

## Terms of Reference for Seneca's Ombuds Office

These Terms were developed using recommendations in the Association of Canadian College and University Ombudspersons' (ACCUO) web document: *Developing Terms of Reference for the Ombuds: a Sample of Clauses from Canadian College and University Ombuds Offices*:

[http://www.uwo.ca/ombuds/accuo\\_aoucc/english/resources\\_sample\\_clauses.html](http://www.uwo.ca/ombuds/accuo_aoucc/english/resources_sample_clauses.html)

### Policy Statement

The role of the Ombuds Office at Seneca is to provide an impartial and final opportunity within the College for the review of student-related decisions and actions by the administration of the College.

The Ombudsperson at Seneca College serves as a confidential, independent resource for addressing student complaints that have not been resolved to the student's satisfaction through the regular informal and formal channels that are available within the College<sup>1</sup>.

### Operations

1. The Ombudsperson receives complaints from current students<sup>2</sup> of the College after all other internal channels of dispute resolution and appeal have been exhausted.
2. The Ombudsperson shall at all times work in a manner consistent with the principles of Ombudsmanship: independence, impartiality, confidentiality, the ability to investigate and recommend, the ability to promote change, informality, accessibility, accountability and a commitment to fair treatment and fair process.<sup>3</sup>
3. The Ombudsperson operates independently of all administrative structures of the College and reports to the President for purposes of funding, reporting recommendations from individual investigations and annual reporting of statistics and recommendations.
4. The Ombudsperson is impartial. The Ombudsperson advocates for fairness in policies and procedures within the College. The Ombudsperson acts in consideration of and with respect for the legitimate interests and concerns of all

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<sup>1</sup> Complaint resolution procedures/services at Seneca include the following:

- *The Student Conduct Office.*
- *Academic Policy, Section 13, Academic Appeals and Appendix C, Academic Appeals Procedure*
- *Student Code of Conduct, Section 3: Procedures for Resolving Disputes and Investigation and, Section 4: Appeals*

<sup>2</sup> "Current students" include those who have taken a course or program within 12 months of the date of the decision or action that is the subject of the complaint.

<sup>3</sup> These principles are outlined by the Association of Canadian College and University Ombudspersons (ACCUO)

affected parties. She/he does not advocate for the complainant or the College. Rather, the Ombudsperson maintains a neutral position between and among parties with a view to achieving fair resolution.

5. The Ombuds service is confidential. Information provided by a complainant will not be shared without permission.
  - a. Should pursuing an inquiry require disclosing information that identifies a complainant, the complainant shall be informed in advance. Any disclosure shall be limited to those who have a need to know.
  - b. Should a complainant decide to withdraw a complaint to protect his or her anonymity, the Ombudsperson shall respect this decision.
  - c. No member of the Ombuds Office will be compelled to give evidence about anything learned in the exercise of his or her duties.
  - d. Nothing in this document is intended to affect the rights and responsibilities of any person under the laws of Ontario or Canada.
  - e. Notwithstanding the foregoing, 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.
  - f. The Ombuds Office is not an office of record: advising the Ombuds Office of a situation is not a substitute for advising the appropriate authority.
6. Informality shall be the prevailing atmosphere of dealings with the Ombuds Office until such time as formal steps become a necessity.
7. Appointments to meet or speak with the Ombudsperson can be made by telephone or email.
8. The Ombudsperson cannot order or direct change in policies or procedures, but makes recommendations with a view to achieving fairness in College operations.
9. The Ombudsperson has the right to investigate student complaints, and as part of an investigation will have access to institutional records or files. Subject to the provisions of the privacy and freedom of information legislation, the Ombudsperson will have access to all people, files and records in the College relevant to an inquiry or investigation. The Ombudsperson shall respect the confidentiality of any confidential information or materials to which she/he has access.
10. In the course of inquiry or investigation and in bringing recommendations forward, the Ombudsperson will seek to ensure that the principles of natural justice and procedural fairness are observed.
11. The Ombudsperson shall not be required to give evidence before a College committee or tribunal about anything learned in the exercise of his or her duties. The College will endeavour to protect the Ombudsperson from subpoena by others, both inside and outside the College.

12. The Ombudsperson shall investigate complaints by any student of the College against the College or against anyone in the College exercising authority in such manner as she/he deems appropriate.
13. All matters submitted by an individual or a group to the Ombudsperson must be presented by the individual involved, and no third party shall have the authority to initiate an investigation by the Ombudsperson on another's behalf.
14. The Ombudsperson's mandate includes the right of inquiry into the application of any policy, rule or procedure. In doing so, the Ombudsperson shall take into account the requirements of government legislation and collective agreements entered into by the College.
15. The Ombudsperson shall not intervene if a matter is currently pending in a legal forum. In the event that both parties have retained a solicitor, the Ombudsperson may only intervene if both parties and their solicitors consent.
16. The Ombudsperson may refuse to intervene or may withdraw from an investigation where:
  - a. The Ombudsperson believes the complaint is premature, frivolous, vexatious, not brought in good faith, or is an abuse of the Ombudsperson's functions. If requested, a statement of reasons for the refusal or termination of the case shall be issued by the Ombuds Office to the party concerned.
  - b. 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.
  - c. The complainant 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 or appeal or filing a complaint.
17. The Ombudsperson's decision to refuse to intervene or withdraw from an investigation is final and is not subject to appeal.
18. The Ombudsperson sets the procedures for investigations in such manner as she or he sees fit. The method of intervention remains at the discretion of the Ombudsperson but may include the following:
  - requesting that a College official meet with the complainant,
  - meeting directly with the other party or parties to a complaint,
  - facilitating communication or a meeting between the parties,
  - reviewing any relevant College record,
  - making informal inquiries into a matter,
  - mediating a dispute,
  - formally investigating a claim and

- offering recommendations for a fair resolution.
19. After investigating a complaint, the Ombudsperson may report the results of the investigation to the complainant informally. If the Ombudsperson determines that a matter is not substantiated, the Ombudsperson shall provide reasons to the parties, if requested.
  20. An investigation by the Ombudsperson may result in a written, confidential report, in which case a draft report will be provided to each party for comment before finalization. A final report will typically contain the following:
    - a. a summary or description of the information gathered in the course of the investigation;
    - b. an analysis of the information, and its significance and relevance to the claims of the parties;
    - c. the Ombudsperson's conclusions and recommendations.
  21. The Ombudsperson may make recommendations regarding a complaint to appropriate officials. The Ombudsperson may request that she/he be informed on any actions taken on recommendations or the reasons for not complying with them.
  22. The Ombudsperson's final report and recommendations, if any, are final and cannot be appealed.
  23. Any student has the right to seek the assistance of the Ombuds Office without reprisal or threat of reprisal. 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 Ombuds Office.
  24. The Ombudsperson may bring to the attention of those in authority any policies, rules or procedures that appear unclear, inequitable or unfair both in specific circumstances and systemically. The Ombudsperson may suggest changes to existing policies, rules or procedures or offer advice on the development of new policies, rules or procedures.
  25. The Ombudsperson shall submit an annual report to the President. The report shall detail activities of the Ombuds Office including statistics on all complaints received and shall make recommendations, as necessary. The President shall ensure that the appropriate administrators consider and respond to the recommendations contained in the report.
  26. The Ombudsperson may, at other times during the year, submit additional reports or recommendations to the appropriate College authority either directly, with a copy to the President, or through the President.
  27. The Ombudsperson may, as she or he sees fit, adopt whatever rules, regulations, policies and procedures necessary to govern the day-to-day operation of the Office

in the spirit of the principles outlined in Section 1. These may include procedures for receiving and processing complaints, conducting investigations and reporting findings and recommendations.

28. Case records will normally be maintained for two years, or longer at the discretion of the Ombudsperson. Materials received from parties to the investigation, or copies of documents submitted to the Ombudsperson in his/her formal capacity, will be deemed property of the Ombuds Office. An Ombudsperson's personal notes will be deemed his/her personal property, and those are left in the Case Record files at his/her personal discretion.
29. The Office will normally function on a first-come, first-served basis, though the Ombudsperson shall have discretion to make exceptions. Cases will be handled promptly.
30. Although authorized to function in the widest possible context and with a minimum of constraints, the Ombudsperson shall not
  - a. 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;
  - b. make College policy or replace established College procedures, although any or all of these may be investigated or questioned and recommendations may be made for their improvement;
  - c. set aside a complainant's request to preserve anonymity even though acceding to such a request may prevent resolution of the problem;
  - d. release any personal information regarding an individual complainant unless express permission has been given by the complainant or as required by law;
  - e. exercise a judicial function, or make binding decisions in any case;
  - f. act as the advocate of any party during the investigation of a complaint;
  - g. initiate an investigation until all existing avenues for seeking redress have been exhausted;
  - h. exercise authority beyond the mandated authority noted in the *Ombuds Office Terms of Reference*.
31. The budget for the operation of the Ombuds Office shall be set in consultation with the Ombudsperson and should be funded at a level sufficient to carry out the purposes of the Terms of Reference effectively.

## **Appointment of the Ombudsperson**

32. The Ombudsperson shall be appointed by the President.

## **Qualifications**

33. The Ombudsperson should be a person of recognized knowledge, judgment, objectivity and integrity. As well, the Ombudsperson should demonstrate the following attributes:

- an understanding of the College's structure and systems;
- the ability to work in a diplomatic and credible manner;
- listening and crisis intervention skills, experience in policy development and committee work and conflict resolution skills;
- highly developed interpersonal communication skills coupled with well-developed political sensitivities.

34. To avoid conflicts of interest, the Ombudsperson shall not hold or maintain any other offices or engage in any other occupation which would interfere with the performance of the duties of the Office.

35. If the Ombudsperson becomes unable to act for an extended period of time, due to a conflict of interest, illness, or other circumstances that may arise, the appointment of a temporary Ombudsperson should be done with considerable attention paid to maintaining the reality and appearance of independence of the Office and the impartiality of the appointee.

## **Contingencies**

36. In the case of an actual or threatened conflict of interest, the Ombudsperson shall make this fact known to the complainant and/or major parties concerned, and shall ensure that the complainant is aware of any other possible methods of resolving the matter.

37. If a member of the College community considers that the Ombudsperson has committed a procedural or substantive violation of these Terms of Reference, with respect to any matter to which the member has been a party, she or he may submit a written complaint, detailing the alleged violation, to the President. The President shall investigate the complaint and inform the member of the results of the investigation.

38. The Ombudsperson may not be removed from Office on the basis of acts performed under the authority of these Terms of Reference. The appointment can be terminated only for stated cause concerning incapacity, breach or neglect of duties.

These Terms of Reference may be reviewed from time to time.