

**DECLARATION OF BEST PRACTICES FOR
UNIVERSITY OF CALIFORNIA OMBUDS OFFICES**

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Note: This document is the result of collaboration and input from the following individuals: Margo Wesley and Carmen McKines, UC Berkeley; Kathy Canul and Donna-Jean Loudon, UC Irvine; Sean Banks, Nancy Barbee, Mauricio Ramos, Jennifer Wolf and Tom Kosakowski, UC Los Angeles; Andrea Briggs, UC Riverside; Judith Bruner and Nancy James, UC San Diego; Judy Guillermo-Newton, UC Santa Barbara; Laurie McCann, UC Santa Cruz; Camilla Lopez and John Armijo, Los Alamos National Laboratory; and Frank Robles, Lawrence Livermore National Laboratory.

I. Introduction and Background

This document defines and clarifies the highest standards and best practices in the Ombuds profession, as they apply within the context of the University of California (“UC”) and its various Ombuds Offices.¹ This document is consistent with the International Ombudsman Association (“IOA”) Standards of Practice and resulted from more than a year of dialogue and collaboration which incorporated the collected wisdom of leading ombuds in the profession and attorneys that represent ombuds offices nationwide.

Each Ombuds Office serves as a resource which provides confidential, neutral, informal and independent dispute resolution and mediation services to its community.² This document applies to all Ombuds Offices in the UC system. “Ombuds Offices” shall include professional staff, sometimes called “ombuds,” “ombudsperson,” or “ombudsman,” as well as any support staff.

The intent of this document is: (1) to educate the University community about the role of the Ombuds Office; (2) to proactively encourage all Ombuds Offices to operate in a manner consistent with professional standards, codes of ethics and best practices; (3) to discourage programs which do not comply with best practices; and (4) to discourage the use of the title “ombuds” for those programs which choose not to operate consistently with professional standards. The term “ombuds” carries with it certain professional and legal responsibilities, and therefore should only be used by offices following the longstanding professional tenets outlined in this document.

¹ The University of California currently has Ombuds Offices in operation at seven (7) of its campus locations (Berkeley staff, Berkeley student, Berkeley faculty, Irvine, Los Angeles, Riverside, San Diego, Santa Barbara, and Santa Cruz) and three (3) of its affiliated national laboratories (Lawrence Berkeley, Lawrence Livermore, and Los Alamos). A list of the websites for each of these Offices is attached at Appendix A.

² In accordance with the California Mediation Act (California Evidence Code Section 1115-1128), UC Ombuds are neutrals who meet the definition of mediators and whose communications with visitors are for the purpose of initiating, considering, or reconvening a mediation or retaining the ombuds, and thus assert the mediator’s privilege for all communications with visitors. Additionally, UC Ombuds assert that all communications with their offices are made with the expectation of confidentiality and are therefore entitled to a privilege under the California State Constitution. By providing visitors with a confidential reporting mechanism, Ombuds Offices also assist the University in meeting the important public objectives set forth in the Federal Sentencing Guidelines and the Sarbanes-Oxley Act.

II. Purpose and Scope of the Ombuds Offices

The Ombuds Offices at the University of California system of campuses, medical centers and national laboratories shall provide informal dispute resolution and mediation services to faculty, staff and/or students at the respective locations, and where appropriate, to others who encounter difficulties with the university, i.e., alumni, patients, applicants, family members, etc. The Ombuds Office shall be a place where members of the University of California community can seek guidance regarding the addressing or resolution of disputes or concerns through a resource which is confidential, neutral, informal and independent. The specific scope of each Ombuds Office shall be defined in its local charter.

Services of the Ombuds Offices do not replace other processes at the University. The Offices work to facilitate communication and assist parties in reaching mutually acceptable, fair and equitable resolutions that are consistent with the ideals and objectives of the University. Ombuds Offices also report general trends and provide feedback throughout the organization, and advocate systemic change when appropriate without disclosing confidential communications.

The Ombuds Office shall confidentially receive complaints, concerns or inquiries about alleged acts, omissions, improprieties, and/or broader systemic problems. In response, each Ombuds Office will listen, make informal inquiries or otherwise review matters received, offer options, make referrals, and facilitate resolutions independently and impartially. In addition, each Ombuds Office shall serve as an information and communication resource, consultant, dispute resolution expert and catalyst for institutional change for its location.

III. Standards of Practice and Code of Ethics

The Ombuds Offices adhere to the International Ombudsman Association (“IOA”) Standards of Practice and Code of Ethics.³ These tenets require that Ombuds Offices shall function independently of the organization, shall be confidential and neutral, and shall limit the scope of their services to informal means of dispute resolution. The IOA Standards and Code delineate minimum standards, and the UC Ombuds Offices shall always strive to operate to “best practices” and to manage the Ombuds Offices in a way that serves the best interests of the

³ The IOA Standards of Practice and Code of Ethics are attached at Appendix B.

University of California. Each office shall take appropriate steps to make this Declaration of Best Practices and the tenets of best practices of the Ombuds profession available to the University and to the communities they serve.

A. Independence

The Ombuds Offices shall be, and shall appear to be, free from interference in the legitimate performance of their duties. This independence is achieved primarily through organizational recognition, reporting structure, and neutrality. To ensure objectivity, the Ombuds Offices shall operate independently of administrative authorities. This includes not disclosing confidential information about matters discussed in the Ombuds Offices with anyone in their organization, including the person to whom the Ombuds Offices reports, except as clearly delineated in Section III.B. The Ombuds Offices should report administratively to the highest office at each location. In all cases, the Ombuds Offices shall have access to the Chancellor or the Lab Director.

B. Confidentiality

The Ombuds Offices shall not disclose or be required to disclose any information provided in confidence, except to address an imminent risk of serious harm. The Ombuds Offices assert that there is a privilege with respect to the identity of visitors and their issues. The Ombuds Offices shall not confirm communicating with any party or parties, or disclose any confidential information without the party's or parties' express permission provided in the course of discussions with the Ombuds Office, and at the discretion of the Ombuds Office. The Ombuds Offices shall not participate as witnesses with respect to any confidential communication, nor shall they participate in any formal process inside or outside the University.

C. Neutrality

The Ombuds Offices shall not take sides in any conflict, dispute or issue. The Ombuds Offices shall consider the interests and concerns of all parties involved in a situation impartially with the aim of facilitating communication and assisting the parties in reaching mutually acceptable agreements that are fair and equitable.

D. Informality

The Ombuds Offices shall be a resource for informal dispute resolution. Ombuds Offices shall not investigate, arbitrate, adjudicate or in any other way participate in any internal or external formal process or action. The Ombuds Offices do not keep records for the University, and shall not create or maintain documents or records for the University about individual cases. Notes, if any, taken during the course of working on a case should be routinely destroyed at regular intervals to be specified in the local charter.

IV. Authority and Limits of the Ombuds Offices

Specific areas of authority and limitations on the authority of the Ombuds Offices shall be delineated in their local charters, including those listed below:

A. Authority of the Ombuds Offices

The authority of the Ombuds Offices derives from the administration at the individual locations in which the program is located and should come from the Chancellor or Laboratory Director, as appropriate.

The Ombuds Offices shall be entitled to inquire about any issue concerning the university which affects any member of the University community, and shall respect the confidentiality of that information. The Ombuds Offices shall have access to records and personnel of the locations in which they serve, for the purpose of facilitating the situation. The Ombuds Offices have the authority to break confidence if the Ombuds believes there is an imminent risk of serious harm.

The Ombuds Offices may, without having received a specific complaint from a member of the university community, inquire about matters which the Ombuds Offices believe warrant attention.

The Ombuds Offices may decline to inquire into a matter or may withdraw from a case if the Ombuds believes involvement is inappropriate for any reason, including matters not brought in good faith, or which appear to be a misuse of the Ombuds function.

The Ombuds Offices have the authority to discuss a range of options available to the visitor, including both informal and formal processes.

The Ombuds Offices may require legal or other professional advice, from time to time, in order to fulfill their required functions. The Ombuds Offices should be provided legal counsel independent from the University in the event they are asked for documents or testimony related to any litigation or other formal process, or when any other conflict of interest arises between the Ombuds Office and the administration or the University.

B. Limitations on the Authority of the Ombuds Offices

1. Receiving Notice for the University

Communication to the Ombuds Offices shall not constitute notice to the University. The Ombuds Offices shall publicize their non-notice role to the university. This includes allegations that may be perceived to be violations of laws, regulations or policies, such as sexual harassment, issues covered by the Whistleblower policy, or incidents subject to reporting under the Clery Act. Because the Ombuds does not function as part of the administration of the University, even if the Ombuds becomes aware of such allegations, the Ombuds is not required to report them to the University. If a visitor 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 the visitor with information so that the visitor may do so himself/herself.

2. Collective Bargaining Agreements

The Ombuds Offices shall not address any issues arising under a collective bargaining agreement (“CBA”), unless allowed by specific language in the CBA. This means that while the Ombuds Offices may provide services to union members, those services may not include addressing issues that are covered in the CBA, including, but not limited to, issues such as grievable claims for termination of employment or formal discipline. In those cases, the ombuds shall refer the employee to the CBA and to their union representative. The Ombuds Offices may work with union members regarding all other issues not covered by the contracts, such as communication issues with co-workers.

3. Formal Processes and Investigations

The Ombuds Offices shall not conduct formal investigations of any kind. They also shall not participate in formal dispute processes or outside agency complaints or lawsuits, either on behalf of a visitor to the Ombuds Office or on behalf of the University. Because confidentiality and informality are critically important to the Ombuds Offices, all communications with the office are made with the understanding that they are confidential, off-the-record, and that no one from the office will be called to testify as a witness in any formal or legal proceeding to reveal confidential communications. The Ombuds Offices provide an alternate channel for dispute resolution, and all use of ombuds services shall be voluntary.

4. Record Keeping

The Ombuds Offices do not keep records for the University, and shall not create or maintain documents or records for the University about individual cases. Notes, if any, taken during the course of working on a case should be routinely destroyed at regular intervals to be specified in the local charter. All materials related to a case should be maintained in a secure location and manner, and should be destroyed once the case is concluded. The Ombuds may maintain non-confidential statistical data to assist the Ombuds in reporting trends and giving feedback.

5. Advocacy for Parties

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

6. Adjudication of Issues

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

7. Conflict of Interest

Individual ombuds shall avoid involvement in cases where there may be a conflict of interest. A conflict of interest occurs when the ombuds' private interests, real or perceived, supersede or compete with his or her dedication to the impartial and independent nature of the

role of the ombuds. When a real or perceived conflict exists, the ombuds should take all steps necessary to disclose and/or avoid the conflict.

V. Retaliation for Using the Ombuds Office

All members of the constituencies served by the Ombuds Offices shall have the right to consult the Ombuds Office without reprisal. The Ombuds Offices should work with their institutions to create policies to protect visitors from reprisals.

VI. Ombuds Office Structure

The Ombuds Offices should report to their supervisors for administrative and budgetary purposes only. Each Ombuds Office, in consultation with its location, shall determine appropriate mechanisms for accountability. To fulfill their functions, the Ombuds Offices should each have a specific allocated budget, adequate space, and sufficient resources to meet operating needs and pursue continuing professional development.

VII. Procedures for Revisions of this Document

This document reflects current best practices in the ombuds profession. It may be revised as needed by the UC Ombuds Offices.