given, (b) privileged lawyer/client communications, (c) Faculty Senate Grievance Committee and Misconduct in Research files

I.B.2. **Record Keeping**

The production of records kept in the Ombuds Office presents issues that need to be addressed. These are:

* the nature and extent of the records to be retained
* the format for information handling
* the security of such records
* a policy concerning length of retention
* careful consideration of the legal issues related to forced release of information

The status of ombuds records as a privileged form of communication is a complex one. (See addendum to bibliography on legal status, as well as Rowe, "Ombudsman Dilemmas.") The university, after consultation with its legal firm, must provide a clear statement regarding protection of records. It is expected that routine records will consist of:

* aggregate demographic tallies of cases
* as minimal documentation of individual cases as is possible

II. **THE WORK OF THE OMBUDSPERSON**

II.A. **Clients**

II.A.1. **Constituencies**

The ombudsman acts in the interests of the whole university and does not represent any particular constituency. If the ombudsman's activities are limited to any one group, it may appear that the concerns and rights of that group are more important than those of others.

II.A.2. **Client Empowerment and Education**

The ombudsman:

* will educate clients about alternatives for dispute resolution
* understands that decisions are made by the client, not the ombudsman
* will provide clients with copies of pertinent documents such as University policies or dispute resolution guidelines as well as of any forms signed by clients during the resolution process
II.B. Fact-Finding

The ombudsperson

* will not prejudge any complaint but will investigate it fully
* will maintain objectivity during information gathering
* will gather information from complainant, respondent (if client grants permission) and other pertinent sources
* will begin at lowest feasible level before contacting other pertinent parties in ascending organizational order
* will handle cases in a timely fashion (ideally, 2 weeks per sequence)

II.C. Collaboration

The ombudsperson

* will consult with those knowledgeable about specific issues or practices
* will refer clients to other groups such as Human Resource Management, the Faculty Senate Grievance Committee, Equal Opportunity Program, the Office for Disabled Students, the Office of Campus Diversity, colleges, etc. when necessary, or work closely with those groups if appropriate
* will meet and assess progress with chair, dean, or appropriate supervisor in cases where numerous complaints, threat of recurrence, or other reasons indicate the need for monitoring

II.D. Mediation

The ombudsperson

* will, whenever possible, try to bring both parties to a mutually satisfactory resolution that will preclude further action or grievance
* will, if necessary, involve the unit head or appropriate person in the final resolution
* will be aware of the long-term stake of participants in university life
* will help to assure non-repetition of the problem for others
* will terminate discussion or mediation at the point where a client or a respondent prefers to deal with legal counsel

II.E. Ombuds-Initiated Actions

II.E.1. Recommendations to or about an Individual

The ombudsperson has

* a duty to warn any affected party if there is a clear and imminent risk to the complainant or others
* a responsibility to recommend actions in certain cases without revealing the identity of the client or of the respondent

II.E.2. Recommendations about a Unit or Policy

The ombudsperson will make general recommendations at appropriate levels

* when complaints indicate the need for, or inadequacy of, a policy
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- when complaints indicate specific problems in specific units

II.F. Gathering of General Information

The ombudsperson will

- assure that the purview of the office does not remain at the single case level
- in conjunction with the Faculty Senate or other appropriate groups, gather information relating to frequency of common problems (e.g., violations of FS 36 procedures, harassment)
- will gather information about the most pressing concerns of all groups through questionnaires, workshops, etc.
- remain in contact with national organizations such as UCOA as well as with ombudspersons at other universities so that regional and national trends are recognizable

II.G. Communication with the Campus

The ombudsperson will communicate with the campus regularly through means such as

- publicity (brochure [see Appendix for examples], Breville, and LSU Today, Net sites, etc.)
- presentations, forums, symposia, and workshops, which may address specific topics (e.g., FS 36, harassment) or constituencies (e.g., those present at faculty orientation, chairs, untenured faculty)
- an annual report

III. ESTABLISHMENT OF THE OMBUDS OFFICE

III.A. Reporting Lines

The ombudsperson

- will report directly to the Chancellor or to the Executive Vice-Chancellor

III.B. Institutional Mandate

The office of the ombudsperson needs strong institutional endorsement and support from all segments of the campus community but particularly from:

- the Chancellor, as indicated by a strong letter of mandate, and by productive ongoing relations with the Chancellor or Executive Vice-Chancellor
- the Faculty Senate
- the Staff Senate
- Student Government Association
- Human Resource Management
- the Office for Students with Disabilities
- the Office for Equal Opportunity Programs
- the Office for Campus Diversity
- the Dean of Students' office
- the university's legal firm
III.C. Selection, Evaluation, and Training of an Ombudsperson

III.C.1. Selection

An ombudsperson will be selected according to the following process. Should a non-academic position be authorized for the ombudsperson, the process will be adapted accordingly.

- The Faculty Senate Executive Committee will seek nomination of a tenured faculty member from all campus constituencies.
- Three names will be forwarded to the Chancellor or Executive Vice-Chancellor.
- The Chancellor or Executive Vice-Chancellor will veto any unacceptable candidates at this stage.
- If any candidate[s] are vetoed, new name[s] will be proposed.
- The Faculty Senate Executive Committee will select the finalist.
- An incumbent may be nominated for a second term.

The ideal candidate, according to UCOA, will possess a dazzling range of abilities (see Ombuds Reference Document for full list). Although no one candidate can match this ideal, UCOA's criteria are worth serious consideration in the selection process.

Because of the range of skills demanded, the pressures of the position, and desirability of clients having options, a shared appointment is highly advantageous. There are strong and multiple advantages to such a system.

III.C.2. Term of Office and Specifics of Appointment

The ombudsperson’s appointment shall:

- be a (shared) full-time position
- last for 3 years
- have a fiscal year contract
- be limited to 2 consecutive terms
- include a stipend
- have raises determined by the Chancellor or Executive Vice-Chancellor and the Faculty Senate Executive Committee.

III.C.3. Review and Evaluation

The ombudsperson will be evaluated through several formal and informal means.

- The Chancellor or Executive Vice-Chancellor and the Faculty Senate Executive Committee will conduct a formal annual review based upon the ombudsperson’s charge and their assessment of client response, annual report, etc.
- Clients will be asked to fill out questionnaires which focus upon performance, rather than satisfaction with resolution, several months after a consultation.
- Participants in mediation other than the client and respondent (such as unit heads) may also be asked to fill out evaluations.
- Participants in presentations, workshops, symposia, etc. may be asked to fill out response sheets after the events.
III.C.4. Complaints and Termination

* Complaints about an ombudsperson will be reviewed by the Faculty Senate Executive Committee and the Chancellor or Executive Vice-Chancellor.
* Recommendation to terminate an ombudsperson before a term has been completed will be by a majority vote of the Faculty Senate Executive Committee after consultation with the Chancellor or Executive Vice-Chancellor.
* The grounds for termination may be malfeasance or ineffectiveness, but under no circumstances can they be retaliatory for actions performed in the course of an ombudsperson’s legitimate duties.

III.C.5. Training of Ombudspersons

Each ombudsperson will

* participate in formal mediation training
* participate in workshops on harassment/diversity
* attend appropriate national seminars, such as UCOA’s
* hold sponsored memberships in pertinent organizations
* develop and maintain knowledge of current ombuds scholarship/practice
* develop and maintain knowledge of university policy statements and permanent memoranda

III.D. Selection of Advisory Committee and Ad-Hoc Consultants

III.D.1. The Advisory Committee

* The ombudsperson(s) will request recommendations and choose 3-5 faculty members to supplement their own areas of expertise.
* The members of the Advisory Committee will be pledged to the ombuds ethical guidelines of objectivity, independence, confidentiality, accessibility, and justice.
* The specifics of a case will not be discussed with the Advisory Committee unless the client gives written permission.
* The identity of a respondent will not be revealed to the Advisory Committee unless the respondent gives written permission.
* Members will serve staggered three-year terms.
* In the event of a conflict of interest, an ombudsperson may appoint a member of the Advisory Committee to act in her or his stead.
* In the event of a conflict of interest, an individual member of the committee will recuse him or herself from discussion of the case.

III.D.2. Ad-Hoc Consultants

* The ombudsperson(s) may consult others on an ad hoc basis for reasons such as expertise on a specific issue (e.g., disability law), disciplinary knowledge (e.g., co-authorship in the sciences), or information about unit policies and procedures.
* In some cases, an ombudsperson may ask whether an ex-client is willing to serve as a consultant to a new one.
III.E. Review of program

The ombuds program (as distinct from the ombudspersons) should be reviewed regularly by formal and informal means such as

* outside program reviewers
* an in-house committee
* questionnaires sent to clients
* questionnaires sent to unit heads
* questionnaires sent to samples of constituent groups

III.F. Physical Setting and Support

III.F.1 Location of Office

The office should be

* in a central part of the campus
* in a neutral, high traffic area such as the library or the union
* accessible to the disabled
* secure and soundproofed
* in physical condition and furnished comparably to other major offices

III.F.2 Support staff

The Ombuds Office will need

* a half-time or more support person
* a graduate assistant and student workers

III.F.3 Office equipment

The Ombuds Office needs

* a hard-wired computer with voice mail
* a laser printer
* a fax machine
* a copier
* a telephone and answering machine
* files, shelves, etc.
* a small but comprehensive collection of materials relating to various topics on which clients are likely to seek help

III.F.4 Other Parts of the Operating Budget

The Ombuds Office will need funds to support goals listed elsewhere in this document such as:

* ombudspersons' memberships in national organizations
* attendance at national meetings such as UCOA
* participation in formal mediation training for each new ombudsperson
* participation in formal diversity training for each new ombudsperson
* funds for outside consultants in years 1 and 4 of operation
* creation and maintenance of a Web page
KEY ISSUES FOR DISCUSSION BEFORE IMPLEMENTATION

Kinney and Massé have met with Forest Benedict, John Collier, Dan Fogel, Carolyn Hargrave, and Laura Lindsay. This Executive Summary will be circulated to the Faculty Senate Executive Committee, Chancellor Jenkins, and Executive Vice-Chancellor Fogel for those groups' recommendations and final determination of outcome.

1) Percentage of Effort: The single course release originally proposed represents 10 hours a week of faculty effort. Start-up and continuing demands--meeting with individual and groups to familiarize them with the Ombuds Office and to negotiate understandings with related units--will be time-consuming. The experience of the authors is that a 'minor' referral can easily take 1-2 hours. A serious and continuing case may itself demand 10 hours of meetings or research in a given week. The demands upon the ombudsperson, who cannot turn away clients because of overload, would be unrealistic with a single course release. We recommend a full-time appointment, whether single or shared.

2) Reporting Lines: The Ombudsperson ordinarily reports to the highest officer on the campus (in some systems, the reporting is to the system President or the Board of Trustees). On our campus, the positions of Executive Vice-Chancellor and Provost are held by one individual. The first position is a plausible organizational alternative to the Chancellor.

3) Scope of Position: This initiative originally designated the ombuds position as that would deal only with faculty complaints. We are all in agreement that that can readily be widened to include administrators and research personnel, and that part-timers as well as full would have access to the office. The authors believe strongly that the program should include staff and students as well. A more limited scope would be counter-productive, producing the impression that faculty complaints are more serious than those of others in the LSU community or that faculty are specially protected, since the Ombudsperson would not hear complaints about faculty by staff or students.

4) Legal Status: Preliminary response from William Norfolk identifies the same problems as those emphasized in the literature (see also addendum to bibliography in Ombuds Reference Document). The same understanding as that currently in effect for the Faculty Senate Grievance Committee should obtain, and the Ombudsperson should be assured of indemnification.

5) Operating Funds: The Ombuds Office cannot operate from a faculty member's office for reasons outlined in this document. The lack of equipment and staff will make even a full-time position untenable and waste valuable faculty time.

6) Phase-in: Inauguration of this position was originally planned to take place in fall of 1997 with a single course release per semester. All parties are agreed that implementation should be delayed until at least spring. We suggest that the selection of the ombudsperson(s) take place no later than November of this year and that the Ombudsperson devote the spring to establishing operating procedures, meeting with cognate offices, and familiarizing campus groups such as deans, chairs, and directors with the program. With realistic funding, full operation can begin in fall of 1998.