

EXECUTIVE SUMMARY

This report summarizes the work to date of an *ad hoc* committee tasked by the University Senate to investigate whether an Ombuds position should be established at American University. The committee's first step was to design a short survey to poll AU Faculty about whether faculty supported establishing an Ombuds position. Overall, the results showed that 90% of the faculty who answered the survey were in favor of establishing the position, stating that to do so would increase communication, trust, advocacy, and employment satisfaction. This report organizes the survey's main findings according to both numerical results and relevant comments characterizing the results, both for and against the position. For the Senate's information, the report also goes on to explain the function of an Organizational Ombuds, where an Ombuds might be housed in the University, and how the Ombuds would benefit the university if established. We also include information, for comparison purposes, about peer and aspirational institutions' inclusion of an Ombuds in their organizational structures. This report does not recommend specifics of how an Ombuds position should be structured at American University. Should the Senate decide to move forward in establishing an Ombuds position; our *ad hoc* committee could investigate possible models and make a proposal for the Senate's consideration in September 2015.

The University Senate tasked an *ad hoc* committee, in October 2014, with investigating whether an Ombuds position should be established at American University. The members of this group are Stacey Marien, Lauren Weis, Caron Martinez, William Leap and John Willoughby.

History of the proposal: In 2006, an *ad hoc* committee was set up to propose changes to the Senate by-laws. One suggested change was to establish an Ombuds position as a faculty support and resource. After consulting an attorney specializing in institutional risk, the *ad hoc* committee did not recommend creating the position. In 2011, an *ad hoc* committee was formed to work on policies concerning term faculty. In their final report to the Senate, the committee suggested that the University establish an Ombuds position to facilitate term faculty concerns. The Senate never took up this suggestion for discussion.

In 2013, AU faculty responded to a Work/ Life Balance survey designed to assess the working environment at AU. One of the suggestions that came out of that survey was that AU establish an Ombuds position. In the summer of 2014, an adjunct professor at WCL, David Clark, submitted a proposal for the creation of an Ombuds position to the interim Dean of Academic Affairs, Mary Clark. This proposal was not acted on. In the fall of 2014, Stacey Marien and Lauren Weis submitted a proposal to the Senate to investigate establishing an Ombuds position. The Senate agreed to establish an *ad hoc* committee to survey AU faculty's interest in establishing the position. This report includes the results of that survey, and reports more fully on the tasks, benefits, drawbacks, and best practices of an Ombuds office or person so that the Senate has the additional information necessary to consider establishing this position.

The *ad hoc* committee designed a survey to be distributed to all AU faculty through the aufaculty email group. The survey consisted of five questions, with room for comments. The survey was sent out twice, once in December before the winter holiday break and once in January, just as the spring semester began. There are almost 1200 emails on the faculty listserv, and as of April 14, 2015, a total of 527 faculty had taken the survey.

Survey Design and Responses:

The survey invitation was prefaced with a message that stated:

“The AU Senate has approved an ad hoc committee to investigate whether to create an ombudsperson position for AU faculty. An Ombudsperson is an impartial, informal mediator who would support and advise faculty by listening and exploring solutions to workplace issues. By answering this short survey (only five questions), you will provide essential information to help the group develop a proposal for the Senate. We thank you for your time.”

Question One: asked if the respondent had ever had an issue or concern that could have been brought to an Ombuds. 523 people answered this question. 45% said yes, 55 % said no.

Question Two: asked if the respondent could ever see using the resources of an Ombuds. 515 people answered this question. 66% said yes, 34 % said no. (One flaw in this question was there was not a “maybe” option.)

Question Three: asked if the respondent would support the creation of an Ombuds position. 515 people answered this question. 90% said yes and 10% said no.

Question Four: asked for the respondent’s status as AU Faculty.

Tenured full - 100 (19.23 % of total respondents).

Tenured Associate - 90 (17.31%)

Tenure-line - 49 (9.42%)

Term - 86 (16.54%)

Multi-year - 63 - (12.12%)

Continuous Appointment - 11 (2.12%) (a new status in the library)

Adjunct - 121 (23.27%)

For comparison’s sake, here are the total numbers of faculty, by status, on campus. These numbers were obtained from the DAA’s office. The assumption is that Continuous, Multi-year and Term all fall under the Term Faculty category.

Tenured Faculty: 376

Tenure-Track Faculty: 115

Term Faculty: 379

Adjuncts: 629 (teaching in Spring 2015)

Question Five: was open-ended and asked participants to add their comments. We have summarized some of the examples that are most indicative of the major findings from the survey:

Those expressing a desire *for* AU to establish an Ombuds: (Again, 90% said yes; 10% said no)

1. Conveyed surprise that AU did not already have the position,
2. Considered such a position a “step in the right direction” to “solve the problems of unbalanced power” at AU,
3. Believed the Ombuds would help facilitate communication and advocacy between faculty and administration,
4. Trusted the Ombuds as a safe place to bring workplace issues

Those expressing a desire *not* to establish the position:

1. Conveyed irritation that it would be one more bureaucratic layer in an already bloated administrative structure,
2. Believed it would be an unnecessary cost, when money could be used elsewhere,
3. Questioned the power and independence in the position, with some people applauding that it would be a step forward towards listening and transparency, and others asking why we would have the position if the person couldn't make decisions or have real authority.
4. Believed that the position is redundant: that we already have people or functions that have the same charge as an Ombuds would.

As you consider this survey feedback, it is useful at this point to establish a working definition of what an Organizational Ombuds is, and what that person might do, or not do. *Note: full results of the faculty survey are included for your convenience, in the Appendix.*

What does an Ombuds do?

One essential task would be for AU to define the role and responsibilities of an Ombuds position that best meets the needs of faculty *here*. To define those parameters, it is useful to consider how peer institutions incorporate Ombuds' positions into their culture. In the paragraphs below we have compiled a snapshot of the variety of forms that an AU Ombuds could take by describing some of the Ombuds positions among AU's aspirational, “market basket,” and D.C.-based peer institutions (see Appendix for full list), as well as other leading institutions in higher education.

For example, Stanford University defines the Ombuds' role by educating faculty on its website about why they would seek the services and counsel of an Ombuds:

When is it appropriate to contact the Ombuds Office? Why have an Ombuds?

Adapted from <http://www.med.stanford.edu/Ombuds/whentouse.html>

There are many situations in which you might want to make use of this confidential resource, such as:

- When you need someone to listen
- When an awkward situation or uncomfortable feelings are bothering you

- When you are unsure of Stanford policy or you believe a policy procedure or regulation has been applied unfairly
- When you wish to work through an intermediary
- When you are worried about favoritism or afraid of retaliation
- When you think you have been treated unfairly, harassed or discriminated against
- When you think someone has engaged in misconduct, or there has been an ethical violation
- All members of the university community (faculty, students, post-docs, and staff) have access to the Ombuds Office, and may not be retaliated against for contacting the Ombuds Office in a matter of concern. *[Note that the purpose of this report is to evaluate establishing an Ombuds for AU faculty, only.]*

As part of establishing the Ombuds' place in their institution, Columbia University's communicates the Ombuds' charge as centered on four principles: "Confidential, Impartial, Informal, Independent." These principles are clearly articulated through its dedicated website; below is an example. (<http://ombuds.columbia.edu/node/22>)

Confidential: The Ombuds Office holds the identity of our visitors and all communications in strict confidence and will not disclose confidential communications unless given permission to do so, except as required by law, or where, in the judgment of the Ombuds Officers, there appears to be imminent risk of serious harm.

Impartial: The Ombuds Office is a neutral place. As designated neutrals, the Ombuds Officers remain unaligned and impartial. The Ombuds Office has no decision-making authority.

Informal: As an informal resource, the Ombuds Office does not participate in any formal adjudicative or administrative procedures. Any communication with the Ombuds Office is off the record and does not constitute notice to Columbia University.

Independent: The Ombuds Office is independent in structure, function, and appearance to the highest degree possible within Columbia, with a reporting relationship directly to the President.

As part of educating both faculty and the wider community about the Ombuds position, Oregon State offers a clear chart showing both the differences and the slight overlap of an Ombuds and other University units, such as Grievance and Human Resources. As noted throughout this report, the Ombuds role can be clarified, defined and communicated in any way that AU decides is best for our purposes.

This chart shows how an Ombuds is similar and different from existing units and functions:

<http://oregonstate.edu/ombuds/how-are-we-different>

University Ombuds: Comparison of Services with Office of Equity and Inclusion & Office of Human Resources

	OEI	OHR	Ombuds
	Fosters an equitable and inclusive organization through strategic planning, policy and practice development, education and guidance, and by responding to discrimination and workplace bullying complaints through investigation and resolution. Promotes understanding and proactive practices related to affirmative action, equal opportunity, diversity, and inclusion. Coordinates access and accommodations for employees in accordance with the ADA. http://oregonstate.edu/oei/	Provides a comprehensive Human Resource management (HR) program (benefits, classification and compensation, recruiting, labor relations, training and development, HRIS) and leadership. Assists managers and employees in following and applying all HR-related policies and procedures. Conducts investigations as required for classified staff. Interprets and negotiates matters relative to the Collective Bargaining Agreement. Has responsibility for Professional Faculty only as directed by the Sr Vice Provost, Academic Affairs. http://oregonstate.edu/admin/hr/	Promotes a civil, inclusive, and healthy OSU campus climate for employees and students through 1) providing informal, impartial, independent, and confidential* conflict management services, 2) conflict management education and program outreach, and 3) identifying conflict trends and providing systemic feedback to administration. *http://oregonstate.edu/ombuds/
Serves in a compliance function	Yes	Yes	No
Provides employee relations training	Yes, primary focus is on a variety of topics related to equity, inclusion, and diversity.	Yes, primary focus is on all aspects of employee training and development with emphasis on leader development, organizational design and improvement, and conflict resolution.	Yes, primary focus is on interpersonal and organizational conflict management.
Designated neutral	No; compliance role	No; compliance role	Yes; designated neutral
Creates and enforces policies	Yes	Yes	No
Office of Notice	Yes	Yes	No
Conducts formal investigations	Yes	Yes; for classified staff, and when directed for professional faculty	No; informal fact gathering only
Participates in OSU formal procedures	Yes	Yes	No
Responsible for identifying systemic trends and/or patterns	Yes; employee and student related.	Yes; employee related (includes student employees).	Yes; employee and student related.

As an impartial party, an Ombuds’ value is both symbolic and practical. The symbolic worth of a senior faculty member designated as a mediator, sounding board, mentor, and problem-solver cannot be overestimated as faculty at AU strive to be listened to, validated, and supported. For this reason, one quality of an Ombuds that is essential is “trustworthy.” The person in the position must be seen as both impartial and open-minded, with a role to listen fairly and counsel without agenda, and with direct reporting authority to either the provost and/or the President. Practically speaking, an Ombuds position is an efficient, almost cost-neutral way (more “cost” information is included below) to engender faculty goodwill - the goodwill that comes from being heard.

Points to Consider

As the survey data of those objecting to the Ombuds’ position suggest, a major argument against having an Ombuds is that faculty members already have the right to file a grievance against a decision that affects their standing in the university. Thus, some respondents questioned whether an Ombuds position would add an extra layer of costly bureaucracy to the university. Yet we believe that this concern is based on a misunderstanding of the role that an Ombuds can play. When an independent Ombuds serves as a confidential, impartial, informal resource for faculty, it should be possible to propose solutions to problems *before* they get to the grievance stage.

In addition, survey results demonstrate that a majority of faculty respondents believe that an Ombuds could identify problematic administrative practices that could be corrected. As a result, AU could move closer to the goal of creating an environment of fairness and

equity for all faculty members, making the university a more efficient workplace that is truly focused on our educational mission. As one example, an Ombuds could be used for cases that grievance doesn't concern itself with, cases that affect perhaps *a group* of faculty rather than one individual. While the Ombuds would have no formal power to resolve disputes or create policy, his or her contribution could help American University design and implement improved personnel practices and academic policies that are possible because the Ombuds' voice would be respected by the university's leadership.

What would an Ombuds position look like at AU? What could faculty expect from such a person? What would be the limits and benefits of seeking advice or counsel from an Ombuds?

If we look to peer institutions, we see that there is truly no one pattern for an Ombuds position to follow, as these positions are tailored to suit each unique institution. For example, at some schools (such as Stanford, Boston University, and Cornell), the Ombuds is not one position, but an entire office, and its charge is to serve the needs of the entire community, from staff to students to faculty. Syracuse students voted in November 2014 for an Ombuds office to serve students, growing out of campus concerns around Greek life and campus sexual violence. Syracuse does not have such a resource for faculty. We should note again that our proposal aims its focus squarely *on AU faculty only*. AU should feel free to create the position that best suits the needs of our faculty.

Notable universities and colleges with an Ombuds Position:

Boston University
Pomona College
Cornell University
Tufts University
Scranton University
Wellesley College
Washington University (St Louis) Medical School
Johns Hopkins Medical School
Georgetown University

Where does the Ombuds position “live” in the university?

Some schools have opted to define the Ombuds' natural home as part of its Wellness Outreach, including having a mental health and stress reduction focus. Others frame it as a skills-based endeavor (Princeton), conducting workshops and training for faculty to learn about and apply conflict resolution and negotiation to all areas of their lives. Still others house their Ombuds in the University Chaplain's office, or as part of spiritual life (Tufts), believing that “creating a positive ethical climate” and “mediating disputes” reflects Tufts' heritage as a place that “...honors a spirit... of inclusivity and social justice.”

What would an Ombuds cost? How does an Ombuds increase efficiency?

The question of an Ombuds cost-effectiveness is complex. The idea of formal, “scientific” measurement of the cost-effectiveness of an Organizational Ombuds is controversial within the Ombuds profession. Mary Rowe argues that there is no singular “scientific” means to calculate the cost-effectiveness of an Ombuds to an organization, largely because his or her role can be so complex. In fact, Rowe argues that one part of the role of an Ombuds is to identify and communicate the benefits and usefulness of the role to an often diverse community.[1]

Evaluating the effectiveness of an Organizational Ombuds is a complex task for a number of reasons. These include:

- **Multiple Stakeholders:** Within an institution many points of view contribute in judging the effectiveness of an Ombuds, and the interests of numerous stakeholders may be in conflict. An Ombuds serves as a designated neutral, working outside of ordinary lines of reporting and structures, who must consider perspectives and interests that may differ considerably.[2] Whose point of view should determine effectiveness in the case of a university: administrators, staff, faculty, students, alumni, etc.? In the case of a university, individual stakeholders can change frequently (revolving committee chairs, student and staff turnover, as a few examples).
- **Identification of Institutional Goals.** An organization needs to come to some agreement about goals for an Organizational Ombuds position in order to determine how to evaluate effectiveness. Evaluation standards may include professional standards of practice, mission of the organization as a whole, values of the given Organizational Ombuds in relation to the values and practices of the institution, and more. It is also necessary to identify an appropriate time frame for evaluation, as some complex institutional challenges can take years to resolve.
- **Context.** An Organizational Ombuds can fulfill a multitude of functions, all of which may not be equally valuable within an institutional context. For example: Delivering Respect; Listening; Receiving and Giving Information on a one-to-one basis; Referral; Helping People to Help Themselves in a Direct Approach; Reframing Issues and Developing Options; Shuttle Diplomacy; Mediation; Facilitating a Generic Approach to Problems; Supporting Systems Change; Follow-up.
- **Challenges of Assessment –** who constitutes an effective and objective evaluator of the work of an Ombuds? Will the evaluator be internal or external? Will any evaluation span multiple stakeholders? Evaluation is difficult given the necessity of a “paucity of records, memories, organizational Ombuds footprints” of an Ombuds as well as the various goals and objectives of multiple stakeholders. [Note: the Committee believes assessment concerns could be addressed by creating some sort of anonymous evaluation measures]

Calculating the Benefits and Cost-Effectiveness of an Organizational Ombuds

The benefits of Organizational Ombuds to an institution are both tangible and intangible. “Many of the perceived intangible benefits of Organizational Ombuds are ‘social benefits’ or ‘positive externalities’,”[4] which are hard to measure in objective terms

though they may be quite important. These might range from benefits to the family members of employees when those employees are happier at work, to the entire community being affected when the systems of an institution promote positive interactions or community well-being.[5]

Determining the cost-effectiveness of an Ombuds is not a straightforward task, for the value or “return” of a monetary investment depends on the values and goals, both short- and long-term, of the organization. For example, the work of the position could increase costs in the short term, particularly if the Ombuds develops a reputation for effectiveness and trustworthiness. More stakeholders may use their services, which could require additional resources. In the long run, the successful work of an Ombuds could increase productivity, increase faculty efficiency, and thus decrease costs. It can be very difficult to measure this effectiveness objectively because the success of an Organizational Ombuds frequently manifests through the actions of others motivated by confidential interactions with the Ombuds.[6]

Some practices that can help to demonstrate the effectiveness of an Organizational Ombuds include:

- Calculating the benefits and cost savings from specific initiatives
- Regularly identifying and communicating Ombuds effectiveness
- Internally assessing the caseload in relation to the mission of the position identified by the institution
- Collecting anonymous feedback from the community
- Identifying problems uncovered through the Ombuds process, which were previously unknown to the organization or unrecognized
- Constantly listening, and reporting back, to the community
- Including the Ombuds role in climate surveys
- Creating and disseminating annual reports, website materials, and training[7]

[1] Rowe, Mary. Identifying and Communicating the Usefulness of Organizational Ombuds With Ideas about organizational Ombuds Effectiveness and Cost-Effectiveness. *Journal of the International Ombuds Association*, vol 3, no 1, 2010.

[2] Ibid. 2.

[3] Ibid. 3-6.

[4] Ibid. 6.

[5] Ibid. 6-7.

[6] Ibid. 8-11.

[7] Ibid. 12-22.

Additional Points to Consider about Cost:

- An Ombuds position means a more efficient use of faculty time: faculty who are helped by an Ombuds will spend less time distracted by workplace concerns and have more time to dedicate to their core mission: educating AU students.
- An Ombuds chosen from among existing senior AU faculty would save time and resources in that it would not mean hiring a new position - just investing in training and accreditation through the International Ombuds Association. In terms of remuneration, we recommend that the University consider salary or stipend, together with course release(s) to facilitate the Ombuds’ workload.

- An Ombuds acting as a conduit for faculty to find existing University resources provides a cost effective alternative to faculty having to spend time locating and accessing such information.
- An Ombuds is a smart, practical, and morale-building way to establish a “middle” person who can listen to faculty concerns that might currently go from complaint to grievance, by offering mediation and advocacy before such concerns reach the point of formal hearing or litigation. Though data, due to confidentiality concerns, are not available to support a clear correlation between an Ombuds and fewer legal cases, we can speculate with confidence that an effective Ombuds can diffuse concerns before they escalate.
- Finally, the support of an Ombuds position is a best practice among our peer institutions, and therefore a reasonable and customary part of the cost of doing business for an institution of the quality and stature of American University.

In August of 2014, an AU Adjunct Faculty Member from the Washington College Of Law, David Clark, wrote a proposal urging AU to create an Ombuds position for faculty. His definitions, framework, and suggestions for such a position are worth considering, and appear in the Appendix, below.

APPENDIX

The following five paragraphs are taken with the permission of an AU Adjunct Faculty Member, David Clark. In terms of clarifying an Ombuds position’s responsibilities and advantages, Clark writes:

“A Faculty Ombuds has an open door for visitors from the ranks of tenure-line, term, and adjunct professors at the University... The Faculty Ombuds serves two purposes: (1) to listen to faculty members’ concerns, complaints, and inquiries, and give advice or assistance to address those matters; and (2) to provide early warning of problems that could harm the University’s reputation, finances, or people.

The Ombuds cannot accomplish these purposes without a key prerequisite: Trust. In order for faculty to feel comfortable communicating with the Ombuds, they must trust that their identity is confidential unless they give the Ombuds permission to act on their behalf. In this connection, the core standards of Ombuds practice are independence, impartiality, confidentiality, and informality.[7] The Ombuds will explain to faculty that there is a narrow exception to the rule of confidentiality: that when the Ombuds learns information that could put the University in imminent harm, the Ombuds must take steps to inform the University; and even in such situations, the Ombuds will not reveal the faculty member’s identity unless permission is given to reveal his/her name.

In general, the duties of a Faculty Ombuds are described as “handl[ing] a range of complaints — from mundane disputes over office space to career-changing battles over termination. Sometimes they give advice, sometimes they clarify administrative policies, and in some cases they mediate.” [8] That is, in many cases, the Ombuds may listen and provide feedback and information in order to help faculty to mentally process his or her concerns, without taking any further action outside of the Ombuds’s office.

In other cases, the Ombuds may refer faculty to another appropriate office if giving notice to formal channels within the University might be necessary to effectively address the visitor's concern. In still other cases, faculty may request that the Ombuds use his/her diplomatic skill as a facilitator and mediator to reach out to third parties in an attempt to resolve the situation. In sum, establishing an Office of the Ombuds is popular "largely because it helps resolve conflicts while maintaining relationships that could be damaged in a more formal setting." [9] Also, "[u]ltimately, institutions hope that ombudsmen will decrease the number of formal grievances and lawsuits." [10]

Importance of a Faculty Ombuds

The Faculty Ombuds serves to promote collegiality and rapport among Faculty and Management. Issues of concern to Faculty, if not surfaced early in their existence, can fester over time and cause discontent among coworkers and work groups, which leads to inefficiency, discord and ultimately a product inferior to the output of a well-oiled organizational machine.

The Ombuds also acts an early warning system for matters that could result in great harm to the University organization and community. Those matters include, but are not limited to, sexual harassment, discrimination, retaliation, physical violence, fraud, waste, and abuse of institutional resources. It is the duty of a University Ombuds to surface matters that could do lasting harm to the University as an institution, whether to its reputation, quality, or financial well-being."

[7] The core standards are discussed in depth in the American Bar Association's Standards for the Establishment and Operation of Ombuds Offices (revised Feb. 2004), available at <http://www.americanbar.org/content/dam/aba/migrated/leadership/2004/dj/115.authcheckdam.pdf>. As described there, "informality" means the Ombuds will not "voluntarily disclose to anyone outside the Ombuds office, including the entity in which the Ombuds operates, any information the person provides in confidence or the person's identity, unless necessary to address the imminent risk of serious harm or with the person's express consent."

[8] Eugene McCormack, Socratic Guidance for Faculty Grievances, *The Chronicle of Higher Education*, February 3, 2006, at A10, available at <http://chronicle.com/article/Socratic-Guidance-for-Faculty/20064/>.

[9] Ibid.

[10] Ibid. 4