

# CHARTER

## MARSHALL UNIVERSITY OFFICE OF THE OMBUDS

### 1. Introduction

The Marshall University Office of the Ombuds was established October 14, 2019, to provide informal dispute resolution services to Marshall University (University) faculty, staff, and students, as outlined below.

This Charter, as approved by the Marshall University President, Provost, Faculty Senate Chair, Classified Staff Council Chair, Chief Talent and Culture Officer, and Ombuds sets forth the purpose, duties, jurisdiction, and operations of the Office. This Charter becomes effective upon signature by all Cosigners.

### 2. Purpose

The purpose of the Ombuds is to assist Marshall University faculty (including adjunct and term faculty), staff, and students who have questions, complaints, or disputes concerning University policies and procedures. The Ombuds may act as a consultant, facilitator, or informal mediator in the matter but should not act as an advisor.

The Ombuds in performance of their duties shall be guided by the University's mission, vision, and creed. The Ombuds are excluded from assisting in any issue involving allegations of sexual misconduct.

The Ombuds Office supplements, but does not replace or substitute formal, investigative, or appeals processes made available by the University. The Ombuds may assist parties in resolving conflict by providing guidance to visitors (faculty, staff, or students utilizing the services of the Ombuds office) in seeking conflict resolutions, as well as facilitating communication among parties to a conflict. The Ombuds Office also reports general trends of issues and provides feedback throughout the organization, and recommends systems change when appropriate without disclosing confidential information.

Use of Ombuds' services by faculty, staff or students is not considered as notice to the University of any issue, complaint, grievance, or claim. Use of the office is voluntary. The Ombuds will provide faculty, staff or students wishing to make a formal complaint with information about relevant procedures and policies. The Ombuds cannot directly assist faculty or staff in drafting a formal complaint against the University nor participate as an advocate or supporter in those processes.

**The Ombuds office is required to report child abuse or neglect or imminent risk of serious harm to the visitor or another person, and allegations involving sexual misconduct. Sexual misconduct allegations, including those covered under Title IX, are to be referred to the appropriate University office for review and possible investigation. The Ombuds must disclose this requirement, should the issue arise.**

The Ombuds office shall clearly post the following disclaimer on its website and in its office:

Confidentiality cannot be promised in matters relating to threats to public safety, child abuse, if there is an imminent risk of serious harm, if the matter is required to be

reported pursuant to Title IX regulations, as otherwise may be required by law or if compelled by a court of law.

Speaking with an Ombuds does not constitute legal notice to the University of any problem, concern, or complaint. You must pursue alternative complaint avenues if you wish to obligate the University to respond in any way. The Ombuds has no duty or responsibility to report incidents to any person or authority, other than as described above.

Use of Ombuds' services does not extend any deadlines or statutes of limitations to file complaints, grievances, or bring any other legal claim against the University or its officials. The Ombuds may withdraw from or decline to assist with a matter if they believe involvement would be inappropriate for any reason.

### **3. Standards of Practice and Code of Ethics**

In the performance of their duties the Ombuds shall adhere to the Standards of Practice and Code of Ethics of the International Ombudsman Association (IOA), [www.ombudsassociation.org](http://www.ombudsassociation.org). The Ombuds shall be a member of the IOA and attend regular association trainings. The IOA standards and code advocate informal processes exhibiting independence, impartiality, confidentiality, and informality as outlined below:

- a. Independence: independent in structure, function, and appearance to the highest degree possible within the organization. The Ombuds office shall operate independent of regular lines of authority with sole discretion as to how to respond to faculty, staff or student issues brought to their attention and how to report systemic concerns.
- b. Impartiality: a designated neutral, remaining unaligned and impartial, as well as avoiding conflicts of interest. The Ombuds office shall objectively consider the interest and concerns of all persons involved in a conflict, dispute, or issue, seeking to reach mutually acceptable agreements that are fair, equitable, and consistent with University policies and procedures. The Ombuds 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 dedication to the neutrality of the Ombuds.
- c. Confidentiality: holding all communications in strict confidence, except in cases involving child abuse or neglect, posing imminent risk of serious harm or sexual misconduct. The Ombuds office will not confirm that communications with any faculty, staff member or student took place nor disclose any confidential information without the express permission of the faculty, staff member or student and then at the discretion of the Ombuds. Additionally, the Ombuds will not participate as a "witness" in a meeting, because the Ombuds cannot be called upon afterward to verify that something was or was not said. Exceptions to disclosure include cases in which there is an imminent risk of serious harm, abuse or neglect is suspected, sexual misconduct is reported or when otherwise required by law.
- d. Informality: avoiding participation in any formal adjudicative or administrative procedures related to issues, situations, and/or concerns raised. The Ombuds office shall be an informal issue or dispute resolution resource and shall not formally investigate, mediate, arbitrate, advocate, adjudicate, or in any other way participate in formal internal University processes or

actions. Faculty, staff, or students' utilization of Ombuds' services shall be voluntary and not required as a condition of any formal University process. Faculty, staff, or students shall have the right to confidentially consult with the Ombuds office without retaliation. The Ombuds office may not receive notice on behalf of the University regarding any issue, complaint, grievance, or claim directed toward the University or University personnel. The Ombuds does not represent the University and cannot bind the University to take any action or waive any position.

#### **4. Functions**

The Ombuds office performs three essential functions, each designed to improve campus climate and faculty and staff job satisfaction. These include:

Addressing concerns of faculty, staff, or students: by serving as a consultant, facilitator, and informal mediator. The Ombuds office offers faculty, staff, or students an opportunity for informal discussion of issues and concerns with a focus on assisting them in identifying their interests and goals. Discussion may be followed by referral to appropriate University resources. The Ombuds office may also, at their request, assist faculty, staff, or students in applying and understanding University policies and procedures.

Performing educational outreach: by developing and maintaining ongoing relationships with all campus constituencies to promote the value and process of conflict resolution. The Ombuds office will develop and conduct training and information sessions for the campus community about the Ombudspersons' role in University conflict resolution. They will work collaboratively with other campus personnel with conflict resolution interests and responsibilities and encourage ethical behavior and practical solutions in resolving disputes and formulating recommendations.

Conducting systemic review: by advising senior administrators responsible for policies and procedures that affect the welfare of the campus community. The Ombuds office will make appropriate recommendations to modify practices in order to reduce or eliminate recurring problems. They will work collaboratively with other offices and personnel whose responsibilities include policy analysis. The Ombuds office will also consult with campus departments and academic units to understand and resolve complex problems through informal discussion leading to developing cooperative strategies to prevent future problems.

#### **5. Operation**

The Ombuds is a University employee and reports administratively to the University President. In the performance of their duties, the Ombuds is independent of all university offices and departments and operates in a manner adhering to the IOA Standards of Practice.

#### **6. Authority and Limits**

The Ombuds shall have the authority to initiate informal inquiries; access relevant organizational information; recuse themselves from cases due to actual or potential conflict of interest; withdraw from cases at their discretion; determine information to be shared with faculty, staff or students utilizing ombuds' services; access legal counsel; and assert their right of access to faculty, staff or students seeking ombuds' services.

The Ombuds shall not have authority to make changes to University policies and procedures; participate in formal University processes; receive notice on behalf of nor provide notice to the University; provide legal advice; advocate for parties, or adjudicate for parties. The Ombuds supplements, but does not replace, the University's existing formal structures and resources for conflict resolution.

#### **7. Records**

The Ombuds shall maintain records of individual ombuds' service delivery to faculty, staff or student members which preserve anonymity of the individuals served, consistent with the IOA Uniform Reporting Categories. Further, the Ombudsperson and anyone associated with the Office shall not maintain records of individual visits or any information about the individual visitor that can identify the person or the particular issue or concern. The Ombuds may keep short-term working notes as necessary to keep track of commitments and follow-up activities.

#### **8. Reports**

The Ombuds shall submit written reports and recommendations simultaneously to the President, Provost (as the Chief Academic Officer of the University), the Chair of the Faculty Senate (as the elected spokesperson for the faculty) and the Chair of the Classified Staff Council (as the elected spokesperson for Classified Staff), the Chief Talent and Culture Officer, and the Student Government Association President.

These reports will be due 30 days following the completion of the fall, spring, and summer semesters. An annual report will be due 30 days following the completion of the fiscal year.

The purpose of these reports will be to provide information, data, and recommendations that aim to improve the academic environment of the University. Based on anonymous aggregate data, these reports shall recommend revisions and improvements as needed, and assess the overall relational climate of the campus, as it pertains to the functions and responsibilities of the Ombuds office.

#### **9. Conflict of Interest**

A conflict of interest occurs when the Ombuds' private interests, real or perceived, supersede or compete with dedication to the neutrality of the Ombuds. To avoid potential conflicts of interest the Ombuds will not participate in any formal University processes. When a conflict of interest exists, the Ombuds will take all steps necessary to disclose and/or avoid the conflict.

#### **10. Evaluation**

The Ombuds will be evaluated annually by the University President in consultation with the Provost, Faculty Senate President, and Chair of the Classified Staff Council. The evaluation shall be conducted in accordance with University staff evaluation procedures.

#### **11. Appointment, Terms of Employment, and Removal**

The Ombuds serves at the will and pleasure of the University President. The President in contemplating removal of the Ombuds must consult with the Cosigners (excepting the Ombudsperson) prior to taking such action. Any vacancy in the Office of the Ombuds shall be filled using normal University hiring procedures.

#### **12. Amendment to or Revocation of the Charter**

Any of the Cosigners to the Charter may recommend amendments hereto. Amendments may only take effect upon unanimous agreement of the Cosigners. The President may at any time and for any reason by written notice to the Cosigners revoke this Charter.

Agreed to and accepted by:

President



Date 9-18-23

Print Name: BRAD D. SMITH

Provost



Date Sept 18, 2023

Print Name: AVINANDAN MUKHERJEE

Chair Faculty Senate



Date Sept 18, 2023

Print Name: Shawn Schulerberg

Chair Classified Staff Council



Date 9-22/23

Print Name: Tony Wagh

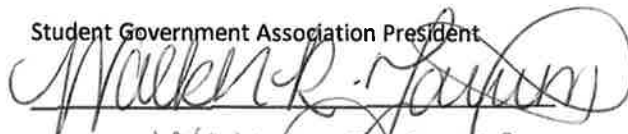
Chief Talent and Culture Officer



Date 9-19-2023

Print Name: Bruce Felder

Student Government Association President



Date 9/22/23

Print Name: Walker Tatum