

## UNIVERSITY OMBUDS CHARTER

### I. Introduction

The centralized Duke University Office of the Ombuds was created in the fall of 2022 to foster an environment of respect, honesty, fairness, and integrity, and to bolster a supportive working and learning climate at Duke University. In keeping with practice norms, those who utilize the Office of the Ombuds are referred to as “visitors.” When a visitor seeks support, the Ombuds can listen, serve as a strategic thought partner, help plan or develop options to resolve conflict or to surface an issue, provide resources and information about University policies and systems, and otherwise assist with informal conflict resolution and problem solving. In every case, the Office of the Ombuds provides support that is independent, confidential, impartial, and informal. This Charter defines the terms, conditions, and principles on which the Office of the Ombuds has been established and describes the privileges, responsibilities, and authority of the Duke University Ombuds (“Ombuds”) and the Office of the Ombuds (“Office”). Throughout this document, the term Ombuds refers to the University Ombuds and any Associate or Assistant Ombuds.

### II. History of the Office

The role of collateral-duty ombuds has held its place within the Duke University community since the late 1990s when the first faculty ombuds was appointed to serve as a channel for preventing and resolving conflicts involving faculty and instructional staff. The inaugural student ombuds was appointed in 2007. The creation of the student ombuds role grew out of discussions held as part of the Campus Culture Initiative and with several campus groups including the President’s Council on Black Affairs, the Graduate and Professional Student Council, and Duke Student Government.

The faculty and student ombuds served as confidential and impartial resources on a part-time basis since their initial inception. The transition to a centralized Office staffed with one or more full-time professional ombuds is in response to recommendations made by members of the Academic Council and the Hate and Bias Working Group.

As a wholly independent resource, the centralized Office will provide a confidential space where faculty, staff, postdocs, and graduate, professional, and undergraduate students (except for individuals covered by a collective bargaining agreement and employees of Duke University Health System) can seek informal

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and impartial guidance to address concerns, conflicts, or issues related to their experiences with or within the University.

### **III. Purpose, Mission and Scope of Services**

The purpose and mission of the Office is to enhance an ethical, supportive, and responsive culture for members of the University community by providing confidential, impartial, informal, and independent conflict resolution services and problem-solving support. The Office also elevates systemic trends or concerns to the attention of University leadership to effect high-level improvement.

The Office fulfills this purpose and mission by confidentially receiving inquiries, concerns, or questions from visitors and tailoring its response based on the specific needs of each unique situation. As appropriate, the Ombuds will listen, clarify issues, serve as a strategic thought partner and conflict coach, gather additional information, provide referrals, offer information on available resources, identify available pathways and options to address or raise concerns, and facilitate one-on-one and group conversations.

The independent structure of the Office reinforces Duke's shared values of respect, trust, inclusion, discovery, and excellence by empowering the community to find productive, collaborative ways to address their own concerns, fosters a supportive learning and working climate, and promotes a healthy organizational culture committed to diversity, equity, and inclusion.

### **IV. Standards of Practice**

The Office adheres to and has adopted the [International Ombuds Association \("IOA"\) Standards of Practice](#) and the [Code of Ethics](#) for organizational Ombuds programs. This Charter adopts and incorporates by reference the IOA Standards of Practice and Code of Ethics as they may be amended from time to time.

As an organizational Ombuds program, the Office functions independently from University administration. The Office operates confidentially and impartially and limits the scope of its services to informal means of dispute resolution and problem-solving support. The Ombuds and all program staff will be members of IOA and will attend regular, relevant trainings and the annual IOA conference whenever possible.

The Office will publicize the key principles on which the program is based, including the confidential, impartial, informal, and independent nature of the Office's services and will clearly explain these Standards of Practice to each visitor. The Office will

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also establish standard policies and practices for upholding confidentiality, impartiality, informality, and independence. The four key principles of the Office are as follows:

- A. Confidentiality:** The Ombuds will hold all communications in strict confidence and will not reveal—and must not be required to reveal—the identity of visitors to the Office. The Ombuds will not reveal any information disclosed to them in confidence except in accordance with the IOA Standards of Practice, including not disclosing such information without a visitor’s express permission and then only at the discretion of the Ombuds, or as required by law. The Ombuds may, however, disclose otherwise confidential information if they believe there may be an imminent risk of serious physical harm or in cases of suspected abuse, neglect or exploitation of a child or a disabled or elder adult.

Because the Office is a voluntary resource that no one is required to use, those who use the services of the Ombuds will be understood to have agreed to the terms, conditions, and principles upon which the Office was established, including an agreement not to call on the Ombuds to testify or produce documents relating to confidential communications in any legal, administrative, or other proceeding. The University has also agreed to respect the terms, conditions, and principles on which the Office was created and not call on the Ombuds to testify or produce documents relating to confidential communications in any legal, administrative, or other proceeding.

The confidentiality of communications with the Ombuds may not be waived by others. The Office will resist any attempts by visitors or third parties to compel disclosure of confidential communications, documents or information by invoking the terms, conditions, and principles of this Charter and by asserting a claim of confidentiality under any applicable rule or statute under which confidential information may be protected, including, where applicable, rules or statutes dealing with mediation and other methods of alternative dispute resolution.

The Ombuds will not keep written records or notes with identifying information and does not maintain records on behalf of the University. The Ombuds will maintain any case-related information (e.g., notes, phone messages, appointment calendars) in a secure location and manner, protected from inspection by others, and will have consistent and standard practices for the regular destruction of such information. The Ombuds will prepare any data or reports to be shared with the University or otherwise made public in a manner that protects visitor confidentiality. The Ombuds and the University will cooperate with each

other to implement policies and practices to protect the confidentiality of visitor identities and the Ombuds' confidential communications.

- B. Informality:** The Ombuds will be an off-the-record resource for informal dispute resolution and problem-solving services only. The Ombuds does not replace investigations, grievances, appeals, or other formal processes provided through the University. The Ombuds will not participate in formal investigative or adjudicative processes, whether internal or external. The Ombuds will, however, endeavor to provide visitors with information about relevant formal grievance or complaint processes to help educate them about their options. Use of the Office will be voluntary and will not be a required step in any grievance process or University policy.
- C. Impartiality:** The Ombuds serves as a neutral third party and strives for impartiality and fairness in consideration of all visitors to the Office and the issues they raise. The Ombuds will fairly and objectively consider the issues and people who may be affected and will facilitate communication and problem-solving in a way that does not take sides or favor a particular outcome. The Ombuds does not advocate on behalf of any party or entity within the University and will not take sides in any conflict, dispute, or issue.

The Ombuds will avoid involvement in any matter in which their private interests, real or perceived, may conflict with their ability to be impartial and independent in their role. To avoid such conflicts, the Ombuds will not serve as a voting member on University committees, will not participate in adjudication processes, and will not serve in a formal policy-making capacity, except with regard to Office of the Ombuds policies. If a potential conflict of interest nonetheless exists, the Ombuds will take all steps necessary to disclose the potential conflict and/or remove the conflict. If it is not possible to address a conflict of interest sufficiently in a given case, the Ombuds will recuse themselves from involvement.

- D. Independence:** The Office will be independent in appearance, purpose, and practice, and will operate without influence from others throughout the University. The Ombuds reports directly to the President, and not through any other University department, unit, function, or entity outside the President's office that affects, or is perceived as affecting, the Ombuds' independence. The Ombuds will have sole discretion over whether or how to engage regarding individual, group, or systemic concerns, including whether to bring concerns to the attention of appropriate administrative individuals. The Ombuds will hold no other

position within the University that compromises, or could be reasonably perceived as compromising, the Ombuds' independence. The Ombuds will have a specific allocated budget, adequate space, and sufficient resources to fulfill their role and pursue continuing professional development. The Ombuds will have the authority to manage the budget and operations of the Office and will report to the President for administrative and budgetary matters only.

## V. Authority and Limits of the Ombuds Role

The authority of the Ombuds derives from the establishment of the Office by the University administration and the enactment of this Charter.

**A. Ombuds Authority.** The University recognizes that the Ombuds has the independent authority to engage in the following actions as an integral part of their role:

- 1. Have Discussions with Visitors and Others.** The Ombuds has the authority to discuss with visitors their concerns, available informal and formal pathways for resolution, options for next steps, relevant information and resources, and so forth. The Ombuds also has the authority to invite visitors and others involved to engage in voluntary facilitated conversations as appropriate.
- 2. Initiate Informal Inquiries.** The Ombuds is entitled to inquire informally about any issue concerning a visitor or member of the communities served by the Ombuds.
- 3. Access Information.** The Ombuds may request access to University information related to visitors' concerns and will respect and preserve the confidentiality of that information. The University asserts that its departments should respond to requests by the Ombuds for information with reasonable promptness.
- 4. Decline/Withdraw from Participation in a Concern.** The Ombuds may withdraw from or decline to participate in a concern if they believe their involvement would be inappropriate for any reason.

**B. Access to Outside Legal Counsel.** On rare occasions, the Ombuds may require independent legal advice or representation to fulfill their required job functions. The University will provide the Ombuds with outside legal counsel, at the discretion of the Duke Office of Counsel, when necessary to protect the integrity of the Office's ability to function under the terms of this Charter or where representation of the Office by the Duke Office of Counsel might create a conflict of interest given the independent role of the Ombuds.

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

- 1. The Office of the Ombuds is Not Authorized to Receive Notice of Claims Against the University.** The Ombuds is not an official of the University. Communication to and with the Ombuds or the Office does not constitute notice to the University. This includes allegations that may be perceived as violations of laws, regulations, or policies, including sexual harassment or incidents subject to reporting under the Clery Act, Title IX or other reporting requirements. Although visitors may discuss such issues with the Ombuds, the Office of the Ombuds and the Ombuds is not a "campus security authority" under the Clery Act because they do not have significant responsibility for student or campus activities. The Office of the Ombuds and the Ombuds is not an official of the university and has no authority to institute any corrective action on behalf of the University. The Ombuds is neither a mandatory reporter under Title IX nor a responsible employee under University policies regarding prohibited discrimination, harassment and related misconduct.

Additionally, the Ombuds is not, and is not a substitute for, anyone's lawyer, representative, or counselor. While working with the Ombuds may help visitors address their concerns effectively, visitors may wish to consult with a lawyer or other appropriate resources to obtain guidance on whether any legal rights may be involved. Use of the Office does not extend internal timelines or deadlines with respect to filing a complaint or grievance.

If a visitor to the Office wants to put a concern "on the record," to put the University on notice regarding a specific situation, or to file a formal complaint or grievance with the University, the Ombuds will provide the visitor with information regarding available avenues for doing so so that the visitor may do so themselves, if applicable.

- 2. No Participation in Formal Processes and Investigations.** The Ombuds has no authority to conduct formal investigations of any kind. The Ombuds also will not participate willingly in the substance of any formal dispute resolution process, outside agency complaints, or lawsuits, on behalf of a visitor to the Office, the University, or any other party.
- 3. Organizational Record Keeping.** The Ombuds has no authority to keep records on behalf of the University and will not create or maintain permanent documents or records for the University about individual matters. Temporary notes and any other materials related to a given matter will be maintained in a secure location and manner and will be destroyed once the Ombuds concludes their involvement. Any reports made and shared with the University or others will be sufficiently de-identified to protect the confidentiality of visitors to the Office and their communications.
- 4. Advocacy for Individual Visitors or Entities.** The Ombuds has no authority to serve as an advocate, lawyer, representative, witness, or counselor for any party in a dispute nor will they represent University leadership or visitors to the Office. Rather, the Ombuds will consider the rights and interests of all parties and promote equitably-administered processes and respectful treatment.
- 5. Business and Policy Decisions; Adjudication of Issues.** The Ombuds has no authority to make business decisions or policy decisions on behalf of the University. The Ombuds also has no authority to adjudicate, impose remedies or sanctions, or to enforce or change University policies or rules.
- 6. Collective Bargaining Agreements.** The Ombuds is not authorized to advise individuals covered by a collective bargaining agreement.

## VI. Retaliation for Using the Office

Faculty, staff, postdocs, and students are free to use the services of the Ombuds and attempt to resolve concerns informally and in good faith without dissuasion or fear of retaliation. Retaliation against someone for consulting with the Ombuds is prohibited and inconsistent with [Duke Values & Culture](#), [Duke Code of Conduct](#), and the [Duke Policy on Non-Retaliation and Non-Retribution](#). No member of the

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University community shall be compelled to seek permission to use the Office, disclose that they wish to meet or have met with the Ombuds, or be forced to disclose the contents of their conversations with the Ombuds by any other University employee or official. Those who have reason to suspect violation of these non-retaliation provisions may follow the procedures outlined in the [Duke University and Health System Code of Conduct](#).

## **VII. Periodic Reports**

The Ombuds will issue annual reports to the President and the Executive Committee of the Academic Council which will provide broad, de-identified information about the program and usage, including data, trends, and descriptions of outreach and educational activities in a manner that protects confidential information and consistent with generally accepted organizational Ombuds practices.

This charter was endorsed by the President and the Executive Leadership Group of Duke University on August 8, 2023.