

Terms of Reference – Ombuds Office, Quest University Canada

Quest University is committed to the just, fair and equitable treatment of each and every member of the University community. In keeping with this commitment, the University established the Ombuds Office in September 2016 to serve the needs of faculty, staff and students.

1. Mandate

The mandate of the Ombudsperson is twofold in nature. The Ombudsperson provides an impartial and confidential service to faculty, staff and students (hereafter referred to as “Members”) of the University community who have been unable to resolve their concerns about the application of any policy, rule or procedure. Secondly, while the Ombudsperson shall have no actual authority to impose remedies or sanctions, or to enforce any policy, rule or procedure, she/he may make any recommendations that she/he deems appropriate with regard to resolving complaints or improving policies, rules or procedures and also promotes discussion on institution-wide concerns

Members of the University community will first pursue resolution of their concern through existing policies and procedures either established through law or by Quest. The Ombudsperson may consider whether or not the overall structure of policies and procedures used by the University are fair, equitable, and appropriate. However, the Ombuds Office does not function as an appeal body regarding decisions made by existing Quest decision-making bodies and it is not the role of the Ombudsperson to second-guess the findings of Quest decision-making bodies or to comment on the merits of any particular decision of an internal tribunal.

2. Principles

The Ombuds Office is founded on a number of general principles including independence, impartiality, confidentiality, informality, the ability to conduct inquiries and accessibility. These principles are reflected in the structure and operation of the Office, and any inquiries are undertaken with due regard to the principles of procedural fairness.

3. Structure of the Office

The Ombudsperson is appointed by, and reports directly to the President of the University and is otherwise independent of all administrative structures that operate at Quest other than those required by law. In instances where the complaint includes the President of the University, the Ombudsperson will report to the Chairperson of the Board of Governors.

In instances where the complaint includes a member or members of the Board of Governors, the Ombudsperson will use her/his discretion depending on who is included in the complaint, to resolve the issue either working through the President and/or the Chairperson of the Board of Governors, or if required with the support of the Degree Quality Assessment Board (DQABsecretariat@gov.bc.ca) of the BC Ministry of Advanced Education.

The Ombuds Office is currently funded through the President's office. As the Ombuds Office evolves, alternative funding models will be considered.

4. Functions of the Ombuds Office

The Ombudsperson performs a variety of functions including; providing information, referring inquiries to the appropriate individuals or Offices, offering advice, intervening to facilitate resolution, making inquiries regarding concerns, recommending fair resolutions to individual complaints and publishing reports on University wide issues.

4.1 Specifically, the Ombudsperson shall:

- a. Actively promote these Terms of Reference and the services offered;
- b. Inform Members about existing policies, rules and procedures and advise them as to the appropriate channel of redress for any concern or complaint they may have;
- c. Provide advice to Members to help resolve concerns and to assist individuals in generating and evaluating options and determining an appropriate course of action. The Ombudsperson shall encourage individuals, where appropriate, to approach the other party or Office in a dispute directly and to act on their own behalf in resolving concerns.
- d. Assist Members to resolve complaints informally and quickly, and at her/his discretion, recommend solutions to help resolve complaints;
- e. At her/his discretion, and with the consent of one of the individuals involved, or on her/his own initiative, conduct an informal inquiry into the application of any policy, rule or procedures of the University;
- f. Bring to the attention of University authorities any policies, rules or procedures which appear unclear or inequitable or which might jeopardize the rights or freedoms of any Member. The Ombudsperson may suggest changes to the existing policies, rules or procedures or offer advice on the development of new policies, rules or procedures. The Ombudsperson may be consulted during the development or revision of policy and procedures to review the document and its adherence to the principles of procedural fairness.
- g. Explain decisions, based on the current policies and procedures, taken by University authorities when an inquiry is not substantiated. However, while the Ombudsperson may comment on issues of unfair policy or procedure, it is not the role of the Ombudsperson to second-guess the findings of Quest decision-making bodies or to comment on the merits of any particular decision of an internal tribunal;
- h. The Ombudsperson shall publish an Annual Report containing; statistical information on the number and type of cases handled by the Office, highlights of any general trends identified in the caseload, and recommendations, as necessary. The report shall be provided and widely distributed within the University community. The President, Student Representative Council,

and relevant executive members and managers shall ensure that the appropriate individuals consider and respond to the recommendations contained in the report.

4.2 Prohibited Functions:

Although the Ombudsperson is authorized to function in the widest possible context and with minimum of constraints, the Ombudsperson shall not:

- a. Act as an advocate of any party while conducting an inquiry as a result of a complaint, although after hearing from all parties the Ombudsperson may act as an advocate for the fair and just resolution of a case;
- b. Have an adjudicative function, that is, will not make binding decisions in any cases, although the Ombudsperson may, where appropriate make recommendations where existing policy or procedures was not followed or where it could be improved;
- c. Make, change or set aside University policies and procedures although recommendations may be made for their improvement;
- d. Be a voting member of any committee, hiring board or council of the University or the SRC or any other body on campus;
- e. Act at any time in a representative capacity on behalf of either Quest or a Member or both.

5. Confidentiality

To the extent permitted by law, the Ombudsperson shall meet with persons or groups on a confidential basis and shall not intervene nor disclose the names of complainants without their express permission. Certain disclosure of information on a need-to-know basis may be required and in such cases, the complainant will be notified prior to disclosure.

Should a complainant decide to withdraw their complaint in order to protect his/her anonymity, the Ombudsperson shall respect this decision.

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.

The Ombudsperson will treat all information obtained through the course of her or his duties in a professional and discreet manner and in accordance with the requirements of the *Personal Information and Protection Act*, such that the utmost care and respect will be held for all individuals concerned.

The Ombudsperson will not be compelled to give evidence or release information acquired in the course of their duties, in an internal University process. The University will also endeavour to protect the Ombudsperson from subpoena by others, both inside and outside the University.

6. Jurisdiction

6.1 Who may bring concerns to the Office

The Ombuds Office may receive any University-related inquiry or concern from any Member of the University community. The Ombudsperson can continue to support a Member after their departure from the University, if the individual approached the Ombuds Office for support prior to their departure.

6.2 Protection from Retaliation

Any Member of the University community has the right to seek the assistance of the Ombuds Office without reprisal or threat of reprisal from any other University Member or Office.

6.3 Initiate Inquiries

The Ombudsperson may initiate inquiries on her/his own initiative as provided in Section 4.1 (e).

6.4 Legal matters

The Ombudsperson shall not intervene if a matter is currently pending in a legal forum. The Ombudsperson may always provide information pertaining to University policies and procedures.

6.5 Refusal to Intervene

The Ombudsperson may decide either not to conduct an inquiry or to discontinue an inquiry into a complaint when the Ombudsperson concludes after reviewing the information then available to the Ombudsperson that:

- a. The report is patently unjustified;
- b. The report has been made in bad faith, is frivolous, or is vexatious;
- c. An inquiry by the Ombudsperson will not serve any useful purpose whatever the outcome may be; or
- d. The resources required to undertake or continue an inquiry are, to a meaningful degree, disproportionate to any benefit that will result from an inquiry. In such circumstances, the Ombudsperson may meet on an informal basis with the parties involved in a complaint to provide suggestions about resolving the concerns that gave rise to the report.

If the Ombudsperson decides not to conduct an inquiry or to discontinue an inquiry into a report, the Ombudsperson will provide the parties to the report with a statement of the reasons for this decision.

7. Access to Information

Subject to the requirements of law including without limitation the Personal Information Protection Act, the Ombudsperson will have such broad and timely access to both Members and to information that is in the possession or control of Quest as is reasonably required to permit the Ombudsperson to discharge the duties and responsibilities established under these Terms of Reference.

8. Ombuds Office Advisory Committee

An Advisory Committee will be established by the President to provide guidance, advice and direction to the Ombudsperson to continuously improve the function of the Ombuds Office at Quest. The Advisory Committee will consist of an equal number of representatives from faculty, staff and students. The Advisory Committee will support the effective functioning of the Ombuds Office through the following actions, without becoming involved in the substance of cases and subject to the confidentiality rules governing the Office.

- a. Make recommendations on administrative matters, including how to increase the visibility of the Office and improve its effectiveness;
- b. Assist the Ombudsperson in maintaining the independence and impartiality of the Office;
- c. Organize a review of the Office as may be directed from time to time;
- d. Review and comment on the Annual Report and ensure its wide distribution;
- e. Act as a resource for the Office;
- f. Provide input on planning for the future of the Office.

The Advisory Committee shall also be responsible for recommending a temporary Ombudsperson to the President of the University in the event that the Ombudsperson is unable to perform the duties of the Office.

9. Review

The Ombudsperson and the Ombuds Office Advisory Committee shall review these Terms of Reference annually, or as required. Any proposed revisions shall be forwarded to the President for approval and to the Board of Governors for consideration.

