

CHARTER AGREEMENT

THE OFFICE OF THE OMBUDS

at the

University of California Office of the President

I. Introduction and History

In response to the Moreno Report in 2013, former University of California (“UC”) President Janet Napolitano asked each of the Chancellors to ensure that five measures are put in place at each campus. One of those measures includes designation of an official who serves as an ombudsperson (“Ombuds”). The Office of the President received ombudsperson services from local UC campus ombuds offices as needed through 2020. President Napolitano decided to institute an ombudsperson function for the UC Office of the President (“UCOP”) in June 2020. Its creation will align with ongoing anti-racism initiatives, as outlined in UCOP’s strategic framework. President Michael V. Drake authorized an open search in late 2020. In January 2021, the Office of the Ombuds (“Office”) was established with an interim Ombudsperson from UC Berkeley. On November 1, 2021, Mary Callale Concon began serving as the inaugural UCOP Ombudsperson.

This Charter Agreement defines the privileges and responsibilities of the Ombudsperson and the Office of the Ombuds.

II. Purpose and Scope of Services

The Office of the Ombuds is a confidential, impartial, informal, and independent resource for dispute engagement and resolution services for any member of the UC Office of the President community in dialogue, negotiation, and problem-solving to ensure that members of the UCOP community receive fair and equitable treatment.

The Office of the Ombuds is a place where UC Office of the President community members can seek guidance regarding disputes or concerns at no cost and at any stage in the resolution process. The Office of the Ombuds is an alternative to formal channels of dispute engagement and resolution.

The Office of the Ombuds confidentially receives complaints, concerns, or questions about alleged acts, omissions, improprieties, and/or broader systemic problems. The response of the Office is tailored to the dynamics of the situation and the visitor’s concerns. The Ombuds listens, make informal inquiries, or otherwise reviews matters received, offers resolution options, coaches, makes referrals, and facilitates two-party and group discussions independently and impartially. Services of the Office of the Ombuds supplement, but do not replace, other processes (formal or informal) of dispute engagement and resolution available to the UC Office of the President community. The goal of the Office of the Ombuds is to help people help themselves to the greatest extent possible.

The Office of the Ombuds serves as an information and communication resource, consultant, dispute resolution expert, and source of recommendations for institutional change for the UC Office of the President. In addition, the Ombuds provides feedback to UCOP when trends, patterns, policies, or procedures generate concerns or conflicts.

III. Code of Ethics and Standards of Practice

The Ombuds and Office of the Ombuds shall adhere to the International Ombudsman Association's (IOA) Standards of Practice and Code of Ethics available for review in the Office of the Ombuds and online at IOA Standards of Practice & Code of Ethics (ombudsassociation.org). This Charter adopts and incorporates by reference to the IOA Standards of Practice, IOA Code of Ethics, and IOA Best Practices. The Office functions independently of other organizations, is confidential and impartial, and limits the scope of services to informal means of dispute resolution. The Ombuds is a member of IOA and will attend IOA conferences and trainings as they are available and allowed for in the annual budget. The IOA Standards, Code, and Best Practices are minimum standards, and the Office strives to operate in accordance with best practices in a way that serves the interests of the UCOP community, including adhering to the "Declaration of Best Practices for University of California Office of the Ombuds."

Based on the traditions and values of Ombudsperson practice, the IOA Standards of Practice and Code of Ethics reflects a commitment to promote ethical conduct in the performance of the Ombuds role and to maintain the integrity of the Ombuds profession.

The IOA Code of Ethics:

The Ombudsperson shall be truthful and act with integrity, shall foster respect for all members of the organization they serve, and shall promote procedural fairness in the content and administration of those organizations' practices, processes, and policies.

ETHICAL PRINCIPLES

INDEPENDENCE

The Office of the Ombuds will be, and appear to be, free from interference in the performance of its duties. This independence is affected primarily through organizational recognition, reporting structure, and neutrality. The Office will operate independent of ordinary line and staff structures. The Ombudsperson will exercise sole discretion over whether and how to act regarding individual matters or systemic concerns.

To fulfill its functions, the Office of the Ombuds will have a specific allocated budget, adequate and confidential space, and sufficient resources to meet operating needs and pursue continuing professional development. The Ombudsperson will have the authority to manage the budget and operations of the Office and will report to the President's Executive Office regarding administrative and budgetary matters only.

NEUTRALITY AND IMPARTIALITY

The Ombudsperson, as a designated neutral, remains unaligned and impartial. The Ombudsperson will impartially consider the interests and concerns of all parties involved in a situation with the aim of facilitating communication and assisting the parties in reaching mutually acceptable agreements that are fair, equitable, and consistent with the mission and policies of the UC Office of the President.

The Office will avoid involvement in matters where there may be a conflict of interest. (A conflict of interest occurs when the Ombuds' private interests, real or perceived, supersede or compete with their dedication to the neutral and independent role of the Office.) When a conflict of interest exists, the Ombudsperson will take all steps necessary to disclose and/or avoid the conflict.

CONFIDENTIALITY

The Office of the Ombuds holds all communications with those seeking assistance in strict confidence and does not disclose and should not be required to disclose confidential communications. The Office does not confirm communicating with any party or parties or discloses any confidential information without the party's or parties' express permission provided in the course of discussions with the Office, and at the discretion of the Office. The only exception to this privilege of confidentiality is where there appears to be imminent risk of serious harm.

The Office of the Ombuds will assert that it holds a privilege with respect to the identity of visitors and their issues. Therefore, the Office will not participate in any formal process inside or outside of UCOP, even if given permission by a visitor who has initiated a formal process.

INFORMALITY

The Ombudsperson, as an informal resource, does not participate in any formal adjudicative or administrative procedure related to concerns brought to the Ombudsperson's attention. The Office of the Ombuds will not formally investigate, arbitrate, adjudicate or in any other way participate in any internal or external formal process or action. Use of the Office will be voluntary and not a required step in any grievance process or UCOP policy.

IV. Reporting

The Office of the Ombuds function reports to the Chief of Staff to the President in the President's Executive Office for administrative and budgetary purposes only and functions independently with respect to case handling and issue management. The President's Executive Office supports the independence of the Office of the Ombuds.

V. Authority and Limits of the Office of the Ombuds

The authority of the Ombuds derives from the UCOP administration as manifest by the endorsement of the UC President and the Executive Vice President and Chief Operating Officer.

A. Authority of the Office of the Ombuds

a. Initiating Informal Inquiries

The Office of the Ombuds may inquire informally about any issue concerning the UC Office of the President and members of the UC Office of the President community. The Office of the Ombuds may initiate informal inquiries into matters that come to its attention without having received a specific complaint from an affected member of the UCOP community.

b. Access to Information

If the Office of the Ombuds makes a request for information contained in the files and offices of UCOP, the request shall be honored with reasonable promptness so long as such records would be otherwise disclosable under open and other confidentiality laws or policies. The Ombuds will respect the confidentiality of the information.

c. Ending Involvement in Matters

The Office of the Ombuds may decline to look into or withdraw from a matter if the Office of the Ombuds believes involvement would be inappropriate for any reason.

d. Discussions with Visitors and Others

The Office of the Ombuds has the authority to discuss a range of options available to its visitors, including both informal and formal processes. The Office may make any recommendations it deems appropriate with regard to resolving problems or improving policies, rules, or procedures. However, the Office has no actual authority to impose remedies or sanctions or to enforce or change any policy, rule, or procedure.

e. Access to Legal Counsel

On occasion, the Office of the Ombuds may require legal advice or representation in order to fulfill its required functions. The Office may be provided with separate legal counsel upon the determination of the Office of UC Legal that there exists a conflict of interest between the Office of the Ombuds and the University on any issue.

- f. The Ombuds may elect to serve on system-wide and UCOP committees, task forces or working groups. The Ombuds has the discretion to participate in an advisory or non-voting capacity, or to decline participation altogether. When determining their participation in groups, the Ombuds strives to avoid any actual or perceived conflicts of interest, recognizing someone may later object to the actions or work product of the group and seek out the assistance of the Ombuds. The Ombuds does not participate as decision makers in developing system-wide or UCOP policies or processes.

B. Limitations on the Authority of the Office of the Ombuds

a. Receiving Notice for the University

Communication to the Office of the Ombuds will not constitute notice to the University about the existence of a problem. Such communication may include but is not limited to alleged violations of laws, regulations, or policies, such as sexual harassment, issues covered by whistleblower policy, or incidents subject to reporting under the Clery Act. Although the Office of the Ombuds may receive such allegations, it is not a "campus security authority" as defined in the Clery Act, nor is it required to report these allegations to UCOP. In addition, if the visitor discloses such allegations and expresses a desire to make a formal report, the Office will refer the visitor to the appropriate office(s) for administrative or formal grievance processes.

b. Putting the UC Office of the President on Notice

If visitor(s) would like to put UCOP on notice regarding a specific situation, or wish information to be provided to UCOP, the Office of the Ombuds will provide the visitor(s) with information so that the visitor may do so themselves.

c. Formal Processes and Investigations

The Office of the Ombuds will not conduct formal investigations of any kind. It will not participate willingly in the substance of any formal dispute processes, outside agency complaints or lawsuits, either on behalf of a visitor to the Office or on behalf of the University.

d. Collective Bargaining Agreements

The Office of the Ombuds may not inquire (informally or otherwise) into the application or interpretation of a collective bargaining agreement, or into the alleged violation of the duty of fair representation against a certified union. The Office of the Ombuds may work with represented employees on matters not covered by the collective bargaining agreement.

e. Record Keeping

The Office of the Ombuds will not keep records for the University and will not create or maintain

documents or records for UCOP about individual matters. Notes and any other materials related to a matter will be maintained in a secure location and manner and will be destroyed once the Office concludes its involvement in a matter.

f. **Advocacy for Parties**

The Office of the Ombuds will not act as an advocate for any party in a dispute, nor will it represent management or visitors to the Office.

g. **Adjudication of Issues**

The Office of the Ombuds will not have authority to adjudicate, impose remedies or sanctions, or enforce or change University policies or rules.

VI. Retaliation

It is a violation of UCOP policy to retaliate against any UC Office of the President employee and its agents for using or seeking to use the services of the Office of the Ombuds.



Rachael Nava
UCOP, Executive Vice President and Chief
Operating Officer

Mary Callale Concon
UCOP Ombudsperson/Director

Dated:

July 14, 2022

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