

John D. and Catherine T. MacArthur Foundation

OMBUDS CHARTER

I. Introduction

The John D. and Catherine T. MacArthur Foundation ("Foundation") is committed to helping build a more just, verdant, and peaceful world. With its focus on this mission, the Foundation has identified core values that guide how it conducts itself and its relationships with partners and grantees. These core values-- Creativity; Diversity, Equity, and Inclusion; Empathy; Integrity; and Learning--are the deeply ingrained principles that embody who the Foundation is, what it stands for, and how it works. The Foundation also seeks to cultivate an internal environment where everyone feels respected, valued, and a sense of belonging. The Foundation has adopted a variety of policies designed to further the desired culture and provide a range of avenues to report violations of policy or concerns regarding behavior or the environment. Retaliation for reporting concerns is strictly prohibited. The Foundation also recognizes, however, an opportunity to establish a means for Staff to discuss interpersonal and related issues with a third party that is not a Foundation employee.

The Foundation therefore created an Ombuds program ("Ombuds"), as described in this Charter ("Charter"), consistent with its core values. In keeping with national norms, those who consult with the Ombuds program created by this Charter are referred to as "visitors." When a visitor consults with a member of the Ombuds Team, the Ombuds will listen, serve as a strategic thought partner, help the visitor explore or develop options for the visitor to resolve or manage conflict, surface an issue, provide resources and information about the Foundation's policies and systems, and coach or otherwise assist the visitor with informal conflict resolution and problem-solving. In each case, the Ombuds provide support that is independent, confidential, impartial, and informal.

This Charter defines the terms, conditions, and principles on which the Ombuds program is established and on which it operates. The Charter also describes the privileges, responsibilities, and authority of the Ombuds staff.

This Charter has been approved by the President of the Foundation.

II. PURPOSE AND SCOPE OF THE OMBUDS

A. *Purpose*

The Ombuds program is designed to provide an independent, impartial, and confidential resource to assist individuals surface, manage, or resolve work-related issues, including early and informal resolution of conflicts at the lowest levels possible. In addition, the program is designed to alert Foundation leaders, without breaching confidentiality, about systemic problems or general trends that merit further review or consideration for the good of the Foundation and its staff. The Ombuds are neither an advocate for visitors nor an advocate for Foundation management. Rather, Ombuds advocate for respectful dialogue, fair practices, and mutual understanding. It is not the venue for Staff to report violations of policies or the law and Staff must report alleged violations of policies or law through the avenues made available by the Foundation. The Foundation will not be deemed to have notice of any concerns or reports made to the Ombuds .

B. *Ombuds' Responsibilities*

The Ombuds are responsible for the following:

- providing Ombuds services to eligible visitors;
- serving as an informal and off-the-record resource for communication but without serving as or replacing, the formal reporting channels identified in the Foundation's Code of Conduct and Policy on Reporting Illegal or Unethical Conduct;
- fostering fair treatment of all people;
- helping workers comply with the Foundation's core values to promote more ethical practices, creativity, and resiliency;
- helping the Foundation as an early warning system by sharing general trends and emerging issues with senior leadership while maintaining the confidentiality of the identity of Ombuds' visitors and their confidential communications with the Ombuds;
- facilitating, where requested, communication between parties that find themselves in a dispute with others; and
- developing and maintaining administrative procedures for effective and efficient operation of the Ombuds program.

C. *Constituents Served by the Ombuds*

The Ombuds' services are available to all employees regardless of title.

III. Reporting

The Ombuds team functions independently of the Foundation with respect to case handling and issue management. The Ombuds report directly to the Foundation's President but shall be, and shall appear to be, free from interference in the legitimate performance of their duties. The Ombuds will provide annual reports to the Foundation and periodic reporting of systemic issues as appropriate or as requested by the Foundation's senior leadership and/or Board of Directors.

IV. Standards of Practice and Code of Ethics

All Ombuds shall adhere to the Code of Ethics and the Standards of Practice of the International Ombuds Association¹. The Ombuds function independently and confidentially, remain neutral, and limit the scope of their services to providing informal assistance in conflict management and resolution and in surfacing workplace issues.

The Ombuds will establish and follow consistent practices and policies for their work, and this Charter will be posted on the Foundation's internal website. The Ombuds will provide the Foundation for inclusion on the website the key principles articulated in this Charter on which the Ombuds program was established and on which it operates and as provided in the IOA Standards of Practice. The Ombuds will clearly explain each of these principles to their visitors.

A. *Independence*

The Foundation established the Ombuds program as an independent channel of communication, supplementing but not replacing existing Foundation reporting channels, which allows visitors to confidentially discuss concerns on any workplace issue without fear of retaliation. This independence is bolstered by the Foundation's decision to offer the Ombuds services through an experienced outsourced ombuds service provider, MWI, so that the Ombuds are not employees of the Foundation.

¹ "The mission of the International Ombuds Association is to support and advance the global organizational ombuds profession and ensure that practitioners work to the highest professional standards." International Ombuds Association: <http://www.ombudsassociation.org/>

The Ombuds are not part of and do not represent or advocate for the Foundation's management. The Ombuds exercise sole discretion over whether and how to act regarding individual matters or systemic concerns, consistent with the terms of authority described below in Section VI: "LIMITATIONS ON THE OMBUDS' AUTHORITY".

B. *Informality*

The Ombuds provide only informal assistance to their visitors. They have no authority to receive notice of claims or formal complaints against the Foundation or agents of the Foundation, conduct formal investigations, or to make or change business or policy decisions for the Foundation. They will not participate in formal adjudicative processes, outside agency complaints, or lawsuits. Instead, the Ombuds provide visitors with an opportunity to informally discuss and decide for themselves how to resolve or manage their issues or to collaborate to accomplish mutually acceptable outcomes.

The Ombuds do not create or maintain business records for the use of any party utilizing their services and do not create or maintain documents or records for the Foundation about individual cases.

As an informal resource, the Ombuds are always a voluntary option. Consultation with an Ombuds is **not** a required step in any formal process that is available at the Foundation.

C. *Neutrality and Impartiality*

The Ombuds are always a neutral and impartial resource and do not take sides or advocate on behalf of the Foundation or any individual or cause. The Ombuds will impartially consider the interests and concerns of the parties involved in a situation.

Consistent with its position of neutrality, the Ombuds cannot, under the terms of this Charter, and will not participate in formal proceedings of the Foundation or elsewhere that concern issues visitors have discussed with Ombuds.

The Ombuds shall avoid involvement in matters where there may be a real or perceived conflict of interest, i.e., the Ombuds' private interests interfere with the neutrality of their work for the Foundation. When a real or perceived conflict of interest exists, the Ombuds shall take appropriate action to disclose and/or avoid the conflict. The Ombuds shall also comply with Foundation's policies related to conflicts of interest.

D. *Confidentiality*

Confidentiality is the defining feature of the Ombuds program. Communications with the Ombuds are confidential to the maximum extent permitted by law. The Ombuds will hold all communications in confidence and will not reveal the identity of their visitors or the substance of any communications unless required by law or to prevent the risk of imminent harm or otherwise 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.

The Foundation supports the confidentiality of the Ombuds program. It encourages parties to come forward confidentially, share their concerns, and attempt early and collaborative resolution. To achieve the desired outcome, the Ombuds provide the opportunity for visitors to have a frank and confidential discussion of issues, options, and possible outcomes that is necessary.

Because the Ombuds are a purely voluntary resource that no one is required to use, those who consult with the Ombuds will be understood to have agreed to abide by the terms, conditions, and

principles in this Charter upon which the program was established and on which it operates, including not seeking to have the Ombuds testify or produce documents relating to confidential communications in any legal, administrative, or other proceedings. The Foundation will respect the terms, conditions, and principles on which the program was created and not call on the Ombuds to testify or produce documents relating to confidential communications in any legal, administrative, or other proceedings except as required by law or if the Foundation is sued by a visitor and only if the Foundation cannot obtain evidence by other means. Nothing herein shall bar the Ombuds from asserting the confidentiality of such information under the Standards of Practice or seeking a protective order.

The confidentiality of communications with the Ombuds may not be waived by others. The Ombuds will resist any attempts by visitors, the Foundation or third parties to compel disclosure of confidential communications or documents 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 communications may be protected, including where applicable, rules or statutes dealing with mediation and other methods of alternative dispute resolution.

The Foundation will notify the Ombuds of any subpoena or request for the production of documents or testimony served on the Foundation seeking disclosure of Ombuds' confidential communications and cooperate with the Ombuds to take all reasonable steps to resist attempts to compel disclosure of Ombuds' confidential communications or documents.

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 a consistent and standard practice for the regular destruction of such information. The Ombuds will prepare any data or reports to be shared with the Foundation or the Foundation's leadership in ways that protect visitor confidentiality.

V. DISCUSSIONS FACILITATED BY THE OMBUDS

Ombuds use several tools when working with visitors, including offering them the option to participate in a facilitated discussion subject to the conditions described herein. A facilitated discussion is an informal and voluntary process for all parties where an Ombuds offers to assist the visitor and the person of concern (another employee or a manager, etc.) with an opportunity to speak with one another about the concern in a private setting. The person of concern must also be a concurrent visitor and request or agree to a facilitation and is not compelled in any way to participate and may drop out of any facilitation at any time without penalty of any kind. Any facilitation is subject to the confidentiality rules of this Charter.

The Ombuds have no authority to impose an outcome, mandate participation in the process, or determine an outcome. Should both the visitor and a person of concern who is also a visitor request or elect to participate in a facilitated discussion, they should expect the following:

- 1) The Ombuds will remain a neutral facilitator of the process. The Ombuds' role is to assist the parties identify their interests and develop options for resolution that the parties may determine solely in the end by agreement.
- 2) The Ombuds will not serve as a representative or advocate for any side. The Ombuds are advocates for a fair process and will conduct themselves accordingly as they facilitate the discussion.
- 3) Participants in a facilitated discussion cannot create new policies, rights and/or privileges by agreement. Any written agreements that include oversight by the Foundation (e.g., management or People and Culture), will be provided to the designated department or persons at the Foundation, with the knowledge of the parties, to monitor compliance. No participant shall be required to agree to any resolution or agreement. The Ombuds will not monitor or enforce the

terms of any agreement.

- 4) In alignment with their commitment to confidentiality, the Ombuds will not reveal the contents of the facilitated discussion to anyone unless a participant shares information that the Ombuds determines represents an imminent threat of serious harm or another exception to confidentiality recognized by the IOA Standards of Practice exists.
- 5) Facilitated discussions are voluntary for all parties including the Ombuds. Should a facilitated discussion end without resolution, all other options remain for the visitor including continuing to work with the Ombuds, reaching out to People and Culture, or pursuing other rights under law.
- 6) Unlike mediation, the participants and the Ombuds do not sign an Agreement to Participate / Confidentiality Agreement for each facilitated discussion and instead will be bound to the principles and terms and conditions of confidentiality, informality, independence, and neutrality contained in this Charter.

VI. LIMITATIONS ON THE OMBUDS' AUTHORITY

The authority of the Ombuds is both defined and limited in a manner that enables them to best serve the Foundation and its visitors. The authority of the Ombuds derives from its contract with the Foundation and this Charter, as manifested by approval of this Charter by the President of the Foundation as provided above.

A. *Authority of the Ombuds*

1) Providing Ombuds Services to Visitors

The Ombuds will listen to each visitor's concerns or questions and then try to help the visitor develop options that are appropriate to the dynamics of each situation. These responses may include providing policy information or referral assistance, identifying, and reframing the issues, helping a visitor develop options or a communication strategy, conflict coaching, making informal inquiries (with permission of the visitor), or facilitating a communication about a dispute. The Ombuds also can help visitors assess their different options for conflict management or resolution. The Ombuds are not lawyers nor is their role to provide legal advice. Ombuds are not authorized to accept service or receive formal or legal notice of claims or complaints against the Foundation or its agents.

2) Inquires of the Foundation

The Foundation values early and informal conflict resolution. To pursue this goal, the Ombuds may, on occasion, make inquiries of People and Culture or the Legal Department to better understand the policies of the Foundation.

3) Addressing Perceived Systemic Trends

Ombuds may bring adverse trends they observe or perceive to the attention of appropriate Foundation leadership in a manner that protects the confidentiality of individuals who may have shared information with the Ombuds that causes the Ombuds to identify perceived trends.

4) Ending Involvement in Matters

Ombuds may decline to participate in a visitor's case or withdraw from it if the Ombuds believes that involvement in the case would be inappropriate for any reason.

B. *Limitations on the Authority of the Ombuds*

1) No Authority to Investigate, Adjudicate, Sanction, Change, Bind, or Enforce

The Ombuds may not conduct investigations of any kind, nor are they authorized to adjudicate disputes, issue findings, or impose remedies or sanctions. The Ombuds may not make business or policy decisions on behalf of the Foundation, its managers, or its employees.

While the Ombuds can provide visitors with information and assistance in conflict management, visitors are solely responsible for deciding what action they wish to take and for managing their own conflicts.

The Ombuds are not authorized to unilaterally change management decisions or Foundation policies/procedures. The Ombuds are not authorized to make any statements or commitments that bind the Foundation, financially, contractually, or otherwise.

Neither the Ombuds nor the Foundation shall be responsible for enforcing any settlement agreement that individuals may reach solely between themselves as a result of information or assistance they receive from the Ombuds. This Charter does not affect or impede the Foundation's right to enforce any policy or any agreement to which the Foundation is a party.

2) Not Authorized to Receive "Notice" of Claims

Because the Ombuds program is designed to be a confidential resource for informal conflict resolution, communication with an Ombuds is always "off the record" (unless it falls in one of the exceptions to confidentiality recognized in the IOA Standards of Practice or this Charter). Therefore, the Ombuds are not authorized to receive notice of claims or complaints against the Foundation or its agents about any alleged misconduct. The Ombuds shall publicize to all eligible staff that it does not have authority to receive notice of claims against the Foundation or its agents and that the Ombuds are not required to report any such matters to the Foundation. If a visitor would like to put the Foundation on notice of claims regarding a specific situation or wishes to obtain information how to notify the Foundation of a claim, the Ombuds will provide the visitor with the information appropriate for them to do so.

Important Note: Ombuds are not obligated to maintain the confidentiality of information that the Ombuds determines represents an imminent threat of serious harm.

3) Recordkeeping

Because it is a confidential resource, the Ombuds do not keep identifying information from individual cases. Any recordkeeping or note-taking related to a specific case will only be used temporarily to help informally manage or resolve the visitor's concerns. Information used by Ombuds related to open cases is kept in the sole possession of MWI, the provider of Ombuds services, maintained in a secure manner and location, and all identifying information will be deleted 30-days after the case is closed and/or follow-up is complete.

The Ombuds also may maintain generic data related to the general categories of visitors who seek assistance from the Ombuds. Generic data may be used for general purposes like annual or periodic reports.

- 4) Not Authorized to Serve as an Advocate or Representative or Provide Professional Counseling.

The Ombuds are not authorized to serve as an advocate for any party in a dispute, represent either management or visitors, or provide mental health counseling or legal and psychological advice. Important rights may be affected by when formal action is instituted and when the Foundation is informed of allegedly inappropriate or wrongful conduct, and while working with an Ombuds may address a problem or concern effectively, it may not protect the rights of a visitor contacting the Ombuds. The Ombuds are not, and are not a substitute for, anyone's lawyer, representative, or counselor; and a person may wish to consult with a lawyer or other representative with respect to those rights.

VII. INQUIRY ABOUT USE OF THE OMBUDS IS NOT APPROPRIATE; RETALIATION FOR DOING SO IS PROHIBITED

The Foundation supports efforts to manage and resolve conflicts informally to preserve collegial and effective working relationships, maintain a vibrant Foundation workforce community, and possibly avoid the time and expense required for formal proceedings or litigation. Because the Ombuds are intended to be a confidential resource, it is not appropriate for management or other employees to inquire about an individual's use of the Ombuds resource or any communication that may have taken place there. Furthermore, discouraging or preventing eligible visitors from using the Ombuds is inappropriate because it is contrary to the Foundation's intent in providing its workforce with the Ombuds as a resource for early and informal management and resolution of conflicts and to surface issues.

While the Foundation supports and encourages the use of the Ombuds for conflict and issue management, an individual's use of the Ombuds program must always be completely voluntary. It is acceptable to remind individuals that the Ombuds are available as an option or a resource. However, no one may be ordered or required to visit the Ombuds, nor may an individual be punished for not consulting with the Ombuds.

All employees shall have the right to consult the Ombuds without fear of retaliation or reprisal. The Foundation's Anti-Retaliation Policy provides that retaliation against any person for consulting with the Ombuds or against an Ombuds for actions within the legitimate scope of their duties as described in the Charter is prohibited.

VIII. PROCEDURE FOR REVISION OR REVOCATION OF THIS DOCUMENT

This Charter remains in effect unless otherwise revoked or modified by the Foundation and approved by the President of the Foundation, and such revocation shall be provided in writing to the Ombuds by notifying MWI. Any revision to this Charter shall be agreed to in writing by the Foundation, and approved by the President, in consultation with the Vice President and General Counsel and Chief Equity Officer, and the Ombuds representative from MWI and shall be appended to this Charter.

Dated: October 1, 2024