



Frequently Asked Questions

What is an Ombudsman?

The word “Ombudsman” can be found in Old Swedish as the word *umbudsmann* (accusative) and as *umbuds man*, meaning “representative.” The modern meaning of the term emerged when the Swedish Parliament appointed an Ombudsman in 1809 to *safeguard the rights of citizens through establishment of a supervisory agency independent of the executive branch*. The title “Ombuds” is often used as a gender-neutral substitute for “Ombudsman.”

When did the federal government start using Ombudsmen?

Federal agency Ombudsman offices were first created in the early 1970s resulting from concerns by congress, the federal agencies, and the public regarding bureaucratic bottlenecks, burdensome regulations, and the size of the government. As federal ombudsman offices increased in number, a platform for idea exchange, program development, and establishment of best practices emerged. In response, the Coalition of Federal Ombudsmen (CFO) was formed and convened their first meetings in the early 1990s.

What are the different types of Ombudsmen?

- **Executive Ombudsmen** – receive complaints concerning actions and omissions of the agency, its officials, employees, and contractors working to hold the entity or its programs accountable at work or work to improve performance.
- **Classical Ombudsmen** – are established by statute, acts of Parliament, etc. to resolve problems through formal investigations (usually in addition to informal reviews) and issue formal reports; some classical ombudsmen have decision-making authority.
- **Organizational Ombudsmen** – are established by statute or management decision, perform neutral fact-finding and informally address problems concerning the organization’s actions, policies or regulations (governmental).
- **Advocate Ombudsmen** – evaluate complaints, problems and issues objectively, but advocate for fair process on behalf specific individuals or groups (e.g. long-term care Ombuds).

What establishes having a federal Ombudsman?

Federal Ombudsmen are often established pursuant to legislative action/statute or written agency policy that sets forth the structure, role and jurisdiction of the Ombudsman. Federal Ombudsmen can be either classical or organizational.

What are the characteristics of a federal Ombudsman?

- **Independent;**
- **Impartial;** when conducting inquiries and reviews;
- **Confidential;** and
- **Neutral;** the Ombudsman does not represent individuals or groups and does not take sides.

What is an Ombudsman authorized to do?

- Receive complaints and questions.
- Exercise discretion to accept or decline to act on a complaint or question (e.g. union grievances, EEO complaints ect.).
- Act on personal initiative to *prevent* problems, if possible, and address issues systematically within the Ombudsman's jurisdiction.
- Aid in the just resolution of a complaint or problem.
- Gather information and *enlist* full cooperation of programs within jurisdiction.
- Resolve issues at the most appropriate, or lowest, level of the agency.
- Initiate litigation to enforce or protect the authority of the office as defined in the Ombudsman policy, the *Standards for the Establishment and Operation of Ombuds Offices*, or as required by law.
- Function by means such as:
 - Conduct an inquiry;
 - Review issues and report findings;
 - Develop, evaluate, and discuss options;
 - Facilitate, mediate and provide conciliation services ;
 - Make recommendations;
 - Identify patterns and trends and potential systemic issues;
 - Educate; and
 - Issue reports (e.g. quarterly, annual, etc.).
- Participate in litigation to enforce or protect the authority of the office as defined in the Ombudsman policy, the standards for the Establishment and Operation of Ombuds Offices, or required by law.

For employment concerns, how are Ombudsman functions impacted with bargaining-unit employees?

If consistent with collective bargaining obligations and agreements, Ombudsmen may provide options to resolve disputes covered by negotiated agreements. Ombudsmen may address issues under a collective bargaining agreement if authorized by language in the

agreement or with memoranda of agreement between labor unions and the agency, partnership agreements or other authorizing document.

What qualifications are needed to be an Ombudsman?

An Ombudsman should be a person of recognized knowledge, judgment, objectivity, and integrity. The establishing agency should select an Ombudsman with relevant education (e.g. law, sociology, psychology, etc.) and the periodic updating of knowledges, skills and abilities (e.g. IOA USOA, mediation training, etc.).

What safeguards assure the effective operation of an Ombudsman's office?

- The Ombudsman is and appears to be free from interference in the legitimate performance of duties and independent from control, limitation, or penalty imposed for retaliatory purposes by an official of the appointing agency or by a person who may be the subject of a complaint or inquiry.
- The Ombudsman conducts inquiries, or reviews in an impartial manner, free from bias and conflicts of interest.
- The Ombudsman does not disclose and is not required to disclose any information provided in confidence, except to address an imminent risk of serious harm.

To whom does the Ombudsman report?

- To ensure independence, the federal Ombudsman should report and have direct access to the highest agency official, whenever possible.
- If the Ombudsman reports to a designee, it is critical that the reporting relationship not present a conflict that would adversely impact Ombudsman functions.
- It would not be appropriate for an Ombudsman who resolves employment related issues to report to the agency's Director of Human Resources, even as the designee of an agency.
- All federal employees, including federal Ombudsmen, are obligated to report federal program fraud, waste, and abuse and cooperate with federal investigations conducted under force of law.

Does the Ombudsman keep everything confidential?

- All federal employees, including federal Ombudsmen, are obligated to report federal program fraud, waste, and abuse.
- When an employee who has contacted the Ombudsman describes waste, fraud, and abuse, but is unwilling to report it, the Ombudsman may serve as a conduit to report the situation anonymously.
- It is essential that federal Ombudsmen have access to independent or properly insulated legal counsel in order to obtain competent advice regarding conflicts or impeding litigation.
- A Legislative Ombudsman is subject to applicable statute when addressing expectation of confidentiality with an individual.

Are there any limitations to an Ombudsman's authority?

- Organizational Ombuds cannot make, change, or set aside law, policy or administrative decision.
- Make binding decisions or determine rights.
- Directly compel an agency or any person to implement the Ombudsman's recommendations.
- Conduct formal investigations that substitute for administrative or judicial proceedings.
- Accept jurisdiction over an issue that is currently pending in a legal forum unless all parties and the presiding officer in that action explicitly consent. However, Ombudsman policy may state that she/he has power to conduct neutral fact-finding "without regard to the finality of the administrative act" and continue to identify viable problem resolution options regardless of ongoing litigation.
- Address any issue arising under a collective bargaining agreement or under any labor or employment law, rule, or regulation, unless the union specifically authorizes the Ombudsman to do so.

Does speaking to the Ombudsman give notice to the agency?

No, the Ombudsman is intended to supplement, not replace, formal procedures that protect legal rights or address allegedly inappropriate or wrongful behavior or conduct. The Ombudsman does not provide notice to the agency, except generically. This must be stated in the Ombudsman charter and other literature describing the function.