

PROPOSED REVISION OF THE UTK-UTIA FACULTY HANDBOOK 5.2

First Reading: February 7, 2022

Final Approval: March 7, 2022

Submitted by Beauvais Lyons, Faculty Affairs Committee

This document presents current and proposed changes to Section 5.2 of the UTK-UTIA Faculty Handbook regarding the role and appointment of the faculty ombudsperson(s). These changes are proposed to more accurately reflect the operations of the Office of the University Ombuds. These changes have been reviewed by the Faculty Affairs Committee and the Office of General Counsel, and are presented for first-reading on Monday February 7 and for final approval on Monday March 7, 2022.

CURRENT LANGUAGE:

5.2 Faculty Ombudspersons

The chancellor and a committee that includes representation from the Faculty Senate shall select an ombudsperson. It is expected that the ombudsperson will be experienced in both alternative dispute resolution and university faculty affairs (including tenure, promotion, evaluation, dispute resolution, and governance), and he or she shall be responsible for facilitating informal conflict resolution at the request of faculty members. Specifically, the ombudsperson serves as a consultant for faculty members needing advice to resolve problems and may serve as an informal mediator if the faculty member has not started an appeal through the administrative or Faculty Senate channels described in sections 5.3 and 5.4. The ombudsperson is an advocate for neither the faculty nor the university, but rather a supporter of fair practices and mutual respect, fostering probity and timeliness in the administration of campus policies and practices. The ombudsperson's responsibilities as set forth in the Faculty Handbook do not include grievances initiated by administrators, students, or staff.[1] The ombudsperson is appointed under the university's human resources policies and procedures and is compensated as described in his or her appointment letter. The term of the ombudsperson shall be renewed by the chancellor with the advice and consent of the Faculty Senate.

As a consultant, the ombudsperson acts as a resource for information on university policies, the faculty member's rights and responsibilities, and procedures of appeal and due process. He or she helps faculty members decide how best to solve problems early and generally at the lowest levels. If the faculty member has initiated an appeal through the administrative or Faculty Senate channels under section 5.3 or 5.4, he or she may continue to consult the ombudsperson for a neutral opinion and advice, but the ombudsperson is not permitted to participate actively in those appeals. Except as required by law, consultations with the ombudsperson shall not be communicated to a third party unless the faculty member gives his or her permission or the faculty member brings an administrative complaint or legal action against the university or another university employee. As an informal mediator, the ombudsperson serves as a communication channel and dispute resolution facilitator. As used in this context, informal mediation is a flexible concept that may involve investigation by the ombudsperson and direct participation in the conflict resolution as well as the more traditional role of facilitating

communication and conflict resolution. The ombudsperson's services do not supersede or replace appeals through administrative channels, the Faculty Senate Appeals Committee, or other university grievance or appeals procedures, but they may be used before (and, to the limited extent permitted in this section, after) those processes are initiated. The ombudsperson is independent of both the faculty member and the administration. If a faculty member requests informal mediation by the ombudsperson, the ombudsperson has sole discretion as to whether a complaint warrants mediation and as to the manner in which any investigation and mediation is to be conducted. Mediation by the ombudsperson should involve only those employees or others with a need to be involved in either providing information or reaching a resolution. Except as required by law, the ombudsperson will not communicate with individuals not involved in the mediation process unless the faculty member gives his or her permission or the faculty member brings an administrative complaint or legal action against the university or another university employee.

The ombudsperson is not permitted to: address matters subject to the special appeals processes described in section 5.1.2; provide legal advice; assist in problems that are unrelated to the university; or represent the faculty member in administrative appeals or Faculty Senate Appeals Committee hearings or appeals. The ombudsperson's roles as a consultant and informal mediator are separate from the administrative appeals and Faculty Senate appeals processes. The ombudsperson does not make binding decisions for the university or overrule administrative decisions. Rather, the ombudsperson makes recommendations based upon his or her understanding of the situation, university policies and procedures, experience, and sense of fairness. The Faculty Senate shall provide ongoing advice and assistance for the ombudsperson on the rules and policies applicable to university faculty. The ombudsperson shall issue a report to the Faculty Senate once each year on (a) the number of faculty members served, (b) the types of matters handled, (c) any recommended change to university or faculty rules or policies and the basis for the recommended change, and (d) any other matters that the ombudsperson or the Faculty Senate shall deem necessary or advisable in connection with their respective roles in faculty support and governance. The annual report of the ombudsperson shall not disclose any information that the ombudsperson is required to keep confidential in accordance with this section or ombudsperson best practices.

[1] While the ombudsperson's university responsibilities may include grievances initiated by staff, those aspects of the ombudsperson's role are outside the purview of this Faculty Handbook.

PROPOSED LANGUAGE:

5.2 Faculty Ombudspersons

The University Ombudsperson and other staff from the Office of Ombuds Services serve faculty, staff, and graduate students. The ombuds serve as a no-barrier first stop when faculty are seeking information and insight from a trusted consultant who is neutral, confidential, and informal. The ombuds are advocates for neither the faculty nor the university, but rather a supporter of fair practices and mutual respect, fostering probity and timeliness in the administration of campus policies and practices.

It is expected that the ombuds will be experienced in both alternative dispute resolution and university faculty affairs (including tenure, promotion, evaluation, dispute resolution, and governance), and they are responsible for facilitating informal conflict resolution at the request of faculty, staff, and graduate students. As a consultant, the ombuds acts as a resource for information on university policies, the faculty member's rights and responsibilities, and procedures of appeal and due process. The ombuds helps faculty members decide how best to solve problems early and generally at the lowest levels. If the faculty member has initiated an appeal through the administrative or Faculty Senate channels under section 5.3 or 5.4, they may continue to consult the ombuds for an impartial opinion and advice, but the ombuds is not permitted to participate actively in those appeals. Except as required by law, consultations with the ombuds will not be communicated to a third party unless the faculty member gives their permission or the ombuds concludes that there is imminent risk of harm to the faculty member or others.

The ombuds is not permitted to provide legal advice; assist in problems that are unrelated to the university; or represent the faculty member in administrative appeals or Faculty Senate Appeals Committee hearings or appeals. The ombuds role as a consultant and informal mediator are separate from the administrative appeals and Faculty Senate appeals processes. The ombuds does not make binding decisions for the university or overrule administrative decisions. Rather, the ombuds makes recommendations based upon their understanding of the situation, university policies and procedures, experience, and sense of fairness.

The Faculty Senate shall provide ongoing advice and assistance to the University Ombudsperson on the rules and policies applicable to university faculty. The University Ombudsperson will issue a report to the Faculty Senate once each year on (a) the number of faculty members served, (b) the types of matters handled, (c) any recommended change to university or faculty rules or policies and the basis for the recommended change, and (d) any other matters that the University Ombudsperson or the Faculty Senate shall deem necessary or advisable in connection with their respective roles in faculty support and governance. The annual report of the Office of Ombuds Services will not disclose any information that the ombuds is required to keep confidential in accordance with this section or ombuds best practices.

The Office of Ombuds Services Staff are appointed under the university's human resources policies and procedures. The University Ombudsperson will be appointed after a search process led by the Chancellor or a designee, and the search committee will include representation from the Faculty Senate. All other ombuds staff will be appointed after a search led by the University Ombudsperson, and when feasible, the search committee will include at least one member of the faculty senate.