

<http://calcaucus.com/what-are-we-doing/canadian-and-us-ombuds-what-are-we-doing-and-why-are-we-doing-it>

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# Canadian and US Ombuds: What Are We Doing and Why Are We Doing It?

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### ABSTRACT

What is an ombuds in a Canadian or US college or university? Do Canadian and US academic ombuds have a common understanding of the role? What are the historical roots of what we do? Why does it matter? To understand the place of ombuds in Canadian and US higher education today, the article provides an overview of nearly fifty years of ombuds practice in Canadian colleges and universities, and a brief comparison with the US. It proposes four areas for reflection as ombuds prepare to face today's challenges and consider their role in promoting fairness and positive change.

**What is an ombuds in a Canadian or US college or university? Do Canadian and US academic ombuds have a common understanding of the role? What are the similarities? What are the differences? What are the historical roots of what we do? And why is the ombuds role important today, a time of change and uncertainty, when institutions are making decisions about budget cuts and priorities?**

This article was first presented as part of a Canadian panel at the 2012 California Caucus of College and University Ombuds (CCCUO) meeting. It was prompted in 2011 by a comment from a CCCUO participant who observed that US colleagues often spoke of conflict resolution while Canadians focused on fairness. To understand the place of ombuds in Canadian and US higher education today, the article provides an overview of nearly fifty years of ombuds practice in Canadian colleges and universities, and a brief comparison with the US. As we prepare to celebrate several important anniversaries and to face today's challenges, the article proposes four areas for reflection to consider the ombuds' role in promoting fairness and positive change.

### Historical Roots of the Canadian Ombuds in Higher Education

In the early 1960s, the ombudsman concept traveled from Scandinavia to New Zealand and then to Canada and the United States where it struck a chord in a context of civil rights movements, public protests and student advocacy. An ombudsman was an official who investigated complaints about maladministration in public authorities. In his 1964 study of ombudsman models for adoption in Canada, Sheppard described the ombudsman's "power of persuasion" as resting on the strength of public opinion, and he pointed to the ombudsman's ability to "contribute to political stability" by "fostering [public] confidence" (p. 340). He said that the ombudsman had come to be seen as the "protector of the people" (...) "one of the gamut of controls devised by an evolving democracy to achieve its aim of freedom and individual dignity" (p. 340).

Discussions of the ombudsman concept at the federal and provincial levels in Canada from 1962 onward led to the creation of the first parliamentary ombudsmen, in 1967, in the provinces of Alberta and New Brunswick, in 1968 in Quebec, where the role is called "protecteur du citoyen", and in 1969 in Manitoba (Rowat, 2012). Within this context, in 1965, the editor of the student newspaper *The Peak* at Simon Fraser University (SFU), British Columbia, announced the establishment, by the SFU students' society, of the first campus ombudsman in North America, "the best answer for the little man's grievances against

maladministration” (Mallin, 1965). The first student ombudsman at SFU summarized his role as “helping the student with a problem or grievance”, in situations of “personal injustice”, or where “many students are being inconvenienced or are having their rights infringed upon” (Mynod, 1965).

In the late 1960s and in the 1970s, almost all Canadian provinces followed the lead of Alberta and New Brunswick to create parliamentary ombudsmen (Rowat, 2012). The concept also spread to more universities across the country<sup>[1]</sup>: in 1971, ombuds offices were created at Concordia University (then Sir George Williams University and Loyola College, Quebec), the University of Alberta (Alberta), Carleton University (Ontario) and Dalhousie University (Nova Scotia); in 1973 at the Université du Québec à Montréal (Quebec); in 1974, at the University of Western Ontario (Ontario); in 1975 at the University of Toronto (Ontario); and in 1978 at the University of Victoria (British Columbia).

Concordia (then ‘Sir George’) founded its ombuds office in the wake of the “Computer Riot” of 1969 (Concordia University Archives, 2000), and the University of Alberta did so following the creation of the province’s parliamentary ombuds in 1967. Although today only a few ombuds positions are entirely funded by students, several of the early campus ombuds positions were initially created and funded by students before being jointly funded with the institution. For example, the Simon Fraser University ombuds remained student-funded until 2007, and the University of Victoria ombuds until 2004. In the meantime, they had changed from being part-time student positions with a one-year term to full-time permanent positions. Other offices, like the ones at Carleton University and at the University of Western Ontario were first created by students but quickly became jointly funded by students and their institutions.

As the concept became more widely adopted in the 1980s and 1990s, Canadian higher education institutions continued to adapt the model, creating a mix of jointly-funded and institutionally-funded ombuds offices. The “50-50 plan” where students and institution would create “a completely joint office” was the model favored by Donald C. Rowat in his early reflections on the campus ombudsman, to ensure that the ombuds was “in the middle”, that is neither an agent of the students nor of the institution (Rowat and Wallace, 1983, p.153).

#### Characteristics of the Canadian Ombuds in Higher Education

Given the role of student leadership and the influence of the parliamentary (or classical) model, what are the characteristics of the ombuds in Canadian colleges and universities? McKee and Belson (1990) describe the campus ombuds as “an impartial person who receives and investigates complaints, reports on findings and helps achieve just and equitable settlements”. They add that ombuds are “agents for change” and “often act as advisors, counsellors and educators.” (p. 198)

Thus, in addition to fostering positive change, equity and justice, the ombuds provides guidance and helps develop skills, roles that are a natural fit in institutions of higher learning and often lead to the informal resolution of complaints. The language and techniques of dispute resolution and conflict management are more systematically added to the college and university ombuds toolbox in the 1990s and later, another natural extension. Ombuds may problem-solve, resolve informally, coach, or mediate.

#### The Association of Canadian College and University Ombudspersons (ACCUO): 1983-2013

In November 1979, Concordia organized the First Canadian Conference of College and University Ombudsmen, drawing 150 participants from institutions in Canada and the USA. The proceedings include articles on: “Why an Ombudsman?”, “The student as Consumer”, “Ombudsman Headaches”, “The Right to Privacy”, and “Justice in the University” (Belson, 1979, iv). It wasn’t long before ombuds saw the value of organizing into a national organization. Created in 1983, ACCUO was initially dedicated to the planning of annual conferences that have been held regularly since that date; the association adopted its first constitution in 1990 (ACCUO website, History section).

Born of the adoption and adaptation of the classical ombuds model into colleges and universities, ombuds practice in Canadian higher education has remained pluralistic in its approach. Today, ACCUO has approximately 47 members in 33 institutions, 25 universities and 8 colleges. A survey<sup>[2]</sup> of member offices (Conway and Robillard, 2011) indicated that funding is provided solely by the institution in 56% of offices, jointly by students and the institution in 40%, and solely by students in 4%; in parallel, populations served by the ombuds are: all members of the institution (56%), students only (44%).

Approximately half of the offices surveyed have a fixed term (usually renewable once), and the rest are permanent positions. They report to the institution’s Board of Governors or Senate (41.6%), the president, CEO or chancellor (37.5 %), or an advisory committee composed of stakeholders (6.6%). The survey also indicates that ombuds provide information and referrals, facilitate communication, problem-solve, mediate and investigate; they issue annual reports (in most cases published on the ombuds’ website); most may initiate own motion investigations; many offer public education sessions and

workshops; and over half offer feedback on draft appeal letters.

### Standards of Practice and the Concept of Fairness

In June 2012, ACCUO members voted to adopt standards of practice for ombuds in Canadian colleges and universities. In view of the diversity of structures and practices described above, the ACCUO Standards of Practice (2012) are “a guide for the establishment of policies and procedures in ombudsperson offices, while taking into account distinct institutional contexts” (p.1). The preamble provides the following description:

With a focus on fairness, equity and respect, the ombudsperson builds capacity to help the institution be accountable to its own value and mission statements. In working with individuals, the ombudsperson facilitates fair resolutions that build trust and fortify the relationship between individual and institution. (ACCUO Standards of Practice, 2012, p.1)

Given the emphasis on building accountability, trust and relationships in particular through fairness, let us clarify what is meant by fairness. Ombudsman Saskatchewan (2012) articulates the dimensions of fairness as a triangle: “procedural” fairness (how a decision is made), “relational” fairness (how a person is treated) and “substantive” fairness (the decision itself). Nora Farrell, ombudsperson at Ryerson University, makes available a fairness checklist that can be used in colleges and universities (2002). And, in her first annual report as ombudsperson at the University of British Columbia, Shirley Nakata discusses a “fairness policy” with dimensions of “compassion, accountability and community” (2009).

Returning to the ACCUO Standards of Practice (2012), the document identifies four principles: *independence* (sect. 1), *impartiality* (sect. 2), *confidentiality* (sect. 3) and *accessibility* (sect. 4). The ombudsperson provides *information* (e.g. about procedures, rights, responsibilities) and *advice* (e.g. in analysing problems, reframing issues or developing options) (sect. 5); the ombudsperson also *intervenes* by using conflict resolution methods or by investigating (sect. 6); the ombudsperson may *recommend* in “case-specific or systemic matters” (sect. 7), produces *annual reports* (sect. 8), remains well informed and monitors service quality (sect. 9).

A question sometimes asked by US colleagues is whether the Canadian college or university ombuds is *informal*. The ombuds was indeed created as an informal mechanism, an alternative to courts and internal tribunals. College and university ombuds reports show that the majority of inquiries and complaints are resolved informally by providing information or by problem-solving. Investigations are generally conducted in an informal, non-adversarial manner. In short, Canadian academic ombuds offer a spectrum of practice using a range of tools appropriate to the situation and to their institutional context, so as to improve fairness and equity at the individual and systemic levels.

### A Brief Comparison with College and University Ombuds in the US

As in Canada, the first academic ombuds offices in the US were created in the 1960s: Eastern Montana College in 1966 (Spratlen, 1998) and Michigan State University in 1967 (Steiber, 1987). US campuses were experiencing student unrest and protests. Wallace (Rowat and Wallace, 1983, p. 154) describes the “problems of polarization, disruption and open conflict” in the California higher education system in the late 1960s, which led to proposals by students for the introduction of the ombudsman. The Carnegie Commission on Higher Education (1971) also recommended the creation of ombudsmen in US universities, as part of a layered approach for the “protection of the rights and enforcement of the obligations of members of a campus” (p. 93). The ombudsman would “informally [handle] complaints” and “independently attempt to resolve (...) grievances, as well as help individuals to use existing avenues for redress (...)” (Carnegie Commission, 1971, p. 97).

In 1973, Don Hartsock, Bill Schatz and Geoffrey Wallace started a tradition of yearly ombuds meetings at Asilomar and co-founded the California Caucus of College and University Ombudspersons (CCCUO), with participation by ombuds in higher education from Californian institutions, and, from the 1980s onward, by ombuds from other parts of the US and from Canada (Price-Spratlen, 2003). Then, in 1984, US ombuds founded UCOA, the University and College Ombuds Association (IOA website, Our History section).

Steiber (1987) highlights a “high degree of similarity” between “classical” and “specialized” (e.g. “academic”) ombuds in the US (p. 1), describing roles such as *investigator*, *facilitator*, and *negotiator* (pp. 3-4). The UCOA Ethical Principles (2000) clarify that “[a]n ombudsperson hears and investigates complaints objectively,” which includes “impartial attention to all available perspectives” and “may or may not entail support of any particular perspective.” The document presents the ombuds as “guided by the following principles: objectivity, independence, accessibility, confidentiality and justice. Justice is pre-eminent.”

Thus, US college and university ombuds appear similar to their Canadian counterparts, using a range of

facilitative and investigative approaches adapted to the academic setting to arrive at fair or just solutions. Hasenfeld (1995) and Wagner (2000) discuss the ombuds' role as change agent. Price-Spratlen conceives of ombuds practice as focusing on "competency development" (1998, p. 8), linking the ombuds to the "educational mission of the institution" (2005, p. xv). The UCOA Ethical Principles (2000) state that ombuds "attempt to guide [parties] toward options that are fair, conform with institutional policy, and (...) in their best interests." The section on "impartiality/neutrality" of the UCOA Standards of Practice (2000, sect. 2) discusses these terms in the context of being "objective", "unaligned" and "an advocate for good and fair process" who "should recommend and advocate for responsible and appropriate systems change."

### Influence of the Corporate Ombuds in the US

In parallel to the development of academic ombuds and the founding of UCOA, ombuds also spread to the corporate sector, which in the US led to the creation of the Corporate Ombuds Association (COA) in 1982, later known as The Ombuds Association (TOA) (IOA website, Our History section). The corporate ombuds influenced the development of what is now called the organizational ombuds in the US. The TOA Standards of Practice (TOA, n.d.) stress confidentiality and informality, describing the ombuds as a "designated neutral."

Steiber (2000) wonders in part about the nature of this influence and the emphasis on neutrality when she asks whether the ombuds concept has "become diluted" (p. 49). She explains that most academic ombuds, like classical ombuds, may "take a position" and make recommendations on individual and systemic matters (p. 53), which she calls "an unbiased degree of involvement" (p. 54), whereas the organizational ombuds' "strict neutrality" suggests "uninvolvement" (p. 54). Still, she concludes that "all [ombuds] aim to humanize administration, to support fairness, accountability, and equity" (p. 56). Indeed, the TOA Code of Ethics (n.d.) clarifies that "[w]hen making recommendations" the ombuds must "suggest actions or policies that will be equitable to all parties." The TOA Standards of Practice (n.d.) include the provision of "feedback on trends, issues, policies and practices" and "support for responsible systems change."

In 2005, UCOA and TOA merged into an organization that took the name of the International Ombudsman Association (IOA) (IOA website, Our History section). IOA provides the following two-part description of the organizational ombuds role:

(1) to work with individuals and groups (...) to help resolve conflicts, (...) issues or concerns, and (2) to bring systemic concerns to the attention of the organization for resolution (IOA website, What is an Organizational Ombudsman? section).

In comparing this description with the one in the preamble of the ACCUO Standards of Practice (see above), we can see commonalities and variations. Both descriptions include work at the systemic and individual levels, but there is a significantly different emphasis, with ACCUO's document stressing accountability and fair resolutions, while IOA's text refers more generally to conflict resolution and to the identification of systemic concerns.

The IOA Standards of Practice state that the ombuds "advocates for fair and equitably administered processes" (IOA website, Standards of Practice section, 2.2), however the preponderance of conflict resolution language among organizational ombuds in the US leads to definitions such as: "[o]rganizational ombuds serve as a *confidential, independent, neutral* and *informal* dispute resolution resource for a specific entity" (The Ombuds Blog). This type of language emphasizes work at the interpersonal level, while de-emphasizing the ombuds' responsibility to promote fairness, equity and accountability.

### Conclusion and Reflective Questions

This article started with questions about the role of the academic ombuds, and the similarities and differences between Canada and the US. Referenced documentation suggests a remarkable similarity of historical and conceptual roots and developments. Today, we sometimes use a different language to describe our roles, but we seem to have retained more commonalities than differences. Ombuds work at the individual and systemic levels using educational, (informal) investigative and facilitative approaches to help improve fairness and equity. Maybe one significant variation is the degree to which we activate the full range of tools at our disposal. As a conclusion, I would like to offer paths for reflection in four areas.

The first, as we prepare in 2013 to celebrate ACCUO's 30th and CCCUO's 40th anniversaries, is the importance of knowing and disseminating our history. An understanding of the roots, principles and values inherent in ombuds practice helps ombuds and non ombuds better understand the distinct nature of the role and how to fulfill its promise.

The second point is a note of caution about the use of language, and the need to honor the full dimension of the ombuds' role. The words we emphasize in describing our roles have an impact on the understanding and development of the field. How does the preponderance of dispute resolution language, especially in the US, influence the way new ombuds conceive of their mission? How is ombuds work different in scope from mediation? In talking about the ombuds as a confidential, neutral dispute resolver, is there not a risk of individualizing disputes and losing track of the ombuds' responsibility as an advocate for fairness, equity and positive systems change? How do we give this dimension of the role its rightful place in definitions, publicity materials and professional development opportunities so as to retain the distinctness and full potential of the ombuds?

In its 30-year history, ACCUO has developed links within and across sectors and models of practice, and participated in joint conferences with a range of national and international partners. In 2001, ACCUO was a founding member of the Forum of Canadian Ombudsman (FCO), an umbrella association grouping ombuds from legislative, public, private and academic sectors in Canada (FCO website). ACCUO has also nurtured international links with academic ombuds organizations. Beyond the US partners mentioned in this article, these include the European Network for Ombuds in Higher Education (ENOHE), with ombuds of differing structures, from national schemes to campus models (ENOHE website); and the Red de Defensores, Procuradores y Titulares de Organismos de Defensa de los Derechos Universitarios (REDDU), based in Mexico, with members from other parts of Latin America and the world (REDDU website).

In addition to providing an opportunity for learning from other approaches and traditions, these links allow for the development of a common identity among ombuds, and in particular among academic ombuds. This suggests a third area for reflection: as we continue to adapt the ombuds concept to our specific institutional contexts, it is important to build from a common core so that ombuds and non ombuds can recognize the role in all its dimensions and variations. To do so, we need inclusive common language, and maybe we can borrow from a Spanish colleague who summarizes the ombuds' responsibilities with three types of actions: *controlar* (to monitor), *mediar* (to intercede, mediate) and *promover* (to promote), especially as "agent of change"<sup>[3]</sup>.

This leads me to the fourth and last point for reflection: the importance of the ombuds as a voice for positive change. The 2010s are different from the 1960s, but in the last couple of years we have seen citizens and students taking to our city streets in protest. Colleges, universities and therefore students, staff, faculty and administrators are facing increasing financial pressures and competition as they make decisions that will shape our common future.

In times of economic uncertainty and budget cuts, the human dimension can become lost. As we prepare to mark in 2015 a half century of ombuds practice in our institutions of higher education, it may be timely to go back to one of the basic characterizations of ombuds as "humanizers" who help "restore the dignity of the individual" (Andersen, 1969, p. 72) and "give voice to collective conscience" (p. 3).

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[1] The information related to the opening of ombuds offices in Canadian colleges and universities originates from an in-progress history project by the Association of Canadian College and University Ombudspersons (ACCUO).

[2] The information related to this unpublished survey is used with permission from ACCUO.

[3] From a talk given at the October 2012 REDDU conference in Mexico by Dr. Argimiro Rojo Salgado, ombudsman at the University of Vigo, Spain (translated with the help of WordReference.com).