



**Charter Agreement  
for the University Office of Ombuds  
March 2015**

**I. INTRODUCTION**

Northeast Ohio Medical University's (NEOMED or University) Office of the Ombuds was established October 2014 to provide confidential, neutral, and informal alternative dispute resolution assistance to the entire University community with the emphasis of protecting the principles of fairness, dignity, equity, and respect for all. In the spirit of this important function, this Charter Agreement defines the privileges and responsibilities of the University Ombuds and his/her office.

**II. PURPOSE/MISSION/MANDATE**

The Ombuds and the Office of Ombuds is a confidential, informal and impartial resource available to all faculty, staff, and students to aid in University-related alternative dispute resolution. The Ombuds seeks fair and equitable resolutions to concerns and issues presented and provides feedback to University leaders on trends, issues and concerns about policies and procedures, including the potential for future issues and concerns. Pursuant to the Standards of Practice and Code of Ethics of the International Ombudsman Association (IOA), he/she operates independent in structure, function, and appearance and shall act with integrity, shall foster respect for all members of the University, and shall promote procedural fairness in the content and administration of the University's practices, process, and policies.

**III. RESPONSIBILITIES/DUTIES/FUNCTIONS**

The Ombuds will have the following responsibilities/duties/functions:

- A. The Ombuds will establish its office policies and practices for Ombuds' services and will publicize the confidential, independent, impartial, and informal nature of his/her services, and explain these ethical standards to all visitors seeking assistance;
- B. The Ombuds shall be a resource for informal alternative dispute resolution for University-related disputes, conflicts, issues and concerns, by such means as: listening, providing information about University policies and procedures, identifying and reframing issues, helping individuals generate a range of responsible options to resolve problems, helping individuals develop new ways to solve problems and manage conflict, and -- with permission and at the discretion of the Ombuds -- engaging in informal third-party interventions;

- C. The Ombuds will make appropriate internal and/or external referrals to other offices, services or departments, including informing visitors about informal, formal, and/or administrative options for managing disputes, conflicts, complaints, and concerns;
- D. The Ombuds will serve as a catalyst for institutional change for the University and will provide feedback to the University when trends, patterns, policies or procedures of the University generate issues and concerns, including when there is a potential for future issues and concerns; and
- E. The Ombuds will keep professionally current and competent by pursuing continuing education, including maintaining membership with the International Ombudsman Association (IOA).

#### **IV. STANDARD OF PRACTICE/CODE OF ETHICS**

The Ombuds endeavors to be worthy of the trust placed in the Ombuds and his/her office and will refer to the International Ombudsman Association's ("IOA") Standards of Practice and Code of Ethics as the framework for operations. These tenets require that ombudspersons function independently of their organizations, be confidential and impartial, and limit their scope of services to informal means of alternative dispute resolution. The IOA's Standards and Code are minimum standards, and the University Ombuds shall strive to operate to "best practices" and in a way that serves the ideals and objectives of the University.

##### **A. Confidentiality**

The Ombuds shall hold all communications with visitors in strict confidence and take all reasonable steps to safeguard confidentiality. The Ombuds must not reveal the identity of any visitor contacting the Office of the Ombuds, without the visitor's express permission. Confidentiality shall be respected even if non-disclosure may prevent resolution of a problem. Even when a party gives express permission to the Ombuds to disclose confidential information, doing so is at the discretion of the Ombuds. The only exceptions to confidentiality are when: 1) the Ombuds believes that there is an imminent risk of serious harm, and where there is no other reasonable option; 2) the Ombuds knows that a felony has been or is being committed; and 3) an allegation of sexual violence as it relates to Title IX, is reported to the Ombuds. At the very least, the best practices of the Ombuds shall be to limit any such disclosure to only that which is necessary as it relates to the above exceptions to confidentiality.

The Ombuds shall not testify in any formal process inside the University regarding a visitor's contact with the Ombuds or confidential information communicated to the Ombuds, even if given permission or requested to do so. The Ombuds may, however,

provide general, non-confidential information about the Office of the Ombuds or the Ombuds' profession. However, it is important to note that the State of Ohio does not recognize this privilege by statute, which means that the Ombuds may be involuntarily compelled to disclose communication to a court.

If the Ombuds pursues an issue systematically (e.g., provides feedback on trends, issues, policies and practices), the Ombuds will do so in a way that safeguards the identity of individuals.

The Ombuds will not keep any records containing identifying information on behalf of the University and any data and/or reports shall be presented in a manner that protects confidentiality. The Ombuds shall maintain information (e.g., notes, phone messages, appointment calendars) in a secure location and manner, protected from inspection by others (including University leaders), and shall maintain a consistent and standard practice for the destruction of such information.

#### B. Informality

The Ombuds, as an informal alternative dispute resolution resource, shall not make binding decisions, mandate policies, or formally adjudicate issues for the University. The Ombuds shall not participate in any formal investigative or adjudicative procedures. Formal investigations should be conducted by others. When a formal investigation is requested, the Ombuds shall refer individuals to the appropriate office or individual.

The Ombuds supplements, but does not replace, any formal investigatory or adjudication channels. Use of the Office of the Ombuds shall be voluntary, and not a required step in any grievance process or University policy.

#### C. Impartiality/Neutrality

The Ombuds shall be neutral, impartial, and unaligned in his/her activities, and will not take sides in any conflict, dispute or issue. He/she strives for impartiality, fairness and objectivity in the treatment of people and the consideration of issues and should have no personal interest or stake in, and incur no gain or loss from, the outcome of an issue. The Ombuds has a responsibility to consider the legitimate concerns and interest of all individuals affected by the matter under consideration, and advocates for fair and equitably administered processes. The Ombuds does not advocate on behalf of any individual or body within the University.

The Ombuds serves in no additional role within the University which would compromise his/her neutrality, and shall not be aligned with any formal or informal associations within the University in a way that might create actual or perceived conflicts of interest for the Ombuds.

#### D. Independence

The Ombuds is a designated neutral reporting to the University's President and operates independent of ordinary line and staff structures. The Ombuds shall not report to nor be structurally affiliated with any compliance function of the University. The Office of the Ombuds and the Ombuds shall be independent from other University entities and should hold no other position within the University which might compromise independence. The Ombuds shall be, and appear to be, free from interference in the performance of his/her duties and shall be able to function independently from control, limitation, or interference imposed by any University official. The independence is affected primarily through organizational recognition, reporting structure, and neutrality.

The Ombuds shall exercise sole discretion over whether and how to act regarding an individual's concern or systemic concerns. The Ombuds may also initiate action on a concern identified through the Ombuds' direct observation.

The Ombuds has access to all information and all individuals in the University, as permitted by law.

The Ombuds shall have the authority to select staff of the Office of the Ombuds and manage the budget and operations of the Office of the Ombuds. To fulfill his/her functions, the Ombuds shall have a specific allocated budget and sufficient resources to meet the Office of the Ombuds' operating needs and to pursue continuing professional development. Additionally, the Ombuds shall have adequate office space to confidentially meet with visitors – space that is physically situated in an appropriate location to protect visitors' privacy.

#### V. NON-RETALIATION FOR USING THE OMBUDS OFFICE

The University shall assure that all faculty, staff, and students have the right to consult with the Ombuds without reprisal and that retaliation for exercising that right shall not be tolerated. The Ombuds will work with the University to create policies to protect visitors from reprisals using the Ombuds.

## VI. PROCEDURES/OPERATION

The Ombuds shall establish consistent policies and practices for which the Ombuds shall adhere, and which shall be made available upon request. The Ombuds shall also publicize the confidential, informal, impartial, and independent nature of his/her services, and explain these ethical standards to each visitor.

## VII. JURISDICTION/AUTHORITY AND LIMITS

The authority of the Ombuds derives from and are endorsed by the President of the University.

### A. Authority of the Ombuds

#### 1. Initiating and Ending Informal Inquiries

The Ombuds shall be entitled to inquire informally about any issue concerning the University and affecting any member of the University community. Therefore, the Ombuds may initiate an informal inquiry into a matter upon receiving information from an affected member of the University or as a result of the Ombuds personally observing an issue that impacts the University community.

The Ombuds may decline to inquire into a matter or may withdraw from inquiring into a matter if the Ombuds believes involvement is inappropriate for any reason, including, but not limited to, matters not brought in good faith, a conflict of interest, or matters that appear to be a misuse of the Ombuds' function. Such a determination will be made solely by the Ombuds and may result in referring the matter to another party within the University or, in certain circumstances, external to the University.

#### 2. Access to Information

An ombuds office's effectiveness is determined by the quality of its inquiries and access to information. Access to information denotes access to documents, electronic files and most importantly to people. Therefore, occasionally the Ombuds may request access to information after receiving permission from a visitor to act on his or her concerns. As permitted by law, requests by the Ombuds for information related to issues and concerns shall be met, and they shall be handled with reasonable promptness by University departments. The Ombuds shall respect the confidentiality of that information.

### 3. Discussions with Visitors and Others

The Ombuds shall have the authority to discuss a range of options available to his/her visitors, including both formal and informal processes. The Ombuds may give any feedback that he/she deems appropriate with regard to resolving problems or improving policies, rules or procedures. However, the Ombuds shall have no actual authority to impose remedies or sanctions or to enforce or change any policy, rule or procedures.

### 4. Access to Legal Counsel

In order to fulfill his/her required functions, the Ombuds may occasionally require legal advice through the University Office of General Counsel. Additionally, the Ombuds may require legal representation independent and apart from the University in the event he/she is asked for documents or testimony related to any litigation or other formal process arising out of ombuds' activities. Such independent counsel will be procured by the University General Counsel and appointed by the State Attorney General's Office.

## B. Limitations on the Authority of the Ombuds

### 1. Notice to the University

Communication made to the Ombuds shall be considered "off-the-record". The Ombuds neither acts as an Agent for, nor accepts "notice" on behalf of, the University and shall not serve in a position or role that is designated by the University as a place to receive notice on behalf of the University. This means that the Ombuds or his/her office shall not receive official notice or accept notice of claims for the University. However, if a visitor discloses such allegations, the Ombuds may refer individuals to the appropriate place where assistance can be received and formal notice can be made.

If a visitor would like to put the University on notice regarding a specific situation, or wishes for information to be provided to the University, the Ombuds shall provide the visitor with information so that the visitor may do so himself/herself. And, in extremely rare situations, an Ombuds may have an ethical obligation to put the University on notice when: 1) the Ombuds believes that there is an imminent risk of serious harm, and where there is no other reasonable option; 2) the Ombuds knows that a felony has been or is being committed; and 3) an allegation of sexual violence as it relates to Title IX is reported to the Ombuds. If the Ombuds decides to put the University on notice, he/she will do so in writing to the extent practicable, and the best practices of the Ombuds shall be to limit any such disclosure to only that which is necessary.

## 2. Formal Processes and Investigations

The Ombuds shall not conduct formal investigations of any kind. The Ombuds shall also not participate in the substance of any formal dispute processes, outside agency complaints or lawsuits, either on behalf of a visitor to the Ombuds or on behalf of the University unless compelled to do so by a court.

## 3. Advocacy for Parties

The Ombuds shall not act as an advocate for any party in any dispute, nor shall he/she represent management or visitors to the Ombuds' Office.

## 4. Adjudication of Issues

The Ombuds shall not have authority to adjudicate, impose remedies or sanctions, make binding decisions or determine rights, or enforce or change University policies or rules, including compelling anyone to implement recommendations of the Office of the Ombuds.

# VIII. RECORD KEEPING AND ELECTRONIC COMMUNICATION

The Ombuds shall not keep records containing identifying information on behalf of the University, and shall not create or maintain documents or records for the University about individual matters. Therefore, neither the Ombuds nor the Office of Ombuds will have records subject to the Public Records Law in Ohio or the University's Record Retention Schedule. The Ombuds shall maintain information (i.e., notes, phone messages, appointment calendars) in a secure location and manner, protected from inspection by others (including administration), and shall have a consistent and standard practice for the destruction of such information once the Ombuds concludes its involvement in a matter. The Office of the Ombuds shall also be secure to protect private information and shall include locking file drawers, technological devices, and offices. The Ombuds will also have access to his/her own dedicated printer, facsimile, and shredder.

Because of concerns with confidentiality, the Ombuds shall discourage the use of e-mail in communicating with his/her office regarding confidential matters, including leaving messages of a confidential nature on the office voice mail. If anyone wishes to communicate with the Ombuds via e-mail, confidentiality cannot be guaranteed. The Office of the Ombuds shall delete e-mail correspondence on a regular basis and publicize the limitations of e-mail toward supporting the confidentiality for ombuds' work. The Ombuds' dedicated mobile number shall be publicized and its use encouraged as a means for leaving confidential messages for the Ombuds; and the phone bill, which may indicate with whom the office has communicated, shall be made available only to the Office of the Ombuds.

## **IX. REPORTS**

In support of systemic change, the Ombuds shall present periodic reports summarizing activities and problem areas identified. All such reporting shall be conducted in a manner that protects the identity of individuals and that shall not place the University on “notice”.

## **X. CONFLICT OF INTEREST**

A conflict of interest occurs when the Ombuds’ private interests, real or perceived, supersede or compete with his/her dedication to the neutral and independent role of the Ombuds. Therefore, the Ombuds shall avoid involvement in matters where there may be a conflict of interest and he/she shall not engage in any situation which could create a conflict of interest. This includes not serving as a voting member on committees; not serving in a policy making capacity; not participating in adjudication processes; and not aligning with any formal or informal associations within the University in a way that might create actual or perceived conflicts of interest for the Ombuds. Furthermore, except in the administrative capacity as Director of the Office of the Ombuds, the Ombuds shall not participate in formal management functions including being charged in any way to make, change, enforce or set aside a rule or management decision. When a conflict of interest exists, the Ombuds shall take all steps necessary to disclose and/or avoid the conflict.

## **XI. OFFICE STRUCTURE**

Because of the independent nature of the Office of the Ombuds, and in congruence with IOA *Standards of Practice*, 2.3.: “The Ombudsman is a designated neutral reporting to the highest possible level of the organization and operating independent of ordinary line and staff structures. The Ombuds should not report to nor be structurally affiliated with any compliance function of the organization.” At NEOMED, the Ombuds shall report to the University President.

## **XII. EVALUATION**

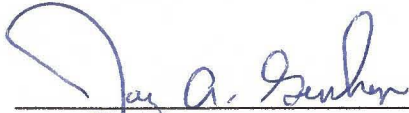
The value of an ombuds’ program cannot actually be measured in an accurate fashion using traditional cost-effectiveness metrics. Ombuds’ programs exist to further principles of fairness, dignity, equity, legal and honorable organizational practices, humane and just administration, as well as caring and productive teamwork. Ombuds’ do this as independent, impartial, confidential and informal practitioners, by: offering alternative dispute resolution options; fostering appropriate, efficient redress of issues and concerns; and working for appropriate systems change. The Office of the Ombuds shall work with the University President to determine the most appropriate mechanism for regularly evaluating the Office and ensuring its accountability, bearing in mind the purpose and mission for which it was created.



**XIII. AMENDMENT/REVOCAION OF CHARTER**

This Charter remains in effect until revoked by the President of the University. It may be amended only upon agreement of the University President, the Ombuds, and General Counsel.

Agreed and accepted by:



\_\_\_\_\_  
Jay A. Gershen, D.D.S., Ph.D.  
University President

Dated: 3/9/15



\_\_\_\_\_  
Angela E. Dash, M.P.A.  
Director, Ombuds

Dated: 3/9/15



\_\_\_\_\_  
Maria Schimer, J.D.  
General Counsel

Dated: 03/09/2015