

TERMS OF REFERENCE FOR THE OFFICE OF THE OMBUDSPERSON

at Toronto Metropolitan University

1. The Office of the Ombudsperson shall be independent of all existing university and student administrative structures. The Ombudsperson, Assistant Ombudsperson and all staff of the Office are not employees of Toronto Metropolitan University (TMU).

The Office has the following functions:

a) To advise and/or refer members of the University student community as needed about all situations and University procedures concerning which grievances may arise; specifically, to advise students of their rights and responsibilities and of the proper procedures to follow in order to pursue whatever business or complaint they may have. Where such information exists in University offices or publications, the Ombudsperson shall direct enquirers to these sources and emphasize their responsibility for initiating the appropriate actions and for returning to the Ombudsperson if not satisfied with the results;

b) To investigate, in an impartial fashion, student complaints that may arise against the University or against anyone in the University exercising authority. Complaints may be made by any member holding status as a student of the University community, by former members of the student body or by student applicants to the University (dependent on the discretion of the Office of the Ombudsperson), whether accepted or not at the time of the complaint. Investigations may also begin on the independent initiative of the Ombudsperson in respect of anyone of the above entitled to make a complaint. The Ombudsperson may refuse to take up any case where it is believed that his/her intervention would be inappropriate, e.g. the complaint is frivolous or vexatious or the function of the Office is being abused, and may withdraw from a case if continued involvement is ill-advised. If an Ombudsperson refuses to take up any case or withdraws from a case, s/he shall, on request, provide the applicant with a written statement of the reasons. The Ombudsperson shall avoid involvement in cases where there may be a conflict of interest; and

c) To bring findings and recommendations to the attention of those in authority by the most expeditious means possible.

2. It shall be the special concern of the Ombudsperson that:

a) Decisions affecting members of the University student community are made with reasonable promptness;

b) Procedures and policies used to reach decisions affecting students are adequate and consistently applied and that criteria and rules on which the decisions in question are based are appropriate;

c) Any gaps and inadequacies in existing University policies and procedures that might jeopardize the principles of fairness and natural justice of members within the University student community be brought to the attention of those in authority. It is not the function of

the Ombudsperson to devise the new rules and procedures, but to make recommendations and follow these up to the extent necessary for their formulation and/or improvements; and

d) The complaints received by the Ombudsperson are analyzed on an annual and multi-year basis, to determine trends and identify potential for systemic or system-wide problems.

Authority to Act

The Ombudsperson shall require information from the University or from anyone in the University exercising authority, therefore: In order to fulfill the function of the office, the Ombudsperson shall have access to all official university files, records and information as required in accordance with the University's policy on Freedom of Information and Protection of Privacy.

Requests for information from the Ombudsperson must be given priority by every employee of the University.

Principles

Services provided by the Office of the Ombudsperson are founded on a number of general principles including independence, impartiality, confidentiality, informality, the ability to investigate and accessibility.

Responsibilities of the Ombudsperson

The Ombudsperson shall:

- a) Accept and act upon reasonable requests for information, advice and counsel regarding matters falling within the mandate of the office;
- b) With reasonable promptness, investigate all complaints directed to the Ombudsperson regarding matters falling within the mandate of the Office;
- c) Forward recommendations regarding policy and procedure to the appropriate officials within the University in an expeditious manner;
- d) Produce a statistical report each semester, as well as an annual report to the University community through the Ombudsperson Committee, and other such special reports as may be required from time to time by the Ombudsperson Committee; and
- e) Shall meet with individuals or groups on a confidential basis and shall not intervene without their express consent. However, the Ombudsperson is not required to maintain confidentiality in cases involving the commission of a serious crime or where there is an imminent risk of physical harm to the complainant or others, and will clearly communicate this exception to complainants;

Although authorized to function in the widest possible context and within a minimum of constraints, the Ombudsperson shall not:

- a) Act as the advocate of any party during the investigation of a complaint;
- b) Initiate an investigation until all existing avenues for seeking redress have been exhausted;

- c) Exercise such authority beyond the legal authority of the University, although recommendations may be made concerning the authority of the University or of its constituent parts;
- d) Make University policy or replace established legislative or judicial procedures, although any or all of these may be investigated or questioned and such recommendations made as appropriate for their improvement and efficient functioning;
- e) Release any confidential information;
- f) Be a voting member of any committee, hiring board or council of the University or any Student Association or any other body on campus although the Ombudsperson may act as a consultant to individuals and committees;
- g) Be required to give evidence before a University tribunal about anything that s/he may have learned in the exercise of his/her duty. The University shall take reasonable steps/or endeavour to protect the Ombudsperson from subpoena by others, both inside and outside the University; or
- h) Accept notice on behalf of the University (e.g. as the Office of the Ombudsperson is independent of all University structures the Ombudsperson shall advise those who wish to give notice of a complaint to the University that s/he is not a University official and can not accept complaints on behalf of the University. Students who wish to give notice to the University about their complaint will be referred to the appropriate individual or Office.)

Responsibilities of the University

The University shall:

- a) Ensure the Office of the Ombudsperson is enabled to carry out its mandate and responsibilities without hindrance from any officer or authority of the University community; and
- b) Respond, through the Vice-President, Administration and Finance and the Vice President, Academic to the annual report of the Ombudsperson and to any other such special report as may be required from time to time by the Ombudsperson Committee.

Operation of the Office

a) Files

- (i) The Ombudsperson shall maintain suitable records of complaints, findings and recommendations and these shall be for the exclusive use of the Ombudsperson and be accessible only to the Ombudsperson and members of the staff of the Office of the Ombudsperson;
- (ii) Each file and records will be maintained for a period of two years and one day from the date on which the Ombudsperson deems the case to be completed. At the end of the period of two years and one day, the Ombudsperson will arrange for the confidential destruction of files or records;

b) While exceptions may be made by the Ombudsperson with respect to matters of major importance, the office will normally function in terms of first come, first served; and

c) The Ombudsperson shall have unrestricted access to all University and Student Association authorities.

Complaints Regarding the Ombudsperson's Case Handling Process

If a member of the TMU community believes that the Ombudsperson has committed a procedural or substantive violation of these terms of reference, with respect to any matter that the member has been a party, s/he may submit a written complaint, detailing the alleged violation to the Chair of the Ombudsperson Committee. The Ombudsperson Committee will investigate the allegation and inform the member of the TMU community of the result.

Revised: June 2001 and April 2006 and October 2009