

AOUCC

ASSOCIATION DES OMBUDSMANS
DES UNIVERSITÉS ET
COLLÈGES DU CANADA



ACCUO

ASSOCIATION OF CANADIAN
COLLEGE AND UNIVERSITY
OMBUDSPERSONS

A Review of the Higher Education (HE) Ombudsman in Canada: Why the Ombudsman is Essential in Every HE Community

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What is an ombudsman?

- An ombudsman is an independent, multi-partial advocate of systemic fairness. From an ombuds lens, administrative fairness has four aspects: procedural, substantive, relational, and equitable.
- An ombudsman is not a decision-maker. We use communication skills and moral suasion to investigate, research, and advance our recommendations for administrative and systemic fairness.



Source: Fairness Triangle from Ombudsman Saskatchewan.

Political and Student Unrest: Ombuds Emergence in Canada

- 1960s social movements : Quiet Revolution Quebec, separating church and state in education, led to more Francophone autonomy over education system; Women's Movement; Gay Rights Movement; Aboriginal Rights Movement; Anti- War Movement; Anti-Capitalist Movement (Hippies); Persons with Disabilities Movement
- University activism: Student Rights Movement for representation on University committees and rights to appeal university decisions; "Computer Riot" at Sir George Williams University Montreal (1969) over charges of racism toward Black students; FLQ Crisis (Quebec separatism) (1970) University students supporting release of FLQ prisoners; Kent State University Massacre (1970) - Students protesting US involvement in Vietnam War killed by State guards (many American conscientious objects labelled "draft dodgers" fled to Canadian universities); the Black Panthers visit Canadian campuses; American Indian Movement activism influences Indigenous Movement in Canada
- National Royal Commissions and Legislation: Status of Women; Human Rights Acts followed by Provincial Human Rights Acts
- Growth of Provincial-legislated Ombudsman in Canada in the 1970s
- International Ombuds Institute (1978) was housed in the Faculty of Law, University of Alberta (before moving to Vienna)

Canadian HE System and HE Ombud Statistics

- Canada is the only major industrialized country lacking a national integrated educational system. Education was delegated to the provinces when Canada became a country in 1867.
- There are 13 separate jurisdictions in the 10 provinces and 3 northern territories.
- There is no national ombuds scheme: it is an individual institutional decision. Hence, there is lots of institutional variation.
- 26 % of universities and 5% of colleges have an ombudsman. There are HE ombudsman in 6 of Canada's 10 provinces.
- The 1st ombudsman in Canada was a student association initiative at Simon Fraser University in 1965.
- Highest growth of HE ombuds offices was from the 1970s to 1990s. See Appendix i.
- Today 40% of offices are funded jointly by student association and university.

Canadian HE Ombuds Model Variations

- Two typical models: 1. CLASSICAL – more of a watchdog; visited as a last resort, after all university processes have been exhausted; 2. HYBRID – client visits at the beginning of a conflict or at any time during the process. (Carolyn Stieber, U of Chicago ombuds, views hybrid models as healthy *Heinz 57* ombuds.) Hybrid ombuds offer informal resolution methods to coach and empower clients.
- Structure and mandate is dependent on how the office came into existence and its evolution within the institution: e.g., student initiative, faculty/administrative initiative, and / or a combination of the two.
- Ombuds offices may serve different constituents: faculty, administration and students; faculty only; and students only (the majority).
- Ombuds office survival is dependent on a strong, independent mandate but also must be flexible/adaptable to the needs of the institution. However, this should not compromise its founding principles and standards of practice. Currently Ryerson University and University of Ottawa have strong mandates that protect their independence and funding.

Canadian HE Ombudsing Constraints and Vulnerabilities

- Without a national mandate for HE ombudsman, the independence of HE institutions means ombuds presence is arbitrary and precarious, depending on the will of those driving and supporting it within the institution (e.g. students)
- Weak or insufficient mandate may lead to “interference and obstruction”, and potential elimination of ombuds without a strong mandate (Behrens:2017:1)
- Nature and security of funding may lead to vulnerability when there are funding constraints (less public funding since the 1990s)
- Size of institution and region may have an impact: ombuds offices are mainly in larger urban regions, and few in isolated regions where often needed
- Isolation of the position, small office, unclear Terms of Reference, lack of visibility/understanding of role may create vulnerability, and loss of support
- A rogue ombudsman may destroy decades of good work. Hence, “HE ombudsman need to develop the professional nature of their activity to ensure commonality in qualifications, competency, and continuing professional development” (ibid:1)

A Review of the Canadian HE Ombudsman Role

- Ombuds help their clients navigate complex administrative processes; teach important communication skills through coaching; and help their clients gain a holistic perspective of their situation, to search for viable solutions.
- Ombuds in their casework find gaps in policy and provide advice on policy inequities to the institution, making recommendations for systemic change. They promote fairness and best practices in all university processes and advocate timely, informal resolution wherever possible. They seek to make their institutions transparent and accountable.
- Ombuds recognize that universities have power inequities and that certain populations are more vulnerable than others. In their casework, ombuds examine lack of due process, e.g., lack of informed timelines, insufficient reasons for decisions (procedural and substantive fairness); disrespectful treatment (relational fairness); and lack of consideration for marginalized and vulnerable populations (equitable fairness).

From Watchdog to Active Intervention

- There is a great deal of informality in the work we do. The ombuds may help the client in numerous ways, eg. “assistance in analyzing problems, reframing issues, developing options and evaluating appropriate courses of action” (SoPs 5.3)
- The ombuds may also “provide coaching or feedback to help the party address/resolve issues.” (SoPs 5.4)
- The ombuds may intervene by conducting “an investigation or engage in conflict resolution.” (SoPs 6.2)
- The ombuds “may employ conflict resolution processes, including but not limited to fact finding, third-party intervention, shuttle diplomacy and mediation”. (SoPs 6.4)* (*SoPs – ACCUO Standards of Practice)

Informality and Community Building in HE

- “The ombuds is an advocate for systemic fairness, a specialist in conflict resolution processes, a teacher of empowerment to resolve conflict informally – whenever possible – through a perspective of both an ethic of care and ethic of rights.” (from Who we are: Office of the Student Ombuds – University of Alberta)
- Informality helps to empower parties to voice their rights and uphold university values.
- Alternative dispute resolution strategies are flexible and adaptable for a wide range of conflicts and a diverse population.
- Conflict is inevitable; ombuds teach parties healthy ways to manage conflict and to come to informal resolutions where they still have the power to make decisions and follow through with agreements.
- A wide range of communication skills are learned when parties seek informal ways of resolving conflict.

Typical Workload in a Canadian HE Ombuds Office

- The Canadian HE ombudsman may see from 150 – 1200 clients per year depending on the size of the institution, and mandate of the office.
- Typical casework when serving student clients includes academic issues (such as grade appeals, not meeting academic standards, exam issues, application/readmission; academic and research integrity issues (plagiarism, cheating, misrepresentation, falsification of research data); and conflicts (professor/supervisor/interpersonal), discrimination and harassment and sexual violence complaints.
- The ombudsman may also be asked to provide commentary on grievance policy. The ombudsman prepares an annual report to promote best practices and to make systemic recommendations; if within its mandate, an ombudsman may investigate gaps in policy, and perceived or real inequities, and make recommendations for timely action.

The Role of the Association of Canadian College and University Ombudspersons: ACCUO - AOUCC

- A network of HE colleagues met for years in Canada and US to develop a community of practice.
- ACCUO met informally as a network and formally established in 1983.
- ACCUO was the first HE Ombuds group in North America.
- There are ACCUO members in 6 of the 10 Canadian provinces.
- In 2017 - 2018, 56 ombuds and conflict practitioners, representing 45 HE institutions in Canada, were members of ACCUO. Most are voting members; some are Associate members (from related fields).
- Many ACCUO members also belong to the Forum of Canadian Ombudsman (FCO) and have played a role in developing and teaching the FCO – Osgoode (English) and FCO/Quebec (French) « Essentials for Ombudsman » week-long program (Ombuds certificate). ACCUO and FCO hold joint conferences every 2 years.

ACCUO Resources and Support for Members

- List: Serve for Members on Policy Questions related to Casework
- New Ombuds toolkit provides guidance to setting up a new ombuds mandate and running an ombuds office
- Frequent Questions and Answers
- Sample documents for Ombuds Work
- Compendium of Best Practices in Fairness
- Compendium of Court cases (in French and English)
- New ACCUO website accuo.ca
- New International Committee (to promote international ties and strategies)
- New Communication Committee (to promote regional growth of HE ombuds)

ACCUO Professional Standards of Practice

- The ACCUO Standards of Practice (SoPs) were adopted in 2012 (ACCUO Annual AGM, Annual Conference, University of Alberta, June 2012) These SoPs are: Impartiality, Confidentiality, Independence, and Accessibility.
- The SoPs reflect the unique nature of ombuds work in higher education; “with a focus on fairness, equity and respect, the ombuds builds capacity to help the institution to be accountable to its own value and mission statements.” (ACCUO SoP introduction)
- “(T)he ombudsperson facilitates fair resolution to build trust and fortify the relationships between individual and institution.” (ibid)
- Ombuds are agents of information on “policies, procedures, rights and responsibilities”, and “make referrals to institutional mechanisms and other [necessary] resources.” (SoP 5.1, 5.2)

Empowering Ourselves: Activating our Voice as HE Ombudsman

As HE Ombuds, we:

- Focus on fairness, equity and collegiality in HE processes;
- Help to empower parties to voice their rights in order to uphold HE values;
- Resolve conflicts through a variety of alternate dispute resolution strategies with a focus on early informal resolution when appropriate;
- Work to ensure best practices in HE policies and procedures;
- Engage in professional development, are competent and follow highly-principled standards of practice: independence, confidentiality, impartiality, and accessibility;
- Save personal and reputational damage by holding our institutions responsible for and accountable to their communities, and promoting healthy systemic change.

International Strategies for HE Ombudsman Growth

- Focus on equity with ombuds colleagues at home (grass roots support). Reduce isolation, recognize limited resources of some offices; strengthen support for them.
- Within our Institutions – Evidence that we reduce litigation through early resolution and restorative practices; present ombuds fairness strategies to faculty and support services.
- With our students – Ensure they know our value, and that we are allies in promoting high quality education and making our institutions accountable. An example is a wide student association call for an ombuds for international students in HE.
- Activate ombuds regional, national and international networks – Webinars, Joint Conferences, and Journal articles to encourage collegiality and best practices.
- Develop Common Communication Plans to promote our role to Ministries of Education.
- Promote international standards of HE Ombuds competency so that our value is protected and demonstrated to institutions throughout the world.
- View education as a universal right (not just a privilege in HE). The ombuds concept can and will grow within HE institutions globally. The ombuds role promotes equity and fairness in HE.

Acknowledgements

Natalie Sharpe, Marc Johnson & Brent Epperson (2018) “Office of the Student Ombuds: Annual Report to University of Alberta Senate, March 1, 2018”

Brent Epperson (2017) “Access to Alternative Conflict Resolution Methods Through University Ombudman: The Canadian Postsecondary Scene (University of Alberta)”, REDDU El Salvador Conference 2017

Brent Epperson (2017) “The Structure of University Ombuds Offices”, REDDU El Salvador Conference 2017

Lucie Allaire and Natalie Sharpe (2015) “Why an Ombudsperson is Essential on Every Campus”, FCO – ACCUO Vancouver B.C. Conference 2015

Kristin Robillard (2014) “Fifty years of ombudsing in Canadian College and Universities: reflections on the past and challenges for the future”. ENOHE Conference Warsaw, Poland 2014

Martine Conway (2013) “Celebrating Ombuds in Higher Education: ACCUO 1983-2013 Poster Presentation at ACCUO-FCO Conference Halifax, Nova Scotia 2013

Resources

- Membership information on ACCUO accuo.ca
- ACCUO/AOUCC Standards of Practice 2012 accuo.ca
- Behrens, Robert 2017 “Being an Ombudsman in Higher Education: A Comparative Study for the European Network of Ombudsman in Higher Education, June 2017 ENOHE Press (Survey of 60 HE ombudsman in 18 countries) www.enohe.net/wp-content/uploads/2017/06/Being-an-ombudsman.pdf
- Stieber, Carolyn 2000 “57 Varieties: Has the Ombudsperson Concept Become Diluted?” In: Negotiation Journal, January, pp. 49-57 , retrieve from <http://onlinelibrary.wiley.com/doi/10.1111/j.1571-9979.2000.tb00202.x/abstract>

Appendix I: 1965 - 2018 HE Ombuds in Canada

- 1965 Simon Fraser – 1st Canadian Ombudsperson
- 1970s Carleton; Concordia; Dalhousie, Alberta; University of Quebec at Montreal; Western Ontario; Toronto; McMaster; Victoria; Algonquin
- 1980s Laval; Manitoba*; Dawson; McGill; Lakehead; U de Montreal; New Brunswick; Windsor*; Brock; Douglas; Laurentian*; Waterloo
- 1990s Bishop; Camosun; Ecole Polytech de Montreal; Fanshawe; Wilfred Laurier*; Athabasca; Ryerson; Seneca; Sherbrooke
- 2000s HEC Montreal; York; Mount Royal*; Confederation; UBC
- 2010 – Ottawa; Calgary;
- 2015 - Northern Alberta Institute of Technology
- 2016 - MacEwan University
- 2017 – Montmorency College
- 2018 – Vancouver Community College; UBC (Okanagan campus)

* these offices have closed, some advocacy offices opened later

Appendix II: Ombuds HE Global Networks

- USA 1973 - CCCUO California Caucus of College and University Ombuds (formal organization as of 2014)
UCOA – 1984 - University and College Ombudsman Association (1984, changed to Ombuds in 1992) – merged with The Ombuds Association (TOA) to form the International Ombudsman Association (IOA) in 2005
- EUROPE 2003 – ENOHE European Network of Ombudsmen in Higher Education
- ACCUO and ENOHE hold 1st joint conference in Vienna 2010; 2nd in Edinburgh 2018
- UK 2003 – OIA Office of the Independent Adjudicator in HE (as a result of the remit of the Visitor in the Higher Education Act 2004)
- MEXICO 2005 – REDDU La Red de Organismos Defensores de los Derechos Universitarios
- SPAIN 2007 – CEDU Conferencia Estatal de Defensores Universitarios
- AUSTRALIA 2017 – Australian University Grievance and Complaint Network