

**California State University San Marcos**  
**Charter for the Office of University Ombuds**

**I. INTRODUCTION**

The Office of University Ombuds at California State University San Marcos was created to provide an accessible, confidential, impartial, independent and informal resource for faculty, staff and students at California State University San Marcos. Subject to the limitations described below, this agreement defines the duties and responsibilities of the Office of the University Ombuds.

**II. PURPOSE AND SCOPE OF SERVICES**

The Office of University Ombuds will provide a confidential, impartial, independent, and informal environment to the extent possible based on the laws and policies governing the office. The Office of University Ombuds will be a place where California State University San Marcos faculty, staff and students can seek guidance regarding concerns, issues, conflicts or problems.

The University Ombuds and the Ombuds for Staff and Students, who constitute the Office of University Ombuds, will independently and confidentially listen to concerns and questions that are raised by visitors. The University Ombuds and the Ombuds for Staff and Students will help visitors<sup>1</sup> clarify concerns, answer questions, explain policies, and explore resolution options. The University Ombuds and the Ombuds for Staff and Students will listen, ask questions, make informal inquiries, review information, consider options, make referrals, and mediate disputes (if requested by all parties) independently and impartially. The University Ombuds and Ombuds for Staff and Students will assist

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<sup>1</sup> Visitors are here defined as those faculty, staff and students who bring concerns and questions to the Office of University Ombuds' attention.

parties in reaching resolutions that are consistent with the mission and values of California State University San Marcos.

Services provided by the Office of University Ombuds supplement, but do not replace, existing university processes. The University Ombuds will provide feedback to the University President regarding trends or issues without identifying any individuals associated with those issues. In addition, the University Ombuds may make recommendations to the University President for policy changes, needed training, or other procedures that may enhance the campus climate.

### **III. STANDARDS OF PRACTICE AND CODE OF ETHICS**

The Office of University Ombuds will adhere to the International Ombudsman Association (IOA) Standards of Practice and Code of Ethics, to the extent they do not conflict with existing University policies or California laws. These guidelines require that the Office of University Ombuds function independently, be confidential and impartial, and address issues informally. The Office of University Ombuds will be truthful and act with integrity, will foster respect for all members of the University, and will promote procedural fairness in the content and administration of the University's practices, processes, and policies. The Office of University Ombuds will be a member of the International Ombudsman Association and, as appropriate, its members will attend training.

The Office of University Ombuds will establish consistent procedures which will be made available upon request. The Office of University Ombuds will publicize the nature of its services campus-wide through a website and promotional materials. All visitors will be given a brochure about the Office of University Ombuds that explains its services.

#### **A. Independence**

The University Ombuds and the Ombuds for Staff and Students will be free from interference in the performance of their duties. This independence will be achieved primarily through organizational recognition, reporting structure, and impartiality. The Office of University Ombuds will operate independent of ordinary reporting lines and staff structures. The University Ombuds will exercise discretion over whether and how to act regarding individual matters or systemic concerns.

In order to carry out its functions, the Office of University Ombuds will have a specific allocated budget, space, and resources to meet operating needs and pursue continuing professional development. The University Ombuds will have the authority to manage the budget and operations of the Office of University Ombuds. The University Ombuds will report only to the University President regarding administrative and budgetary matters, and will advise the University President about trends and issues affecting the university climate. The Ombuds for Staff and Students will report to the University Ombuds.

#### **B. Confidentiality**

The Office of University Ombuds shall endeavor to maintain the confidentiality of communications to the extent allowed by law. In order to protect the safety of members of the University community, the Office of University Ombuds may not be able to maintain the confidentiality of certain disclosures, including but not limited to, disclosures regarding public safety, harm to self or others, violations of law, discrimination, or sexual harassment.

#### **C. Impartiality / Neutrality**

The Office of University Ombuds will be impartial in its activities, and will not take sides in any conflict, dispute, or issue. The Office of University Ombuds 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 and equitable, and consistent with the mission and policies of the

University. The Office of University Ombuds will not engage in matters that may be or are a conflict of interest. When a conflict of interest exists, the Office of University Ombuds will take all steps necessary to disclose and/or avoid the conflict. (A conflict of interest may arise where a visitor reports (1) information that involves the safety of members of the University community or (2) certain disclosures, including but not limited to, public safety, harm to self or others, violations of law, discrimination, or sexual harassment.)

#### **D. Informality**

The Office of University Ombuds will be a resource for informal dispute resolution only. The Office of University 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 of University Ombuds is voluntary and not a required step in any complaint or grievance process, or as a provision of University policy.

The Office of University Ombuds will not participate in any formal process inside or outside the University, such as union grievances or lawsuits, unless compelled to do so by court order or applicable law. Communication with the Office of University Ombuds is not a step in any grievance process nor does it postpone any timelines for filing complaints or grievances. If a formal process is already in progress, the services of the Office of University Ombuds are not available. Those seeking the services of the Office of University Ombuds shall not request that the Office of University Ombuds participate in any legal or administrative proceeding including, but not limited to, depositions or testimony and shall maintain the confidentiality of all dealings with the Office of University Ombuds unless compelled to do so by court order or applicable law. The Office of University Ombuds does not contact or communicate with attorneys or have any other involvement in the matter once legal steps have been initiated.

#### **IV. AUTHORITY AND LIMITS OF THE OMBUDS**

The authority of the Office of University Ombuds derives from the University administration as manifested by the endorsement of the University President.

## **A. Authority of the Office of University Ombuds**

### **1. Initiating Informal Inquiries**

The Office of University Ombuds may inquire informally about any issue regarding the University, irrespective of how or by whom the issue is brought to the Office of University Ombuds attention.

#### **Access to Information**

The Office of University Ombuds may request access to information related to visitors' concerns and questions, from files and offices of the University, and will respect the confidentiality of that information. Where necessary, the Office of University Ombuds will obtain authorization from the visitor to access that information. The Office of University Ombuds will not access information protected as personal or private by law or agreement except with the express written consent of the person(s) to whom that information pertains. Requests by the Office of University Ombuds for information should be handled with reasonable promptness by University departments.

#### **Ending Involvement in Matters**

The Office of University Ombuds may withdraw from or decline to assist with a matter if it believes that the involvement would be inappropriate for any reason.

### **2. Discussions with Visitors**

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

### **3. Access to Legal Counsel**

The Office of University Ombuds may require legal advice or representation in order to fulfill its functions. The Office of University Ombuds will be provided with legal counsel by the University in the event it is asked for documents or testimony related to any litigation or other formal legal process arising out of the Office of University Ombuds' activities.

## **B. Limitations on the Authority of the Ombuds**

### **1. Receiving Notice for the University**

Communication to the Office of University Ombuds shall not constitute legal notice to the University. This includes information and disclosures involving perceived violations of law, regulations or policies, such as sexual harassment, discrimination, retaliation, issues covered by whistleblower laws or policies, or incidents subject to reporting under the Clery Act. Although the Office of University Ombuds may receive such information, it is not a "campus security authority" as defined in the Clery Act, nor is it required to report these allegations to the University. If a visitor discloses such allegations and expresses a desire to make a formal complaint, the Office of University Ombuds will refer the visitor to the appropriate University office(s) for formal complaint, grievance or other administrative processes.

### **2. Putting the University on Notice**

If a visitor would like to put the University on notice regarding a specific situation, or wishes for information to be provided to the University, the Office of University Ombuds will provide the visitor with information so that the visitor may do so himself/herself. In certain situations, including but not limited to situations involving threats to public safety, threats of harm to self or others, violations of law, discrimination or sexual harassment, the Office of University Ombuds may have a legal obligation to notify the University, and may do so. If the Office of University Ombuds decides to provide notice to the University, it will do so in writing to the extent practicable.

### **3. Formal Processes and Investigations**

The Office of University Ombuds will not conduct formal investigations of any kind. Nor will the Office of University Ombuds participate in the substance of any formal dispute processes, outside agency complaints or lawsuits, on behalf of a visitor or on behalf of the university, unless compelled to do so by court order or applicable law.

### **4. Collective Bargaining Agreements**

The Office of University Ombuds may not inquire (informally or otherwise) into the application or interpretation of a collective bargaining agreement (CBA) or into the alleged violation of the duty of fair representation against a certified union. This means that while the Office of University Ombuds may provide services to union members, those services may not address issues that are covered in the CBA. In those cases, the Office of University Ombuds will refer the employee to the applicable CBA and to their union representative.

### **5. Record Keeping**

The Office of University Ombuds will not keep records for the University, and will not create or maintain documents or records for the University about any 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 of University Ombuds concludes its involvement in the matter.

**6. Advocacy for Parties**

The Office of University Ombuds will not act as an advocate for any party in a dispute.

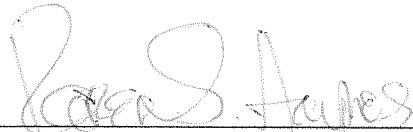
**7. Adjudication of Issues**

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

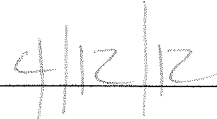
**V. RETALIATION FOR USING THE SERVICES OF THE OFFICE OF UNIVERSITY OMBUDS**

Visitors will have the right to consult with the Office of University Ombuds without reprisal. The Office of University Ombuds will work with the University to create policies to protect visitors from reprisals for using the services of the office.

*Approved*



*Karen S. Haynes, President*



*Date*