

Oklahoma State University Policy and Procedures

**Informal Ombudsperson Review and Informal
Voluntary Mediation of Qualified Staff Employment
Issues**

**3-0747
BUSINESS AND EXTERNAL
RELATIONS Personnel
November 2000**

PURPOSE

1.01 Oklahoma State University acknowledges that resolving a disagreement between employees often is best facilitated by early, informal review, discussion and/or mediation between the principals. The grievance and appeals process outlined in the "Grievances and Appeals for Administrative/Professional and Classified Staff," Policy and Procedures Letter 3-0746 dated February 1988 provides an avenue for staff to seek formal peer review regarding qualified disputes after they have arisen. However, the review process called for in the Policy involves extensive use of institutional resources, and may take place after the parties to the disagreement have hardened their positions to the point that it is difficult to achieve a resolution that is mutually satisfactory to all of those involved in the matter. It is believed that use of the formal grievance procedure sometimes could be avoided if there is an opportunity for both staff and administrators to receive informal assistance and/or mediation regarding a qualified employment dispute at an early stage.

Informal review, discussion and/or mediation sometimes can be facilitated if a neutral third party is asked to assist the parties in their efforts. It has historically been the policy of Oklahoma State University to encourage staff to bring to the attention of the University's administration concerns or complaints about working conditions or problems. It is the purpose of this procedural protocol to facilitate the means by which staff can seek such informal assistance.

This procedural protocol is intended to be an augmentation of the Grievances and Appeals Policy for informal resolution of qualified personal employment disputes. It neither supercedes nor controls over any provisions of the Grievances and Appeals Policy, including the time limits for filing for formal Grievance and Appeals review.

1.02 Ombudsperson Role. As a means of facilitating the informal review of individual qualified employment matters in dispute, staff at Oklahoma State University may request that the person so designated by the University act as an

independent Ombudsperson. In such role, the Ombudsperson may informally review qualified employment concerns and provide assistance regarding the implementation of current University, college, and administrative unit policies and practices as such impact individual staff members.

In order to facilitate the Ombudsperson function, the Ombudsperson may have access to institutional records as may be pertinent in attempting to resolve disagreements presented for review and shall have the authority to request that administrators or others relevant to the matter meet with the Ombudsperson for the purpose of discussing the matter under review.

Comments or advice from the Ombudsperson to staff shall not, under any circumstances, be considered as binding upon the University or its administrators, and the Ombudsperson has no authority to estop or speak on behalf of the University in any fashion. Any interpretations of Board of Regent, University, College, or individual administrative unit policies or practices that might be made by the Ombudsperson shall not be deemed in any instance to be binding upon the University or upon any official of the University.

The Ombudsperson shall have the authority to make informal recommendations to appropriate administrators and staff seeking assistance which are intended to resolve disagreements presented by staff.

Recommendations from the Ombudsperson pursuant to this procedural protocol are intended to be confidential between the staff member and/or necessary administrators to the matter in dispute. Recommendations from the Ombudsperson, and any statements made in an attempt to facilitate informal review under this procedural protocol shall not be available for review or admissible in evidence in any Grievance or Appeal filed under the Policy and Procedure Letter. The Ombudsperson may not be called as a witness in any such proceeding regarding the Ombudsperson efforts engaged in pursuant to this provision and the parties to such review may not comment upon or be questioned about the informal Ombudsperson review process or recommendations.

The Ombudsperson shall maintain records of the Ombudsperson attempts engaged in, but shall maintain such documents in a file separate from the personnel file of any individual involved in such efforts and such file shall not constitute a part of the personnel files of these individuals, nor may they have access to same either during or after informal Ombudsperson efforts. The Ombudsperson shall provide an annual statistical report to the Staff Advisory Council detailing the number of staff contacts,

the number of petitions filed, the number of cases in which an administrator refused to participate in the process, and the number of cases resolved. A copy of the report shall be given to the Assistant Vice President for OSU Personnel Services.

1.03 Internal Informal Voluntary Mediation Efforts

a. Members of the staff at Oklahoma State University believing that they have been subjected to unfair, arbitrary, capricious or illegal treatment as to their personal working conditions provided by the University may seek informal, early assistance from the Ombudsperson regarding such concerns. The Ombudsperson is hereby authorized to serve in the capacity of informal mediator regarding staff work-related concerns. The Ombudsperson is authorized to meet with staff and administrators on an informal basis and may discuss with staff and administrators their concerns regarding such work-related issues.

b. In order to request that informal mediation efforts be engaged in, the requesting staff member shall file a written request to that effect with the Ombudsperson. This request need not be in any particular form, but merely in writing state that the staff member desires mediation assistance from the Ombudsperson, describing in brief summary the nature of the dispute, and identifying the administrator(s) that the staff member believes should be contacted about participating in such mediation.

c. The Ombudsperson, prior to receiving a written report or engaging in substantive mediation efforts, shall affirmatively advise the staff member in writing that the Ombudsperson has overriding duties to the University regarding the reporting of alleged illegal actions. These duties may, in some circumstances, require the Ombudsperson to disclose to administrative officials of the University statements made to the Ombudsperson where such statements indicate the possible existence of illegal action. This requirement is not intended to dissuade the parties from engaging in mediation, but is solely made so that the staff member will be fully informed of the obligations of the Ombudsperson prior to engaging in mediation attempts.

d. After having been notified of the overriding obligations of the Ombudsperson to the University to report allegations of illegal actions, the staff member shall notify the Ombudsperson, in writing, regarding

whether the staff member still desires mediation assistance. If so, the Ombudsperson shall then notify the named administrator(s) of the request for mediation assistance and provide with a copy of the staff member's mediation assistance request. The Ombudsperson shall also give the administrator(s) the same communication given to staff member regarding the Ombudsperson's overriding duty to affirmatively disclose allegations of illegal actions to the University.

e. Upon receiving notification that a request for mediation has been filed with the Ombudsperson, the named administrator(s) shall reply to the Ombudsperson regarding whether informal mediation is agreed to in the matter. In order for mediation to be successful, it inherently must be voluntary in nature, and all parties must be receptive to the mediation efforts. Administrators and staff shall reasonably cooperate with mediation efforts as authorized under this Policy and Procedures, but are not required to agree to mediation when it is believed that mediation has no reasonable chance of success.

f. If the parties agree to informal mediation assistance from the Ombudsperson, the Ombudsperson shall contact the parties and arrange a mutually convenient time and place where all parties shall personally meet to discuss the matter and attempt to reach agreed resolution of the matter. This meeting should be set as soon as reasonably practicable.

g. At the mediation meeting, the Ombudsperson shall conduct the meeting in a manner which he/she believes will be most conducive to reaching a mutually agreed resolution of the matter under dispute. In the event that the parties are able to reach a mutually agreed resolution, whether a partial or total resolution, such agreement will be written down and signed by the parties, and entered into the permanent personnel records of the administrative or academic unit.

In the event that the matters under discussion are not resolved through mediation, the Ombudsperson shall note in a memorandum to the file that the matter could not be resolved and no further communication or documentation of the discussions shall be made by the Ombudsperson.

h. Discussions engaged in through the mediation process are intended

to be confidential between the staff member and administrators necessary to resolve the dispute. Statements made during the mediation conference or documents presented to the Ombudsperson for review in such process shall not be available for review or admissible in evidence in any Grievance or Appeal filed under the Policy and Procedures. The Ombudsperson cannot be called as a witness in any such proceeding regarding mediation efforts, and the parties to mediation may not comment upon or be questioned about their mediation statements or attempts.

1.04 External Voluntary Mediation Efforts. There are several voluntary mediation entities in the State of Oklahoma which may, in appropriate circumstances, be utilized to assist in the early, informal resolutions of qualified individual employment disputes. When it is deemed appropriate in an individual case, and both the staff member and the University agree to engage in voluntary mediation through such an external entity, qualified individual employment disputes may be authorized to be forwarded for mediation assistance. In any such case, the Assistant Vice President for OSU Personnel Services must concur with the referral to an external mediation entity. In all such cases, external referral will only be authorized if the mediation entity has the legal authority to keep its records and any comments made during mediation confidential. Any statements made during such an external referral, and the fact that an external referral has been made, will be inadmissible in any formal Grievance and Appeal hearing.