26th Annual Conference

California Caucus of College and University Ombuds

Ombudsing in the New Millennium

November 7-10, 1999

Asilomar Conference Center
800 Asilomar Conference Center
Pacific Grove, California 93950
CALIFORNIA CAUCUS OF COLLEGE AND UNIVERSITY OMBUDS

Ombudsing in the New Millenium
Asilomar Conference Center, Pacific Grove, California
November 7-10, 1999

26th ANNUAL CONFERENCE PLANNERS

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Kathleen Dickson, University of California, Berkeley

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Margo Wesley, University of California, Berkeley
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The Journal 1999
of the
CALIFORNIA CAUCUS OF COLLEGE AND UNIVERSITY OMBUDS

Contents

Prefatory information:

26th Annual Conference title and theme 1
26th Annual Conference planners
Editorial
CCCUC Mission Statement
Editorial board members
Writers in this issue
Acknowledgements

Articles:

Geraldine Albright  Character Lines 1
Herbert L. Costner  Can We Talk? Conciliating Faculty Complaints by Discussion and Negotiation 3
Tom Sebok and Andrea Goldblum  Establishing a Campus Restorative Justice Program 13
Margo Wesley  Ombuds as Teacher: Developing Training Programs 23
Michele J. Bernal  Ombudsing on the Frontline 29
Lois Price Spratlen  A Behavioral Model of Academic Ombudsing 33
Andrea Y. Simpson  Majority Spaces and Black Folks’ Places: Institutional Responses to Racism and the Role of the Ombuds 43

continued on next page
Contents cont’d.

Barbara M. Schaffer  The Power of Language and the Language of Power: The Politics of Language and its Relationship to the Ombuds Setting  55

Myron Schwartzman  Notes from Underground: An Ombuds’ Dostoyevskian Journey in Academe  63

Book reviews:

Susan L. Neff  Difficult Conversations, How to Discuss What Matters Most by Douglas Stone, Bruce Patton, and Sheila Heen, and Coaching: Evoking Excellence in Others by James Flaherty  69

Tim Griffin  The Way of the Owl--Succeeding with Integrity in a Conflicted World by Frank Rivers  71

Editing and Publishing Notes and Guidelines for Writers  73
For over a quarter of a century the California Caucus of College and University Ombuds has been a preeminent professional organization for ombuds, serving academic institutions. Since its founding in 1973, ombuds from governmental agencies and nonprofit organizations have also been active participants. Significant contributions have been made by our participants to the practice of ombudsing.

Nevertheless, in 1999 the question that several ombuds have posed to us is “Is CCCUO still needed?” This question is asked by those who are aware of the large number of alternative dispute-resolution and conflict-management organizations that are available now to serve ombuds. As practicing ombuds and coeditors of The Journal, our response is a resounding YES. We offer five reasons to support our position. They are:

CCCUO’s philosophical position;
Characteristics of our participants;
Contributions made to the literature;
Recognizing excellence in practice; and
 Regional benefits to participants.

CCCUO was founded by three members of the academic community who were among the first ombuds appointed to positions in academic institutions in California. They assembled to explore ways to promote the principles of justice and civility in providing ombuds services to members of the academic community. They chose a conference setting that was conducive to contemplation, reflection, and dialogue. Through the use of informal seminar sessions, the role of the academic ombuds was defined. The essential characteristics of independence, impartiality, confidentiality, and accessibility were defined and continue to be hallmarks of this role. A universally acceptable principle is that justice is the cornerstone of ombudsing. CCCUO has promoted this value since its beginning through writings, informal mentoring, and counseling.

Participants in CCCUO are among the leaders in the field of ombudsing. Most occupy significant roles in public and private colleges and universities throughout the United States and Canada. Our participants are also leaders in pro-
fessional organizations in their academic disciplines. Many of these same ombuds are also active in community organizations in the areas where their institutions are located. They bring to CCCUO a degree of interest and creativity that has enabled our organization to sustain a very positive image and professional relevance that have stood the test of time.

In 1989 The Journal was established to reflect the professionalism of our organization. During this period (1989-present) our participants have made it possible for this organization to develop the largest body of literature on academic ombudsing. In 1998 The Journal became a peer-reviewed journal. The editorial board consists of ombuds from a variety of academic disciplines. Through the collective effort of the board, the quality of articles that appear in The Journal continues to improve. Recently, a managing editor was hired to assist in increasing the number of ombuds who will develop articles for publication in The Journal. Future plans include the development of writing workshops specifically to attract more contributors and improve the quality of our contributions. Over time, this will help us raise the visibility and credibility of our practice.

For the past decade CCCUO has used a democratic process to select recipients for its Pete Small Ombuds of the Year and Service Excellence Awards. These awards were some of the first to be given to academic ombuds. They represent tangible symbols of peer evaluations. In addition, recipients of these awards receive further recognition at their home institutions by members of their academic community.

Academic ombuds and others interested in conflict management are served effectively by CCCUO. Annual conferences are scheduled at the beautiful Asilomar Conference Center. Any participant is eligible to assume the role of co-convener or conference registrar. There are also leadership opportunities to serve as a conference presenter, panelist, or co-facilitator. There is a genuine openness to anyone who wishes to assume responsibility for introducing new program elements, particularly if the initiator is willing to carry the proposal through to implementation. In addition, all ombuds are asked to submit articles to The Journal for possible publication. We invite you to do so for the The Journal 2000.

CCCUO is also a forum where new and long-time ombuds can network and establish mentoring relationships. Since its founding, CCCUO participants have mentored the largest number of academic ombuds in higher education.

While CCCUO has established an impressive record of accomplishments, there are serious challenges facing this organization. Many of the early and long-term participants in CCCUO are nearing retirement, have retired, or have been promoted to other prestigious positions. Some ombuds offices have also been closed. These developments have reduced the total number of ombuds available to actively participate in CCCUO and other ombuds organizations. Some
participants have very limited travel budgets and cannot attend yearly conferences. And some ombuds cannot assume active roles in CCCUO.

These factors limit the number of ombuds available to sustain a very important and dynamic organization. As we prepare to enter the new millennium, we are challenged to identify strategies that can be employed to increase the probability that CCCUO will continue to exist to serve the unique and ever-changing needs of ombuds in academic institutions and other types of organizations as well. We appeal to you as practicing ombuds to respond to the challenges that we face in the new millennium. Help CCCUO continue to be all that it needs to be as a leading organization in ombudsing.

Is CCCUO still needed? Indeed it is, and, with enough committed participants, this organization will remain relevant to ombudsing as long as academic and other types of ombudsing are practiced.
The Journal
of the
CALIFORNIA CAUCUS OF COLLEGE
AND UNIVERSITY OMBUDS

Mission Statement

We are committed to publishing the highest quality of scholarly and professional articles submitted for publication. We will publish articles by and about ombuds that provide insights into and understanding of our institutional role, practice, and contributions. Manuscripts and materials submitted will be peer-reviewed. We use a collaborative approach to publishing, in which prospective authors receive constructive critiques from reviewers in an effort to increase the quality of the content of The Journal. Our main purpose is to enhance understanding of the practice of ombudsing.
Editorial Board

Geraldine (Geri) Albright

joined Sandia National Laboratories in 1986 and has extensive experience in the EEO/AA arena as well as in staffing and personnel-policy areas, including personnel and staff development. She served on The President’s [Clinton] Committee on Employment of People with Disabilities from 1990 to 1993 and continues as an active member of the Employer Committee. She presented at the annual meetings of the National Council on Aging and The Gerontological Society. Geri has 25 years experience in the health field, including work with victims of assault, and has been certified by the State of California as an advocate in this area. Degrees are B.A. in Social Psychology (Park St. Louis), M.A. in Gerontology (U. of Calif.). Prior to her work at Sandia, she directed PLUS, a hospital-based program for seniors at St. Joseph Hospital (Albuquerque). Geri’s article, “Character Lines,” on completing a Ph.D. at Columbia University, with research on the effect of negotiation on international and organizational identity-based conflicts. A recipient of a Certificate in Conflict Resolution (Columbia), he also has training in mediation through the Unified Court System of NY and the U.S. Dept. of Justice. Presently, he serves as visiting instructor for the International Center for Cooperation and Conflict Resolution at Teachers College Columbia and as a mediator for the Unified Court System of NY.

Howard Gadlin has been Ombudsman and Director of the Center for Cooperative Resolution (National Institutes of Health) since early 1999. Previously, he was University Ombudsperson at UCLA (1992 - 1998) and director of the UCLA Conflict Mediation Program and co-director of the Center for the Study and Resolution of Interethnic/Interracial Conflict. In Los Angeles he also served as consulting ombuds for the LA County Museum of Art. Still earlier, he was Ombudsperson and Professor of Psychology at U. of Mass. Currently, he serves as ombuds for the Society of Professionals in Dispute Resolution and is developing new approaches to addressing conflicts among scientists. He has designed and conducted training programs internationally in dispute resolution, sexual harassment, and multicultural conflict. His writing includes Conflict, Cultural Differences, and the Culture of Racism and Mediating Sexual Harassment.

John Barkat is a specialist in conflict resolution with an emphasis on international and organizational negotiation. Currently, he is the ombuds in the office of the president at Pace University, where he also teaches management in the MBA program and conducts internal management-developmen training. As a mediation specialist, he is called upon when organizations face internal conflicts, and he consults with such organizations as Citicorp, CIA, and UN. He is...
Arnold Medvene was the Faculty Ombuds Officer at the U. of Maryland from 1994 - 1999. He is a senior staff psychologist at the Counseling Center (U.M) and an associate professor in the College of Education, where he works with undergraduate and graduate students, as well as staff, faculty, and administrators in conflict management. As a board member of the Washington, D.C. Center for Life Enhancement, he will provide workshops in dispute resolution for organizations interested in facilitating staff development and personal growth.

Lois Price Spratlen joined the U. of Washington faculty in Psychosocial Nursing in 1972, after receiving her M.N. degree in Community Health Nursing from Hampton U. (VA) and a Ph.D. in Urban Planning from U. W. She was appointed Ombudsman for Sexual Harassment in 1982 and since 1988 has served as University Ombudsman. In 1998 CCCUO named her ombuds of the year. She initiated the first peer-reviewed ombudsing journal and serves as its coeditor. See Lois’s article, “A Behavioral Model of Academic Ombudsing,” on p. 33.

Tom Sebok directs ombuds services at the U. of Colorado at Boulder, with nine years of service. As a member of the editorial board, he is primarily interested in reviewing articles that are clear and thoughtful about the practice of ombudsing. He believes that, in order for articles to be significant, they should help expand readers’ options for thinking about and approaching day-to-day practice. He hopes to see the significant differences among ombuds’ practices explored and debated thoughtfully, with the aim of developing better understanding of controversial aspects of ombudsing. In 1998 he received the CCCUO Service Excellence Award. See Tom’s article (with Andrea Goldblum), “Establishing a Campus Restorative Justice Program,” on p. 13.

Margo Wesley counsels staff and non-faculty academics at all levels and conducts mediation and departmental interventions. She is particularly interested in providing training programs and in preventing workplace conflict by identifying trends—and effective ways of dealing with them—in campus management. She gives workshops for staff and management in enhancing communication skills and resolving conflict. In addition to developing a brochure on flexible work arrangements that incorporates principles of conflict resolution, she is currently developing tools and training programs related to civility. Before becoming an ombuds, she was in Human Resources for over twenty years. See Margo’s article, “Ombuds as Teacher: Developing Training Programs,” on p. 23.
Editorial Board cont’d.

Ron Wilson is Assistant Executive Vice Chancellor and Director for the Office of Equal Opportunity and Diversity, U. California Irvine. His responsibilities include the Ombudsman Office, Faculty and Staff Assistance Program, and Campus Mediation Program. A 23-year administrator and a 20-year ombuds, he came to UCI as campus ombuds and Associate Dean of Students from UC Riverside, where he had served as Director of student Affirmative Action. He is past president of the University and College Ombuds Association and is founder and co-editor of The Journal.

Writers in this Issue

Michele J. Bernal is the Assistant Staff Ombudsperson/Administrative Analyst for UC Berkeley’s Staff Ombuds Office. She is a graduate of UC Berkeley with a B.A. in Social Welfare and an emphasis in psychology. She has been employed at Berkeley for 20 years. Prior to joining the ombuds office, she was a counseling assistant at the student counseling center. When she is not on campus, she likes to ice skate, ski, and take ballet classes and yoga. See her article, “Ombudsing on the Frontline,” on p. 29.

Andrea Goldblum is the Director of the Office of Judicial Affairs at U. of Colorado at Boulder and a member of the restorative justice work group. Previously, she served as coordinator for judicial affairs at Florida International University, where she created the first full-time Office of Judicial Affairs. Her professional background includes experience as ombuds, housing and residential life, admissions, and Greeks. She has given national presentations on handling sexual assault cases, dealing with riots, psychological effects of trauma, and politics of judicial affairs. See her article (with Tom Sebok), “Establishing a Campus Restorative Justice Program,” on p. 13.
Writers in this Issue cont’d.

Tim Griffin is a 26-year veteran, serving in the roles of counselor, mediator, and dispute-resolution specialist. He has a B.A. degree in music, an M.A. in counseling—both earned at Western Michigan U. --and a Ph.D. in higher education from Ohio State U. Other positions included high school band director, music department chair, president of a local union, resident assistant, residence-hall director, assistant vice president for student affairs, and director of judicial affairs. He interned in the ombuds office at Western Michigan U., was a student ombuds at the U. of Alabama, and is presently in his ninth year as university ombuds at Northern Illinois U. See his book review on p. 71.

Susan Neff joined the U. of Washington Ombudsman’s Office in 1991 and was appointed assistant ombuds in 1994—the first staff member (as opposed to faculty) to hold this title. In 1998 she was nominated as distinguished staff for exemplary service. She works with complaints lodged by students, faculty, and staff and provides seminars to departments on such topics as reconciling disputes and learning through conflict. Previously, she worked in student affairs at West Chester State U. (PA), housing at U. Georgia, and advisor to returning adult students at City University (Seattle). See her book review on p. 69.

Barbara M. Schaffer is Sexual Harassment Ombudsperson and Instructor of English at DePaul University (Chicago). She received her B.A. and M.A. degrees from Washington U. (St. Louis) and began her teaching career at the U. of Toledo. At DePaul, she teaches rhetoric and composition to undergraduate and graduate students and has held an ombuds position since 1995. A member of several ombuds organizations, she presented the paper on which her article is based at a 1999 meeting of the University and College Ombuds Association. See her article, “The Power of Language and the Language of Power: The Politics of Language and its Relationship to the Ombuds Setting,” on p. 55.

Myron Schwartzman is Professor of English at Bernard Baruch College (NY) and has been ombuds there since 1995. He was educated at Columbia College, the U. of London, and SUNY Stony Brook, where he earned a Ph.D. in English. A widely published author, with articles in such journals as James Joyce Quarterly and Modern Fiction Studies, he is also a jazz pianist. For six years he played with Larry Rivers’ East Thirteenth Street Band, which he cofounded. He has been active in CCCUO and ECOG. See his article, “Notes from Underground: An Ombuds’ Dostoyevskian Journey in Academe,” on p. 63.
Andrea Y. Simpson is a native of Memphis TN and a 1976 graduate of Rhodes College. After a 12-year career in public relations and advertising, she entered the graduate program in public administration at the U. of Virginia. She later pursued a Ph.D. in political science at Emory U., where she studied the politics of race and ethnicity. Her dissertation focused on race, class, and ethnicity; supplemented by further research, it was the basis for her book *The Tie that Binds: Identity and Political Attitudes in the Post-Civil Rights Generation* (NYU Press, 1998). She has been a professor in the political science department at U. of Washington since 1993. See her article, “Majority Spaces and Black Folks’ Places: Institutional Responses to Racism and the Role of the Ombudsman,” on p. 43.
Acknowledgements

Marian Gee designed the CCCUO logo, which graces the cover of The Journal and our letterhead. (We have recently applied for official trademark status for this logo.) She has been a creative artist all her life—particularly in watercolor painting, sculpture, and basketry—and has taught art privately and in classes. She works as an office manager at the U. of Washington and is currently enrolled in a U.W. program in graphic design. [Photo not available.]

Eugene Smith is the managing editor for The Journal. He assumed this role as one of his many second-career activities, after several years of public school teaching and a 28-year stint as a faculty member of the Department of English, U. of Washington. Since his first retirement in 1989, he has published three books, with plans for several more, and does professional writing and editing for a Seattle publisher.

Monica Zucker has worked with Lois Price Spratlen for several years to design and produce brochures and conference programs for CCCUO; she also did the desktop publishing for The Journal 1998. She has held positions as administrative assistant in the School of Nursing, U. of Washington, business manager in the Dept. of Economics at Yale U., and assistant in the Office of the Dean of Students at Washington State U.
Some years ago, in midsummer, a young woman lay dying. She had endured several life-threatening crises and surgeries to correct medical problems which had lingered from birth. Her surgeon had just left, after telling her that all had failed and, unless he could get special permission to operate one more time, she would die a painful death. His colleagues had advised against additional surgery, he said—the risks too great and no guarantees. She might not survive the surgery and, even if she did, he could not predict the level of impairment that might result.

When he returned, the surgeon said, “You have less than twenty-four hours to get your affairs in order. I have permission to operate.”

As she lay dying, she began a rapid inward journey, thinking about what was most important to do in the life she had remaining. While she knew that her life was not entirely in her own hands, she knew that her chances of survival were greater if she really wanted to live. What meaning had her life had? What contribution could she yet make to the living? She began to visualize every detail of recovery, thus creating opportunity.

Did she really want to live at all? What did she hope to accomplish with her life? How much was not yet done? Accepting responsibility for her part in what was still undone, she mourned deeply the things left unsaid, the relationships not mended, realizing that, no matter how long we live, it is never long enough. She determined that, if she had to die, she wanted to be remembered as a person of character.

Setting a course for a return to the living, including what she might do differently if she had another chance, she thought about what work might look like, should she be able to return to her place of employment, and where she might make the best, or most needed, contribution. If she were given that opportunity, she would become an ombuds—a decision that did, indeed, change her life forever.

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This time of year, the latter part of summer, is always challenging for me. At this time of year, more than at any other time, I find myself reflecting upon my journey to this work and asking myself why I continue along this path. This year, I feel compelled to put pen to paper in an attempt to describe the core of my commitment to this work and to the people who make up the institution I serve. I will attempt to describe the “character lines” I am certain show on my sometimes very weary face. It is truly service of which I am about to speak.

Throughout the years I have often reflected on the piece by Ann Bensinger, “So You Want To Be An Ombudsman?” She wrote that a true ombuds is fearless. I am fearful far more of the time than not; however, being fearful does not imply that I am cowardly. I worry that an ad-
mission like that might create a perception of weakness. Certainly I have the courage and commitment necessary to fulfill the obligation to ask the unpopular questions. With thoughtfulness and integrity, I give voice to concerns which others cannot speak—or simply refuse to speak.

Ann described the ombuds as the messenger, who will be shot again and again and who may be persona non grata for rocking the boat and challenging the status quo. Knowing that the role of the ombuds is often misunderstood, I am regularly the target of an angry public, which is threatened by the confidences I keep. I do not relish being shot, but I take comfort in the fact that change often grows from anger. I press on.

Daily, employees from all classifications come to register complaints and concerns regarding “the system.” A witness to their commitment to the work and to the institution which employs us, I see how courageous they are and how they are affected by changes which seem to come all too rapidly. I recognize the courage they must exercise to hear me. I am always reminded that reasonable people disagree and that each person believes in the merits of his or her point of view.

It is my intent to influence our workplace and its systems in a positive way, affirming the worth of every individual within it—one person at a time. As Ann mentioned, I often award public victories to others and take my reward in the quiet facilitation of their accomplishments. I can only hope that I am truly making a difference. I see more in these people than they can see in themselves.

I also continue on this path because of a fundamental belief that the organizational culture and the leaders within believe in our worth and, whatever the outcome, act with integrity and strive to do the right thing. Without that belief, I could not fearlessly continue to challenge the status quo and support needed changes.

I hope that, when I leave this place, people will remember me as a person of character. I hope they will say that our workplace is a better place because I have been here.
Can We Talk?
Conciliating Faculty Complaints by Discussion and Negotiation
by Herbert L. Costner

As I sat with the university ombuds, listening to a faculty member describe his complaints, I was thinking about how best to proceed. I had been assigned to serve as a conciliation officer in this case, and my role was to try to achieve an informal resolution, which would avoid an expensive and time-consuming adjudication hearing that has many of the earmarks of a formal court hearing. The faculty panel assembled for an adjudication hearing recommends a resolution to the president, who may then implement it, or, under certain conditions, reverse or amend it. On the other hand, as a conciliation officer, I have no authority to impose a resolution—or even to recommend that the president do so. I can only help the parties to agree to a resolution themselves, and my basic tool is talking, including helping the parties talk to each other. Sometimes such talks lead to a resolution—or at least to the restoration of a tolerable working relationship. There are limits to what a conciliator can achieve by talking alone, but I have sometimes been surprised by what can be achieved in that way.

As the ombuds and I listened to the faculty member’s complaints, it was easy to sympathize with him. Associate Professor Green (not his real name) said that he had been unfairly treated for years. His salary increases had lagged behind inflation for more than a decade. He had been passed over for promotion for almost 15 years, even though he reported that he had an excellent publication record and had been carrying one of the most demanding teaching schedules in his department. The incident that finally precipitated his complaint was a teaching assignment that he considered grossly unfair because it was not in his specialty and hence would require an excessive amount of preparation time. Associate Professor Green regarded this assignment, on top of everything else, as just too much. He wanted, first, to be relieved of the unfair teaching responsibility and, second, to have a general review for possible promotion and salary adjustment.

The complainant’s statement, of course, gives just one side of the story. I telephoned the relevant department chair to seek the other side. After identifying myself as the conciliation officer assigned to seek a resolution in the complaint of Associate Professor Green, I proceeded immediately to state briefly what a conciliation officer does, emphasizing that my role is to be a peacemaker, not an advocate for either side in the controversy. That point always needs to be emphasized because the target of a complaint (hereafter referred to as the respondent) sometimes assumes that the conciliation officer will favor the underdog, i.e., the complainant. Interestingly, complainants also typically assume that the conciliation officer will be on their side, but apparently for a different reason. Complainants believe that the conciliation officer will lean in
their favor, not because they are the underdog, but because they believe that theirs is the side of justice and fairness and right. Although I try to dispel any suspicion that I will favor the complainant, I confess that I sometimes allow the complainant to persist in believing that I lean slightly in his or her direction. To do otherwise is to run the risk of suggesting that I see no justification for the complaint. Some complaints are exaggerated, to be sure, but some are also based on genuinely unfair treatment, and, at least in the initial stages of a conciliation effort, I don’t know whether the complaint is warranted or not.

From the chair of Associate Professor Green’s department I heard quite a different story from that told by the complainant. The chair saw the complainant as a slacker who had been “carried” by his colleagues for years. While he had continued to publish occasionally, the chair reported that his publications were “unimpressive,” to put the kindest possible face on his evaluations. Far from being a faculty member who carried more than his fair share of the departmental teaching obligations, Associate Professor Green was said to be a teacher with limited effectiveness and one who repeatedly insisted on presenting courses with very low demand so that he taught fewer students than did any of his departmental colleagues who had, like Associate Professor Green, a full-time appointment. The chair provided me with departmental records to substantiate that claim. The teaching assignment that had led to his complaint was, to be sure, not in Associate Professor Green’s specialty, as he himself narrowly defined it. But that excessively narrow conception of his specialty was part of the broader specialty that he was assigned to teach. The department chair went on to reveal a skeleton in Associate Professor Green’s closet that he had not mentioned to me. The chair reported in some detail an incident of professional duplicity in which Associate Professor Green had been involved more than a decade earlier. Again he provided some relevant documentation. A former chair of Associate Professor Green’s department substantiated and elaborated on the current chair’s comments.

I usually begin a conciliation effort optimistically, with an aspiration to reach a mutually satisfactory resolution, and I commonly foresee the possibility of reaching that goal by clearing the air through discussion and by assisting the parties to negotiate a new working relationship. But all conciliation cases do not come out of the same mold. An attempt to clear the air through discussion presumes that the faculty complaint stems either from some kind of a misunderstanding that can be clarified, if everyone puts their cards on the table, or from divergent interests that can be resolved by compromise, if everyone recognizes their over-arching common interests. In some cases, however, that assessment just doesn’t fit a case, and it would be unwise to attempt to conciliate all cases in the same way. In the case of Associate Professor Green, it didn’t seem likely that he and his department chair would come to mutually satisfactory terms if I sat with them and encouraged a candid discussion of their differences. Indeed, after hearing both sides of the story, I doubted the possibility of achieving a mutually satisfactory resolution, and I went through a period of uncertainty about how to proceed. I could have tried the common procedure of discussion and compromise, but that seemed inappropriate in this case, and I had to admit that a face-to-face discussion might make matters worse. I could have terminated the conciliation effort as non-resolvable, leaving Associate Professor Green to proceed to a formal adjudication, if he
wished to do so. Although I am always reluctant to terminate a conciliation effort without trying something, I also try to keep in mind that the continuation of a doomed conciliation effort is a waste of everyone's time.

Searching for another way to proceed, I settled on a third alternative. Associate Professor Green seemed to have absolutely no evidence to support his case other than his own assertions, which were apparently at variance with other available evidence. So he seemed quite ill-prepared for a formal adjudication hearing, if he decided to request one. Furthermore, I had very serious doubts about whether proceeding to an adjudication hearing would be in Associate Professor Green's best interest, and I reasoned that, if he couldn't develop adequate evidence to refute the claims of his department chair, he might come to a similar conclusion. Accordingly, I decided to pose a series of detailed questions asking, in effect, what evidence he could present to counter the claims of his department chair. I gave my questions to Associate Professor Green in writing so that he could reflect on them carefully. Although I didn't suggest that he should respond in writing, he did attempt to do so. His responses suggested that he was not well informed about his colleagues. For example, he seemed to be genuinely surprised to learn that so many of his colleagues were teaching many more students than he was. After indicating that his department chair had evaluated his research less favorably than he had led me to anticipate, I inquired about evidence in support of his claim to have an excellent publication record. In response, he rather feebly suggested that people in his department were not capable of giving his work a fair evaluation. With regard to the alleged instance of professional duplicity, he didn't claim innocence but insisted that no one had ever proved that he had been deceitful.

After further discussion focused on some weaknesses in his evidence, I indicated to Associate Professor Green that I did not think we would be able to negotiate a settlement and, hence, that we should end the conciliation effort. I also made sure that he knew how to request a formal adjudication hearing, if he now wished to do so, but I was very careful not to suggest that I was recommending such a step. While I did not explicitly recommend against adjudication, I did suggest that, if he decided to proceed with a request for an adjudication hearing, he should probably do some additional work on the evidence he might present in support of his claims.

Associate Professor Green did not proceed to request a formal adjudication hearing. While I can't be certain about his reasoning in making that decision, I strongly suspect that, by the end of the conciliation effort, he had developed a somewhat different perspective on his situation and on his chances for achieving satisfaction in an adjudication hearing.

Was this a conciliation success, a conciliation failure, or something in between? It was a conciliation success if the goal was to avoid an adjudication hearing. It was a conciliation failure if the goal was to reach a mutually satisfactory resolution of the complaint. I think it was probably a success if the goal was to increase the realism with which Associate Professor Green perceived his circumstances. But it was undoubtedly a failure if the goal was to create an on-going cooperative relationship between the faculty member and his departmental colleagues. All things considered, although there may have been some positive
achievements in the conciliation, it is probably fair to say that it was closer to a failure than to a complete success.

The case of Associate Professor Green serves as a vehicle for illustrating some suggestions that are described and briefly elaborated below.

Don’t expect the reports of the two (or more) sides in a complaint to agree. Part of the problem is commonly that the parties “see” things in a different light.

The divergence between the reports of the complainant and the respondent is admittedly extreme in the case of Associate Professor Green. But such divergence—not simply in the interpretation of events and in the meaning attributed to them but also in the report of actual events—is not at all uncommon in faculty complaints. Conciliation may—and frequently does—decrease the difference between how the parties “see” the case, but they may never reach a common perception.

It is always encouraging to observe one party or the other showing surprise at new insights as a conciliation effort proceeds. Associate Professor Green, for example, was evidently surprised to learn that his colleagues taught so many more students that he. In another case, a young faculty member was absolutely startled to learn in conciliation discussions with colleagues that some of them had felt insulted and offended by his behavior, which he had not intended to be insulting or offensive at all.

I have found it useful to remind myself that I don’t always need to determine which version is correct and that complete agreement in perceptions among all parties is not a necessary condition for a resolution.

It is better to seek attainable goals in conciliation than to attempt the impossible. The ideal outcome of conciliation—a congenial and cooperative relationship—is not a realistic goal in all cases.

In the case of Associate Professor Green, it would have been unrealistic to assume that conciliation could build an ideal relationship between parties who had been embittered by more than a decade of distrust and resentment. It seemed more appropriate to aim for a potentially attainable goal—i.e., a more realistic perception of his situation by the complainant and possibly the avoidance of an adjudication procedure that was almost certain to be a disappointment and probably an embarrassment to him. In another instance of exceptional antipathy between the parties, my fellow conciliation officer and I, working jointly on the case, could not foresee the possibility of diminishing the antipathy. But we did succeed in avoiding an adjudication hearing by negotiating a carefully worded agreement that stipulated, in effect, that each party would simply drop an ongoing bitter dispute.

While it would be foolish to try for the impossible, it isn’t always easy to distinguish the impossible from the potentially achievable. I have sometimes been happily surprised by conciliation outcomes that had initially seemed unlikely, if not impossible. For example, in one case that seemed initially unlikely to be resolved by conciliation, an appeal to the sense of fairness of the respondent, plus a pointed reminder of the potential costs of failing to reach a settlement in conciliation, turned out
to be sufficient to motivate an agreement. It’s probably useful to retain one’s initial optimism until it is absolutely necessary to reassess it.

A conciliator cannot be—and should not be perceived to be—an advocate for either side in the dispute. But that doesn’t mean that the conciliator should seem aloof and uninterested. And it doesn’t mean that the conciliator must abandon all sense of justice.

In the case of Associate Professor Green, I quickly concluded that at least some of his complaints were unwarranted and that others were highly questionable. On the basis of my very pointed questions that had the effect of questioning the evidence for his case, he must have sensed that I was skeptical about the validity of his claims. But I’m happy to say that he did not therefore conclude that I was on the side of his department chair, and I believe he felt that he had been fairly treated in the conciliation effort. And I, too, think he was fairly treated. Although I wasn’t supportive of his claims, I did try to protect his interests. I suspected that his departmental colleagues (and his chair, in particular) would have been happy to be rid of him and might even use an adjudication hearing initiated by his complaints to set the stage for a revocation of his tenure. That, I thought, would have been an excessively harsh punishment for his shortcomings.

I will admit that in some conciliation cases it has not been easy to maintain a balanced perspective concerning the interests of both sides in a dispute. Furthermore, it has been evident in some cases that I have not been perceived as neutral by both sides. In one case involving a complaint against a group of faculty members, I was told by one member of the group that another member of the group thought that I was unfairly favoring the complainant. I was never sure what had given rise to that perception, but I believe that person was alone in perceiving that I was unfair, and I believe that the perception of unfairness was changed as the case proceeded. In another case, a supporter of the complainant accused me of biasing the complainant’s chances in adjudication by abandoning the conciliation effort. I patiently explained that the failure of conciliation is not, in itself, a factor that is properly considered by the adjudication panel. Indeed, every case that goes to adjudication has entailed an attempt at conciliation, unless one party or the other has declined to participate in such an effort.

In the immediately preceding paragraph I have cited my own failures to maintain the perception of fairness to suggest that such a perception is sometimes difficult to maintain. I suspect the perception of fairness is best maintained, not by an air of aloof indifference, but by genuine concern for, and sincere efforts to protect, the interests of both sides. Even so, a conciliator should occasionally expect to be perceived as unfair. If it is just a temporary suspicion, no harm is done. If it persists, the chances for any kind of success in the conciliation effort may be undermined.

I have been gratified by sincere expressions of appreciation for my assistance from both complainants and respondents. It is especially pleasing when both sides in the same case express such appreciation, and that is not as rare as one might suppose.

There are many potentially useful strategies in conciliation. The appropriate strategy will depend on the nature of the case. Although the only tools available to a concili-
ation officer are discussion and negotiation, such tools are almost infinitely flexible. In the case of Associate Professor Green, I deliberately avoided a face-to-face discussion between the parties, but in other instances a face-to-face discussion has seemed advisable and proved to be useful. I also decided against serving as a go-between, carrying proposals and responses between Associate Professor Green and his department chair. But in other instances, that strategy has been effectively employed. Serving as a messenger between the parties permits the conciliation officer to soften the exchange by omitting unnecessarily hostile expressions and gratuitous insults. In Associate Professor Green’s case, since the attainable goal was to help the complainant develop a more realistic assessment of his own situation, the strategy selected was to pose questions intended to highlight how his perceptions differed from the perceptions of others and how his claims remained unsubstantiated. I have used the general strategy of posing questions in other cases to increase self-insight.

Since each case has its own peculiar history and distinctive goals, it seems appropriate that each case should also require a custom-tailored strategy for conciliation. This may entail presenting comparative information, formulating specific compromise proposals for reaction, seeking the input of relevant parties other than the parties to the dispute, or possibly other steps that may promote the achievement of an attainable goal.

Suggesting that one adapt the strategy to the case is admittedly not very helpful without some guidelines for making the appropriate kind of adaptation. I suspect there are some principles underlying strategy selection, but I have yet to discover them. The best I can do is to suggest a few rules of thumb.

Be exploratory. Consider a number of possibilities and select the one that seems most likely to help achieve the attainable goals and most appropriate for the other features of the case.

Be flexible. Abandon a strategy that isn’t working, that elicits a negative reaction, or that backfires.

Be sensitive. There really is no substitute for the insight and intuition of a reflective conciliator in deciding how best to proceed, and in determining what not to try.

Spring no surprises. Before implementing any strategy that depends on the cooperation of both parties, ask if they are willing to proceed in that way—and also provide an opportunity for each to decline without embarrassment.

Do no harm. For example, although unpleasant facts and candid opinions may be required, do not allow the self-esteem of either party to be destroyed.

A conciliator must judge when it is time to give up. Don’t waste everyone’s time on a pointless quest.

With Associate Professor Green, I reached a point at which I felt that further effort would be unproductive. I could have continued for the full sixty days allotted for a conciliation effort on my campus—and I could even have requested an extension of the initial sixty days. But I chose instead to end the conciliation effort after about three weeks. Clues that the end has come are varied. For Associate Professor Green, it was the fact that he was no longer developing new self-insight. In other cases the clues may be completely different, e.g., one party or the other absolutely refuses to budge,
keeps shifting ground, as if avoiding coming to a resolution, or says simply that he or she wants to stop the conciliation. Whatever the clue, sometimes it becomes clear that continuation would be a waste of time.

In a tenure-denial case that I was assigned to conciliate several years ago, I surmised that the complainant had been unfairly treated in a serious way and that her department had simply ignored certain procedural requirements intended to keep assistant professors informed of their progress. The department chair was willing to talk about the case but insisted that no injustice had been done and dismissed the university’s procedural requirements as busywork that his department had been ignoring for years. Seeing no prospects for a conciliated settlement, I informed the complainant that a further attempt at conciliation seemed pointless, reminded her that a request for an adjudication hearing remained an option, and suggested that such a hearing might find in her favor. It did, and she is now a tenured member of the faculty. By termination of the conciliation as soon as it was evident that it was doomed, the case moved promptly to adjudication and was settled without unnecessary delay. Although one of the purposes of conciliation is to avoid a formal adjudication; in some cases adjudication is necessary. Continuing a pointless conciliation effort simply delays the final resolution.

Never assume that the parties involved in a conciliation effort begin with an understanding of what conciliation entails or what might follow if no resolution is achieved through conciliation.

Associate Professor Green seems to have been exceptionally naive about conciliation and adjudication. He apparently believed that his claims would be taken at face value and that no one would examine relevant records or exhume his past. I have encountered other complainants who are naive about conciliation, sometimes in quite different ways, e.g., some assume that the conciliation officer is an arbiter who has the authority to impose a resolution. Assistant professors in tenure-denial cases are especially likely to have a poor understanding of what a conciliation effort will entail. In one instance, the assistant professor provided me with copies of his papers, suggesting that by reading these I would be able to see how unfair his tenure denial had been. I pointed out to him that I, an outsider in his field, was not qualified to judge the scholarly contribution of his papers, and, even if I were an expert in his field, I had no authority to overturn the decisions of those who had denied him tenure.

Although respondents (who are typically department chairs) are more likely than complainants to have an understanding of what is likely to be involved in conciliation, some respondents are unnerved by a complaint having been brought against them. In one instance, a respondent (a department chair) expressed her embarrassment about being involved in a conciliation effort and expressed concern that this would be a blemish on her record for the rest of her life. I tried to reassure her that a conciliation effort creates no formal record and that very able department chairs are sometimes the targets of complaints by members of their faculty.

A conciliation officer should make an effort to explain to both complainant(s) and respondent(s) what conciliation is not, something about what conciliation is, and something about the adjudication proceedings that might follow if a resolution is not reached by
conciliation. It is not possible, of course, to describe in advance exactly what will occur as the conciliation proceeds; that depends on factors that remain unknown in the beginning. But each party should understand that the role of the conciliator is to facilitate a resolution agreed to by the parties themselves and not to impose a resolution favored by the conciliator. In addition, it seems wise to emphasize that a good faith effort is expected from all parties but also to make sure that both parties understand that they may withdraw from the procedure at any time.

As conciliation becomes a more familiar concept among faculty members, conciliators may not always need to spend time explaining conciliation. But for the time being, a conciliator would be wise to assume that an orientation is necessary and that as a case proceeds, some features of what conciliation is (and is not) need to be repeated from time to time.

Although some disputes are not covered by the rules and traditions of the institution or of the units composing it, knowing those rules and traditions is often an asset to a conciliator.

Associate Professor Green seemed to lack familiarity with the rules of his own institution and the traditions of his department. For example, he didn’t seem to realize that the rules of our institution give a department chair the authority to make teaching assignments, and he seems never to have realized that in his department the faculty tradition was that some members sacrificed their preferred teaching schedules in order to present a well-rounded curriculum for students. In other instances, the complainant and the respondent may have different conceptions of institutional and depart-

mental rules and traditions. A conciliator lacking familiarity with the relevant rules and traditions is handicapped in seeking a resolution. Locating the relevant rules is not ordinarily difficult. Determining departmental traditions is often a more daunting task.

Colleges and universities are not nearly as peaceful as they commonly appear to outsiders. Faculty disputes are ubiquitous in academic life, growing out of contrasting priorities, conflicting interests, controversies over scholarly perspectives, adherence to different traditions, perceptions of unfairness, and the friction generated by incompatible personalities. Institutional rules have been designed to minimize disputes, but their interpretation is not always evident to the uninitiated, and the rules are inevitably incomplete. If academic disputes differ significantly from disputes in other settings, it is not because of the depth of feeling or the sense of injustice that is entailed but because academic disputes are complicated by an unusually diffuse authority structure, by long-standing precedents of faculty independence, and by strong personal commitments to different scholarly traditions. The resolution of a complaint may entail an understanding of such differences, which have a special relevance in an academic setting. Academic freedom, for example, doesn’t mean exactly the same thing to everyone. In one case to which I was assigned, a young faculty member thought he was exercising his academic freedom only to find that some others thought otherwise. I think the young faculty member would have found many advocates who would have claimed that he had law and tradition on his side, but he was not interested in taking on such a fight. He compromised, and the matter was dropped by all concerned.
Most faculty disputes are not the focus of conciliation, of course, but are brought to a close (which is not necessarily the same as being brought to a satisfactory resolution) by the disputants themselves—sometimes by discussion and compromise but perhaps just as often by dominance and submission or simply by giving up and taking off. One might almost say that bringing disputes to a close in these ways is an academic tradition. As a result, only a small proportion of all faculty disputes is ever referred to a conciliator for assistance in seeking a resolution. Among those that are referred to a conciliator, I suspect a disproportionate number are the “tough” ones—disputes that didn’t get resolved by earlier efforts, that have been simmering for a long time, that entail an unusually high level of hostility and frustration, or that entail inherently incompatible goals. This points to a final suggestion.

Conciliation isn’t always easy. It’s no disgrace to fail.
Establishing a Campus Restorative Justice Program
by Tom Sebok and Andrea Goldblum

ABSTRACT

Ombuds have a natural interest in promoting justice. A number of approaches used with much success in the juvenile justice arena in the past decade have attempted to operationalize principles of restorative justice (RJ). One specific model which utilizes RJ principles is called community-group conferencing. A group of staff members at the University of Colorado at Boulder has established a new RJ program that appears to be the first of its kind in a college or university. This article briefly describes RJ and illustrates our experience in establishing the program. It also provides information about lessons learned and raises a question of appropriateness for ombuds to consider.

Restorative Justice and Community-group Conferencing

The first ethical principle for the University and College Ombuds Association (1991) asserts that, among the various principles that guide the work of an ombuds, “justice is preeminent.” However, justice can be difficult to serve in the highly bureaucratic and impersonal higher education institution. The pursuit of justice may be further thwarted by the legalistic mindset and litigious nature of our society, which places people into defensive positions.

Ombuds, as well as other practitioners, have found traditional systems of justice (e.g. criminal, disciplinary, grievance) to be, at times, cumbersome, ineffective, and even revictimizing for some participants. We see a need for creative alternatives or supplements to traditional justice systems—options flexible enough to allow positive, productive responses to a variety of offenses or violations and which also fit the unique environment of the university. Community-group conferencing, which attempts to utilize the principles of restorative justice (RJ), appears to provide such an option.
According to McDonald (1995), “The family-group conferencing process has been used for centuries by the Maori people of New Zealand, although indigenous peoples in other parts of the world have employed similar processes.” Zehr and Mika (1997) state that the RJ perspective on crime is that it is “fundamentally a violation of people and interpersonal relationships.” In contrast to what often occurs in traditional justice systems, RJ approaches aim at balancing the rights, needs, and interests of victims, offenders, and community members. Fundamental concepts of RJ include “seeking to heal and put right the wrongs” and “making things right as much as possible.” A goal of RJ is to establish a framework that promotes the work of recovery and healing that is ultimately the domain of the individual victim. This framework includes prominently the principle that “the justice process belongs to the community.” Thus, community members are involved in voluntary, constructive dialogue and problem-solving with offenders, and they have active roles in determining innovative outcomes and strategies.

Community-group conferencing is a structured, facilitated meeting between offender(s), victim(s), family, and friends of both victims and offenders, and affected community members—all of whom agree to participate. In fact, according to McDonald (1995), it is the involvement of individuals beyond victims and offenders which differentiates community-group conferencing approaches from victim-offender mediation programs. In community-group conferences, after offenders describe what they did and were thinking at the time of the offenses, victims, supporters, and then community members tell how they were affected by the offenders’ actions. They identify the harm that has occurred—whether property loss, personal injury, or loss of a sense of security, hope, or relationship. All parties then decide together how the offender can repair the harm done and develop a contract. In western adaptations of conferencing process, if they are unable to develop a contract, the case reverts to the traditional justice system. This is a voluntary, democratic approach designed to promote understanding and support—as well as healing and closure—for all involved. It must insure that victims are not revictimized and that offenders have an opportunity to learn and be successful in not repeating offenses.

Application of a Restorative Justice Program in a University Setting

According to Umbriet (1996), restorative justice generally, and family-group conferencing in particular, have received increasing attention as alternatives to traditional juvenile justice systems in the U.S. We believe it has great potential for being effectively adapted to the unique culture and needs of university members and community. Discussions that lead to consequences, when generated by the people directly affected by a student’s conduct, meet the University’s mission: they have a greater emotional impact and seem more valid to all involved than outcomes imposed by administrators or as a result of bureaucratic processes.

Several characteristics of university communities make the use of an RJ model such as conferencing not only feasible but also a good fit:

- well-defined communities, which work to promote an ethos of care and integration and have ready opportunities for collaboration
- diverse populations, which deserve the flexibility of an RJ approach to offenses
- support systems normally available, such
as, counseling services; health centers; alcohol, drug, or anger management programs; and numerous other services

- Student judicial and residence-life missions and processes for which RJ is a complement.

Our Introduction to an Innovative Program

In Spring, 1998, at the suggestion of the police chief at the University of Colorado at Boulder, several staff members—including the authors—were invited to attend an information session to learn about a family-group conferencing program in Longmont, Colorado. Called the Longmont Community Justice Partnership (LCJP), it utilized community-group conferences as an alternative for dealing with juvenile crime in that city. Toward the end of the session, the leaders asked everyone to discuss applications of the principles of RJ in our various work settings.

The most obvious campus parallel to the juvenile justice system was our student judicial process, which is a means for responding to alleged violations of the University Code of Conduct. The Office of Judicial Affairs has jurisdiction for deciding, investigating, and sanctioning these allegations. However, the presenters had not mentioned any research about the effectiveness of community-group conferencing with college students. As far as we knew, if we proceeded, we were moving into uncharted waters; this prospect was both mildly scary and exhilarating. It was also clear that, if we were to try RJ on campus, it would be up to us to do it. We left the meeting with enthusiasm—as well as the names and phone numbers of all the presenters—for exploring the idea, knowing that we would need help in locating funding and organizing a program.

Something about the conferencing approach seemed to resonate with several of us. The Director of the Office of Judicial Affairs believed that, for offenders, understanding the effects of their actions and attempting to repair harm fit with the educational mission of her office. According to her, a high percentage (perhaps as many as 80%) of students investigated by her office admitted to violating the University Code of Conduct.

Furthermore, the notion of involving members of the community in a discussion about how they were affected by student behavior had a certain appeal. People on our campus had been talking for some time about the need to “build community.” Clearly, establishing this approach as one option for dealing with student wrongdoing offered the opportunity for greater community involvement.

At the LCJP program, in addition to the conference being a voluntary option, the victim(s), the offender(s), or the conference facilitator could choose to end the conference at any time. Should this occur, the case is immediately referred back to the justice system. This solid fallback position appealed to all of us, leading us to conclude that an RJ program would be directly applicable to our situation. Only people who voluntarily agreed to participate in a conference would be invited. If, at any time, the facilitator, the victim, or the offender opted out of participation, they could do so, and the case would revert to the traditional judicial affairs process.

Gathering Additional Information: Conferences and Training

In August, 1998, with financial support from a University of Colorado Robert...
Wood-Johnson-funded program, “A Matter of Degree,” the Coordinator of the Office of Victim Assistance and the Director of the Ombuds Office attended a three-day conference in Minneapolis—“The First North American Conference on Conferencing.” (The rationale for the funding from RWJ was the assumption that there would be a high degree of alcohol-related cases that might be addressed through an RJ approach.) This conference was sponsored by an organization from Bethlehem, PA called REAL JUSTICE. We found several sessions at this conference to be unusual and provocative—particularly one on forgiveness and another on reintegrative shaming.

John Braithwaite, the author of *Crime, Shame and Reintegration* (1989), as keynote speaker explored how a conferencing model might have been applied to the Clinton-Lewinsky matter, which, at the time, was consuming the national consciousness in America. He suggested that discussions between those immediately involved—primarily the two families—would have focused on identifying the harm that had been done by the president’s actions and how he might have repaired that harm. This was, especially at the time, a stark contrast to the media feeding frenzy that we were all experiencing and deploring.

Other sessions explored conferencing in public schools and in the workplace. Still another session probed the outer reaches of the conferencing model by detailing a series of nine conferences between the father of a murder-and-rape victim and the two convicted murderers and rapists.

Significantly, however, the conference-participant list included no other staff from college or university programs. That we might be among the first—if not the only—institution to start an RJ program was, for us, an exciting prospect.

In October, an RJ conference was held in Keystone, Colorado, with our Coordinator of the Victim Assistance Office and a police administrator from the university’s police department attending. Both returned enthusiastic about starting a program on our campus. Momentum was building.

Also in October the authors and the Coordinator for Student Conflict Resolution Service (SCORES) attended a two-day training session for facilitators near Longmont, Colorado. It included considerable hands-on training—that is, modeling of the skills needed for conference facilitation. In circles of 12, participants took turns playing various roles, including facilitator. With students from a local theater group playing offenders, a trainer guided the activities of each group. At several points, a stop-action approach helped participants to understand what they were observing. All three university-affiliated participants returned from that training full of enthusiasm and conviction that an RJ program could be effective on campus. The SCORES Coordinator even decided to volunteer as a facilitator in the LCJP program.

Collaborating to Create a New Program

Soon after the LCJP training a working group began meeting regularly to plan an RJ program for our campus. Members included the Director of the Office of Student Judicial Affairs, Coordinator of the Victim Assistance Office, Director of the Ombuds Office, Coordinator of SCORES, Coordinator of Housing Judicial Affairs, an assistant residence-hall director who had previous involvement with the LCJP, and a police admin-
istrator from the university police department. The chief of police gave the Director of Judicial Affairs $2500 to hire a student to help with some of her responsibilities, allowing her the time to help get the program started. This group met several times in the fall with people from the LCJP program to help clarify what we would need to undertake a program. Eventually, a vision for the project evolved, with two additional groups formed: a student, staff, and faculty group that would be trained in facilitation skills; and an advisory board made up of key decision makers, alumni, and community members.

The members of the working group identified a network of potential facilitator trainees in whom we had confidence. For the most part we chose facilitator volunteers on an invitation-only basis. In December, 1998 and January, 1999 we invited approximately 20 individuals to participate in a facilitation-training program to be held in February. One source of participants was the SCORES program. SCORES, a peer mediation program, involved a half dozen very enthusiastic students who had already received basic mediation-skills training. Many were communication majors; all seemed to possess the kinds of skills needed to facilitate conferences. In addition, several people who heard about the program called us to volunteer. Although most people had not heard of conferencing or RJ, we found, once the basic concepts were explained, a marked enthusiasm among those with whom we spoke. Recruiting, although time-consuming, was surprisingly simple: those who were invited wanted to participate in a process which attempted to repair harm rather than punish. Also some were eager to help establish a program that, as far as we knew, would be the first of its type in a U.S. college or university.

Training Volunteer Facilitators

The February facilitator training took approximately 15 hours and had three parts: Thursday evening, all day Saturday, and six hours on Sunday. The Director of Housing waived the normal $225 fee and allowed us to use a conference facility for free. For one day, the food costs were paid for by the Robert Wood Johnson Foundation grant program. Another day, they were paid for by the University Police Department. Two trainers from the Longmont program assisted in delivering the majority of the training. This training was intensive and hands-on. By the end, a new group within a clear identity had formed.

But with no cases to work with, we did not want the facilitators to lose their enthusiasm or their skills, so we established monthly in-service programs for the remainder of spring semester. At the March in-service, the Director of Judicial Affairs presented several possible cases for our consideration. As our first case, we selected one involving property damage and an injury to a police officer. Since none of us involved in the project had facilitated an actual conference and since we wanted the first one to have a maximum chance of being successful, we asked Thom Allena, the consultant who had provided much of the training, to serve as facilitator. The Director of the Ombuds Office served as co-facilitator.

The First Conference

In this case a male freshman student admitted to having broken an expensive ($5,000) urn in a memorial garden outside his residence hall at about 3:00 a.m. on a weekend. Additionally, he ran from a police officer who happened upon the scene at the time of
the incident and, by attempting to run past the officer who was trying to restrain him, caused him to sprain his wrist.

As is the usual procedure, prior to the conference, the facilitator first discussed with both the victim and offender the foregoing events, asking them to assess their levels of responsibility-taking (a key word in community-group conferencing) for their actions, outlining what to expect in the conference, and asking them to identify other potential conference participants. After speaking with the student and the police officer, the facilitator concluded that other participants for the conference might include three supporters for the student: his mother, stepfather, and a friend from his residence hall. Given the circumstances, he did not see any need for a supporter on behalf of the police officer. Also, in addition to the police officer, the facilitator identified another victim: the daughter of the woman to whom the memorial garden was dedicated—who frequently used the garden for meditation and reflection. Unfortunately, she could not be reached and was, therefore, not a participant. Though we attempted to reach the housing groundskeeper who cleaned up the broken urn, we were unsuccessful in coordinating schedules with this person. As an alternative, the university’s head groundskeeper was invited because we thought he could discuss the impact of required clean-up work. One of the trained student facilitators, a soon-to-be-graduating female, agreed to serve in the role of affected community member by discussing how vandalism of this sort affected her.

The facilitator assigned seating to the participants as follows: the offending student sitting to the facilitator’s left; next the student’s stepfather, mother, and friend. Sitting opposite the facilitator in the circle was the co-facilitator, to whose left were the head groundskeeper, the police officer, and the senior female student. This seating arrangement was intended to promote—and did so—responsibility-taking in a supportive setting and a feeling of safety for anyone who may have felt threatened or uncomfortable. (In this case, that did not appear to be a problem, but, in some conferences, it is very important.)

The facilitator began the conference by saying, “We have brought this group together not to decide whether this student is a good or bad person but rather to identify the effects of his actions and, to the extent possible, to find ways to repair any harm done. We hope, as well, to assist him in making better future choices.”

The first 45 to 50 minutes involved a very tightly facilitated discussion between the facilitator and each individual in the circle. He began by asking the offending student to discuss what happened, what he was thinking at the time, who he thought his actions had affected, and what had occurred for him since the event. The young man admitted his responsibility for the act of vandalism.

Next, the facilitator turned to the police officer, asking him to describe from his perspective the events of that early morning and how they affected him. He described working the night shift for a friend, spending hours in the emergency room, and coming home to a worried spouse; he also stated that he had lost sick leave due the university’s policy requiring use of sick leave prior to receiving disability pay. At the end of his remarks, the police officer referred to an incident he had read about in a newspaper a few months previously, involving the vandalizing of a tree that had been planted in a memorial to someone’s brother. He did not realize that the person who had
planted that tree was the head groundskeeper, who was sitting on his immediate right and was the next person to speak. The head groundskeeper's remarks were particularly poignant and seemed to make a notable impact on all participants.

The facilitator asked other participants to simply describe how they were affected by the offending student's actions. He knew that the student's mother was angry that her son had spent a night in jail and that he had already faced consequences through both the Housing Judicial Affairs Office as well as in Boulder District Court. However, by the time she spoke, she had already heard the effects of her son's actions on others. She said, "I came to this conference angry about [her son's] situation, but my heart softened upon hearing your stories." This was a turning point, but the conference was far from over.

The last person to speak in this phase of the conference was also the first—the offending student. The facilitator's question was simply, "Is there anything else you would like to say?" The facilitator later told one of the authors that, often, after hearing how their actions affected others, offenders will demonstrate that they understand the breadth and depth of these effects on others and spontaneously apologize for their actions. However, in this case, the offender did something else: he began to portray the incident as an accident. The facilitator immediately questioned him about his backing away from his previous admission of responsibility for breaking the urn. He responded by professing confusion over what had happened. He now seemed to say that, when he pushed against the heavy urn and finding that it was loose, it rocked and "accidentally" fell off its platform. As his confusion cleared, he finally agreed that it was not an accident, after all. (In private conversation with one of the authors later, the facilitator said that, in his experience, such wavering must immediately be challenged, since any reversal by the offender from the original responsibility-taking could revictimize a victim. This revictimization, he stated, could change the momentum of an entire conference within seconds if not confronted.) The facilitator's manner, while assertive, did not have the negative effects that a confrontation by a less diplomatic, skillful person might have had.

The second half of the conference began with the facilitator asking the co-facilitator to read back the effects that had been identified as resulting from the offending student's actions. (Listening for and noting these effects is the primary job of the co-facilitator in the first half of the conference.) After this recital of effects and because the offending student had already faced consequences in Boulder District Court and from the Housing Judicial Affairs Officer, the facilitator asked him to describe the sentencing he had already received. Then, the facilitator asked each participant, "What do you think should happen next?" Essentially, this was a brainstorming session in which ideas that attempted to repair the harm could be heard. The facilitator encouraged the group to come up with ideas that were "measurable" and "doable." In this case, because the facilitator strategically elicited information about the triple jeopardy facing the student, the group came up with only three items. The student was required:
1) to write a letter of apology to the daughter of the woman to whom the memorial garden was dedicated and to deliver this letter to the Office of Judicial Affairs;
2) to get one or two friends and meet with the head groundskeeper to discuss students' perceptions of their responsibilities with regard to the campus environ-
ment; and 3) to do a four-hour (11:00 p.m. to 3:00 a.m.) ride along in a police car with the police officer involved in the original incident on a weekend night prior to the beginning of school. (This was an attempt to help the student empathize with the perspective of a police officer in dealing with campus problems.)

From our point of view, this first case was a smashing success. However, to gather data about how the participants viewed the process, we asked all of them to complete evaluation forms. Their evaluations were unanimously positive.

Funding

In June, a half-day, off-campus retreat resulted in a decision to pursue funding to hire a conference coordinator—someone who would relieve the group of the burden of managing all the program details. We could foresee that, because we all had other responsibilities, without a coordinator we would not be able to sustain our efforts and could not deal with many cases using the conferencing model. We agreed upon a strategy to pursue funding from a patchwork of sources, including requests from advisory-board members for funding and their assistance in talking with others on our behalf to request funding. Within a month, we had secured enough funding to hire a conference coordinator (a graduate student who had been trained as a facilitator in February) to work 20 hours per week. As of this writing, she is actively involved in assuming this new role. We expect to take four new cases in the next month and, if history is any indication, there will be many more after that. Part of her role will involve tracking time expenditures. This will be used to support a request for permanent funding for the next academic year.

Lessons Learned

Attempting to establish a RJ program was a learning experience of the highest order. Our initial perceptions (“It would be a lot of work” and “If a program is to be established, it would be up to us to do it”) were absolutely correct. Of course, we had no idea of how much work, in addition to our normal workloads, it would require. We were far along in our efforts before that became apparent. Also, while it was true that we were responsible for following through on the details to make the program a reality, we were pleasantly surprised by the degree of enthusiasm for the idea. That response made finding facilitators and an advisory board pretty simple, especially by the use of e-mail. Their acceptance of responsibility-taking and repairing harm showed that these concepts really seem to fit within the educational mission of the institution.

Our own enthusiasm led us to make a few choices that, in hindsight, were probably unrealistic, especially with regard to timing. For example, we proceeded with the facilitator training in February but did not have a conference coordinator in place. All the logistical details required to process our first case were left to the authors and the facilitator. The great need to coordinate and share information in setting up a conference means that detailed planning must occur in a timely manner. Planning for our first conference was anything but timely. This is a lesson to be learned quickly and well.
Ideally, we would like to have begun having many conferences immediately after the February training. That would have allowed the recent trainees to practice and develop their skills when they were still fresh. Thom Allena told one of the authors, “Starting an RJ process helps identify already existing structural issues within the institution.”

Our first case taught us that many students face triple jeopardy—i.e., the offender’s being held responsible in three different judicial processes. We are hoping to initiate discussions with the Boulder District Attorney’s office to request that they allow the RJ process to serve as a double diversion (i.e., allowing this process to serve as an alternative to both other university and county judicial processes). According to the police administrator on our working group team, this would reduce their caseload, so we are hopeful they will be supportive of the idea. Similarly, the Housing Judicial Affairs officer and the University Judicial Affairs officer are both on the working group team. We therefore see a real possibility of avoiding double jeopardy between their systems.

The lengthy to-do lists which resulted from our working group team meetings kept us busier than usual for a year. Hiring a coordinator whose responsibilities are solely to deal with this program relieved all working-group team members of many of these responsibilities. Because of the large commitment required to establish a program, it would probably be best for team members to limit their additional volunteer activities (e.g., committees, special projects, etc.) during the time the program is being established.

Talking about conferencing with people who have not heard about it can be a challenge. Sound bites are, of course, limiting, but they can be useful (“A two-hour group discussion aimed at repairing harm and helping the offender make better future choices” is about the best we could find). However, developing these shorthand explanations to the extent possible is helpful in getting the attention of the uninitiated—especially administrators.

Scheduling can be a nightmare when 20 or more people are involved. We suggest clearly stating the time commitment for facilitators (e.g., training, serving as affected community, and, of course, facilitating and co-facilitating) in the beginning and using a monthly calendar for participants to identify times they are available. Scheduling the actual conferences is best accomplished by having a conference coordinator establish a possible conference schedule according to the victim’s (or victims’) available dates and times.

E-mail is a wonderful, efficient communication tool; however, as we discovered, the person who sets up the list for all conference participants must make it possible for everyone on the list to send, as well as receive, messages.

Logistics can also create barriers. For example, our first conference was scheduled to occur in the evening. We needed a meeting room where we would not be interrupted and where we had access to a copy machine (for making copies of the contract at the end of the meeting). Because we failed to check on last-minute room availability and access to an alternate room, we accidentally locked out one of our conference participants.

As we develop the program, we will probably review the kinds of cases we can best handle using the conferencing process. Cases for
which the normal sentence in the traditional judicial process would involve only probation may not provide an incentive for students to endure what can be a difficult two-hour process. On the other hand, cases in which violence has occurred may not be appropriate for handling in this venue. As our facilitators’ skills develop, we are likely to attempt more difficult cases.

A Final Caution

The plan at this point is for the Director of the Ombuds Office to initially facilitate a few conferences and then supervise the facilitators. This raises a final issue that should be of concern to ombuds. Is participating in a collaborative project— even one designed to promote justice—appropriate for an ombuds? It certainly could be argued that such participation sets up a potential conflict of interest. The Ethical Principles for the University and College Ombuds Association (1991) suggest this is something an ombuds should avoid. The desire to avoid such a conflict might lead many ombuds not to participate in such an effort.

For example, if an ombuds participates on a community-conference team and one of the working-group team members contacts her for assistance with a dispute between her and one of her staff members or colleagues, the other staff member could easily perceive bias on the part of the ombuds. Disclosure to the non-team member about the nature of the ombuds relationship with the group team member is essential. Disclosure may not, by itself, however, solve the problem. If another ombuds is available, a referral to that person is one way of meeting this difficult situation. Moreover, hav-

ing to make such a referral would be an indication that the additional role of working-group team member was interfering with the ombuds’ ability to perform her primary role. Hopefully, this would not occur often. If it did, an ombuds should seriously consider whether it is appropriate to continue participating as a working-group team member. Given the opportunity to promote justice, some ombuds may nevertheless choose to participate in helping establish a program which is designed to encourage responsibility-taking, repair harm to relationships, and develop a greater sense of community in the campus environment.

References


As a result of our ongoing reassessment of our services over the years, the Staff Ombuds Office at the University of California at Berkeley has become increasingly aware that many people who come to our office for one-on-one counseling sessions bring problems that might never have developed, or might have been minimized, had there been training of some sort—whether for the visitor, for the person with whom the visitor is in conflict, or for an entire work group. Consequently, we have placed increasing emphasis on the development and presentation of our own training programs, as well as programs presented in collaboration with other campus offices (such as Human Resources and the employee assistance program). We see these training programs as creative extensions of the ombuds functions of counseling and agent of systemic change.

Based on our own observations, anecdotal evidence, and the consistently high ratings our courses receive (via assessment forms following each class), we are convinced that the pay-off to the campus for direct ombuds involvement in training has been substantial. The programs are a cost-effective means for helping people to develop their conflict resolution skills. They also contribute to the first part of the university’s stated mission of teaching, research, and public service. In addition, during these programs we often hear comments that provide us with valuable information about the current campus climate; as we teach, we also learn.

I would like to recount the what, why, and how of ombuds-presented training programs: their characteristics, their goals, and the methods we have devised to ensure that they meet campus training needs related to conflict resolution. Because these methods include collaboration with other campus departments, the programs have the additional benefit of fostering communication and teamwork among campus units that have roles to play in the prevention and resolution of disputes.

Expanding Upon Existing Resources

As part of the traditional ombuds role of providing resources and referrals, we have always referred visitors to appropriate training programs on or off campus as we become aware of their specific, individual needs during one-on-one counseling sessions. We are fortunate in having a wide array of training programs available on the Berkeley campus, through departments such as Human Resources, the employee assistance program, and the information technology group. (Our campus training catalog for staff employees and managers is nearly ninety pages long and is packed with valuable classes.) There are also many community resources that offer a wide array of training programs.

Training programs to which we routinely refer people cover such topics as career development planning, time management, leadership, performance management, writing skills, computer skills, conducting meetings, super-
visory training, stress management, violence in the workplace, sexual harassment, job search skills, and many others. However, as we have analyzed campus trends over the years we have become increasingly aware of training needs that are best met through direct application of our expertise in conflict resolution.

Training programs presented by the ombuds themselves fall into three categories: 1. informal training (coaching and providing self-help resources); 2. formal training (classes offered regularly to campus employees and/or to campus supervisors, plus classes tailor-made for specific groups); and 3. indirect training (ad hoc lectures and presentations).

Informal Training: Coaching and Providing Resources

As part of our one-on-one counseling sessions, we often engage in role-playing and other forms of coaching, then help visitors select self-help resources from our library of books and tapes. (With our recent acquisition of long-awaited space, we now have comfortable browsing space and viewing equipment.) In addition to using training materials developed by others, we developed a popular booklet, Flexible Work Arrangements, and we are working on a series of handouts providing tips on how to resolve common problems. We plan to put these resources on our web site so that they are as widely available as possible.

These printed, aural, and visual resources reinforce the coaching sessions and help employees move toward self-reliance. For example, during a counseling session, we become aware that a conflict involves bullying behavior. We coach the visitor on how to deal with bullies in general; role-play an imagined encounter with the particular bully; lend a book on dealing with bullying behavior in the workplace; and encourage the person to take our class on dealing with difficult behavior.

We have found that the ability to listen effectively (and to convey to the other person the sense of having been truly and respectfully heard) is the single greatest training need—at all levels of the campus—for purposes of preventing and resolving conflict. Therefore, we probably spend more time coaching visitors on listening and speaking skills than on training in any other skills, and we make liberal use of books and tapes on these topics as well as handouts we have developed.

Formal Training Programs: Ombuds Office Classes

Classes developed and presented by the Staff Ombuds Office fall into three categories: ongoing classes for employees, ongoing classes for supervisors, and classes tailor-made for specific departments or occasions.

Classes for employees. A basic class offered regularly for staff is Resolving Conflicts. In it, we teach employees how to analyze conflicts by presenting a series of typical workplace scenarios (taken from our own experience as ombuds but thoroughly disguised to ensure confidentiality), guiding them through an assessment of: what is really going on (the underlying issues and interests); how to select strategies for resolving each particular type of conflict; and how to communicate effectively. One of the most effective parts of this program is the time spent in practicing listening and speaking skills in small groups, followed by a debriefing with the entire group.
An even more popular class for staff is *Dealing with Difficult Situations and Behaviors in the Workplace.* This is in effect an advanced version of the *Resolving Conflicts* class, working with the most difficult kinds of workplace conflicts. Because the class deals with some highly charged, long-standing situations, we present this class jointly with staff from the employee assistance program. The class covers anger management; strategies for dealing with difficult styles; effective communications (oral, written, and by e-mail); and lots of role-playing to develop skills in giving and receiving criticism. The focus is on identifying and removing one’s own roadblocks in order to bring about positive change.

Another class is *Making a Fresh Start,* which we offer either on our own or in conjunction with employee assistance program staff. This is an intense, two-part workshop for campus employees whose reputations have been badly damaged or who for any number of other reasons feel “stuck”: unhappy in their current roles yet unable to break out of them. The emphasis of this group is on sharing painful experiences in a controlled setting in order to identify self-destructive patterns and then developing specific plans to break out of the old patterns, using each other for mutual support. Class size is kept very small, and a commitment to following ground rules and participating fully is an essential requirement. The class is perhaps the most difficult one we lead, but it has been perceived as extraordinarily effective for—and by—the participants. Our main concern with it is that it is so labor-intensive. It takes eight hours (four hours in two consecutive weeks), and whenever we have increased the size beyond a dozen or so participants, it becomes far less effective.

Classes for supervisors. Our foundational class for supervisors is *Managing and Mediating Conflict in the Workplace.* To reinforce our philosophy that effective management of conflict is a key management responsibility, we begin by exploring how unresolved conflicts between individuals can expand to the point of making an entire department dysfunctional. The class covers much of the same ground as the *Resolving Conflicts* class for employees, but the focus is broader, covering three types of conflict: 1. supervisors’ conflicts with their own staff; 2. supervisors’ conflicts with those to whom they report (often faculty); and 3. conflicts among co-workers or across units. We emphasize the supervisors’ role in empowering employees to resolve their own conflicts. Supervisors begin by mapping conflicts within their individual work settings and assessing their personal styles of dealing with conflict. We then teach them specific skills: assessing the sources of conflict, selecting the best coping strategies, communicating effectively at all levels (with special attention to effective communication with faculty), and facilitating difficult conversations between co-workers.

We also offer programs on *Performance Feedback: Positive Ways to Resolve Differences,* in conjunction with human resources’ performance management series for supervisors, and *Implementing Flexible Work Arrangements* jointly with human resources staff.

Classes tailor-made for specific groups or occasions. Campus managers often come to us requesting training for their staff. We begin by conducting a needs assessment to determine whether training by the ombuds office is a viable means of achieving their goals. For example, sometimes we determine that it is the
managers, not the staff, who are most in need of training (in which case we might refer the managers to human resources’ management skills assessment program or performance management and leadership development classes), or we determine that the most appropriate training is offered elsewhere (such as human resources classes on writing job descriptions or career development, or the Title IX officer’s training on sexual harassment, or the employee assistance program’s classes on stress and on workplace violence).

And sometimes we determine that training is not what is needed at all. For example, we occasionally find managers looking to us or to other trainers to “fix” their staffs, when what is needed in actuality is for the managers to carry out their management responsibilities.

Once we assess that training by ombuds staff would be useful, we either conduct one of our regular campus programs (see above) for their work unit, adding case studies based on typical problems they have encountered in their particular work group, or, more often, we design new programs to meet their specific needs. Examples:

- *Imaginary Contracts*, presented separately to engineering and housing/dining staff members using scenarios from each of their workplaces;
- *Group Process*, presented to our management academy;
- *Politics of Work and Transforming Conflict*, presented to undergraduate advisors; and
- *Managing Conflict with Outside Agencies*, for student volunteers assisting community agencies.

Indirect Training: Using Other Platforms

In addition to the four venues mentioned above, our office also instructs through other means. We are often invited to lecture, serve on panels, or make other kinds of presentations to various campus (and occasionally system wide) bodies. Some of these activities are, in effect, extensions of our training responsibility. Training was a significant component of presentations such as these:

- *Understanding Campus Culture*, presented to our leadership development group;
- *Implementing Flexible Work Arrangements*, presented to business officers on other UC campuses;
- Panelists on forums related to *Gender Dynamics, Wellness, Eldercare, Child Care, and Diversity*; and
- *Implementing Campus Principles and Values*, presented to staff organizations.

Determining the Optimal Training Format

The best training takes into account a clear and achievable goal, the individual’s learning style, and available resources. Within these considerations, training can occur in a tremendous variety of ways. To assure maximum effectiveness, we look first to existing external and internal resources, then to new classes and self-help tools, and last of all to one-on-one coaching. We also make ad hoc events, such as lectures and panels in which we participate, do double duty by using them as opportunities for training.

As ombuds, we have insights that enable us to assess which types of training are the best fit, given the particular individual and work con-
text. For example, for a department that is functioning reasonably well and that has focused training needs, we might decide to deliver a tailor-made program. (Tailor-made training programs held within a department have the additional advantage of enhancing team-building.) But for another department in which there are diverse training needs, or perhaps some people who are deeply entrenched in their positions (or particularly difficult to deal with, or living in great fear of reprisal for speaking up—the list could go on), we may suggest that the group be split up, with individuals being given individual coaching or sent separately to various existing classes (whether offered by our office or by other departments). This can have the advantage of enabling participants to feel safer (and thus to join in more fully), to gain from outside perspectives, and to develop resource networks. It also helps to build campus community—always a difficult challenge on a campus this large (10,000 staff employees), yet a continuing, major goal of the campus administration.

Ombuds have special knowledge, insights and skills that enable us to provide certain kinds of training more effectively than other campus or outside trainers. By the nature of our one-on-one counseling (including the assurance of confidentiality, which encourages visitors to open up about underlying issues), we are in a unique position to develop various kinds of training programs and resources, both informal and formal, that will assist the campus in forging productive interpersonal relations in the workplace. Ombuds offices can also develop effective collaborations with other campus departments (such as, human resources, sexual harassment, and affirmative action offices, employee assistance programs, and health and safety offices) to create programs that are more comprehensive than any one of these departments might offer on its own.

Notes

1 At UC Berkeley, ombudsing is conducted through three separate offices—for staff, students, and faculty. This article describes programs offered by the Staff Ombuds Office.
2 Staff, supervisors, and managers. (Nearly half of our visitors are in the latter two categories, which include faculty who supervise staff.)
3 The catalog may be viewed at http://hrweb.berkeley.edu/hrclass.htm.
4 The library contains nearly 400 volumes. Our Assistant Ombudsperson, Michele J. Bernal, provides an important service in guiding visitors to the most appropriate materials. (See related article.) A practical note for anyone considering establishing an ombuds library: overseeing the timely return of loaned materials can be an administrative burden. For this reason, expensive or hard-to-replace materials are non-circulating, and videotapes are loaned to groups only, for one day only. Individuals may arrange to view them in the library.
5 Margo Wesley, _Flexible Work Arrangements_ (©The Regents of the University of California, 1998); available in hard copy, and also on-line at http://campus.chance.berkeley.edu/depcare/guide/index.html.
6 http://stfomods.berkeley.edu/
7 We used to call the class _Dealing with Difficult People_, but changed the title so as to lead participants away from their tendency to identify other individuals as "problems." (Ironically, the class seems to hold a particular attraction for people who have been viewed as "problems" by others but who are unaware of how they are perceived.)
Ombudsing on the Frontline
by Michele J. Bernal

For the past several years, as Assistant Staff Ombuds for the Staff Ombuds Office at UC Berkeley, I have been the frontline unit contact for both the ombuds services and business aspects of our small, yet fully independent, campus department. Our unit staff includes a departmental Director & Staff Ombuds, an Associate Staff Ombudsperson, and me. I like my job very much and am proud to work as part of the Berkeley Staff Ombuds Office team. In the belief that my job is rather different from the way many campus ombuds offices operate, particularly with regard to intake, I would like to describe my work.

Client Services

The most important aspect of my position is direct client services: providing pertinent information and referrals to people who contact the office; conducting intake interviews and assessment; and providing short-term support and guidance for employees until their appointments with us. I am frequently the first person employees talk to when they finally decide to seek assistance with their work-related conflicts and concerns. Often, their problems spill out to my willing ear, and they seem truly relieved that such a service exists. I try to make them feel as comfortable as possible using an ombuds office, frequently reiterating the basic ombuds tenets of confidentiality, impartiality, and informality. It usually takes a lot of courage for employees to call and ask for help or otherwise explore options for handling their workplace strife, so I do what I can to make them feel safe, such as reassuring them of our strict confidentiality policy. Most of the initial contacts are sufficiently complicated to warrant an appointment with an ombuds, so preparing them for their appointment is part of the intake process. By getting the clients to sort out their complex problems and situations ahead of time, I enhance the ombuds’ ability to make good use of the appointment time.

We see UC Berkeley staff from all levels: entry level temps to senior executive managers, as well as student workers and non-faculty academic employees, such as lecturers, researchers and librarians. We see a wide variety of clerical, professional, academic, skilled crafts, and service workers--each with a story as different as the employees and jobs themselves. These employees come from numerous departments and organizational structures on a campus of approximately 12,000 staff employees.

An intake interview can take from 5 to 20 minutes, depending on the complexity of the situation and on how needful the employee is to get immediate concerns heard and questions answered. Also, staff usually have many questions about our services and how they’re delivered, so I must be ready to respond effectively to the great variety of forms these queries take. An ombuds’ office can be a very mysterious entity to them: “What do you guys
do?” “What is an ombuds?” “How can you be neutral when the UC pays your salary?” “What can you really do to change my situation?”

 Feeling that they are taking a risk in opening themselves up, many need encouragement and reassurance. Occasionally, there is an impending meeting or other deadline they face, which will occur prior to their appointment with the ombuds, or they are presently in a state of distress or other emotional state related to their work situation. In those instances I can usually give them enough encouragement, basic guidance, and hope to see them through until I can schedule their appointment with an ombuds for more thorough discussion of their problems and options for resolving them. When their questions are procedural or policy-oriented, rather than interpersonal, I must be able to either cite the correct policy or procedure, refer them to the campus Website, or make referrals to other relevant resources, such as the employee assistance program or Human Resources. I must be familiar with the various services for employees throughout the UC, know what I don’t know, and be able to find correct information for them, whether they actually end up coming in or not.

 Scheduling appointments can be complex. In assessing the urgency and gravity of the situation, I must protect employees’ privacy and consider their schedule constraints, as well as balance the workload and needs of the Director and Associate Staff Ombuds and our department in general. Prior to the appointment, I take temporary intake notes from which I brief the ombuds on the presenting problems prior to the appointment, thereby enabling the ombuds to do any preliminary research that might make the appointment with the client more effective. If I see that supporting docu-

 ments or a draft of an intended document would be helpful to the ombuds, I ask the employee to try to bring such information to the appointment or develop a draft if he or she has not already done so.

 Even after an employee talks with an ombuds, my involvement in the case may not end. I support the ombuds, if necessary, by coordinating subsequent meetings with relevant parties, such as co-workers, supervisors, directors, departmental chairs, deans, or vice-chancellors. It can frequently require considerable diplomacy and tact to get those other parties to understand what and who we are and, more importantly, that an ombuds’ interest lies not in advocacy for any side but in informal resolution of conflict. Sometimes an ombuds considers mediation or other facilitated group meetings to be appropriate; I then coordinate everyone’s participation. If important information from an ombuds must reach employees after their visiting our office, I occasionally impart this information to them if the ombuds cannot; this also involves responding effectively to employees’ reactions, helping them understand the information.

 From the intake interviews I also collect significant client data to be transferred to an internal statistics sheet for later use in our database for compiling profiles of the employees who use our services and the problems they bring. This information is used in the Staff Ombuds Office’s annual report and is widely distributed on campus and elsewhere. I am also responsible for conducting a client-satisfaction survey once a year and compiling the results, which are a gauge of our effectiveness.
Classes, Workshops, and Meetings

The Staff Ombuds Office also offers a variety of conflict-resolution and communication-skills classes and workshops for campus employees and managers. We also tailor classes and workshops to any campus department that requests them, as well as provide general centrally delivered classes open to all UC employees. (See accompanying article by M. Wesley.) I coordinate these classes and arrange class materials.

The ombuds and occasionally I, too, serve on numerous campus committees and workgroups who request the presence and input of a staff ombuds. Our office is also active in major professional organizations such as University of California Ombuds Association and The Ombudsman Association. Balancing of the complicated scheduling that these activities require is another function of my position.

Reports and Office Management

The Staff Ombuds Office submits a variety of campus proposals, profiles, and administrative reports. Though we often work as a team in developing them, I may be asked to take the lead in gathering or organizing pertinent information for formal review.

The secondary major function of my position as Assistant Staff Ombudsperson/Administrative Analyst for our unit is that of office manager: handling matters of budget, personnel, and benefits; purchasing; travel; technical systems; and equipment. I also monitor a small circulating library and the physical needs of the office. Many of these tasks require special handling because of the unique concern of an ombuds office for confidentiality, informality, and neutrality, while we create the feeling of a safe, comfortable, professional atmosphere for our users. I truly enjoy the unique character of an ombuds office, although it's often a challenge defining ourselves and our functions in conventional campus departmental terms.

I am privileged to feel a sense of relevancy and fulfillment in my role as Assistant Staff Ombuds in service to my unit and the employees of our campus. I believe the intake system we employ especially helps the office achieve its mission as a caring, accessible, campus resource for alternative dispute resolution.
A Behavioral Model of Academic Ombudsing
by Lois Price Spratlen

Introduction

Most academic ombuds appointed between the 1960s and the early 1980s assumed the responsibilities of this position without formal education in conflict management and dispute resolution. Generally, individuals selected as ombuds were senior-level members of the college or university community and held faculty or administrative positions that warranted respect. They were considered qualified for ombudsing since they could draw upon and apply knowledge and skills acquired in their professional disciplines or in their organizational, political, and professional activities. Based on the continuation and growth of ombudsing over time, most have met the expectations of the institutions where we serve.

During the past decade, academic ombudsing has changed in a number of ways from its earlier years. An increasing number of ombuds are not faculty members with expectations of writing and research as part of their role. Often faculty members who assume ombudsing roles do so only part-time and with few institutional incentives to go beyond direct service delivery to clients. Further, some institutions limit the number of years that a faculty member can remain in the ombuds position.

A shift has occurred in the nature of service delivery. Some ombuds serve only students. Others serve only staff. Still others serve only faculty. In many institutions there is an integration of services, where all members of the university or college community are eligible for service from a single ombuds office regardless of their role status.

While there has been a change in terms of which client group is served by which ombuds, there has been a lack of attention directed to conceptualizing the field and systematically determining what effective ombudsing entails. By focusing attention on the client’s problem, we often have not thought reflectively and broadly about our own role in terms of what we do and why it is that we carry out our responsibilities in this particular manner.

This paper offers a model that contributes to a behavioral analysis and understanding of the ombudsing process. The model has evolved over my 17 years of ombudsing, reflecting my educational and professional experience previous to my appointment in 1982 as University of Washington Ombudsman for Sexual Harassment, as well as knowledge acquired since that time.

I entered ombudsing from a long career in psychiatric and mental health nursing and urban planning. Both fields employ a systematic problem-solving process with the aim of better understanding human behavior, as I have explained in a previous article (Price Spratlen, 1997). I have adapted theories from these two disciplines to improve delivery of conflict prevention, management, and dispute-resolution services to well over 5,000 students, staff, faculty, and other persons within the academic community who requested services in the Ombudsman’s Office at the University of Washington.
This model of ombudsing offers a method or structure for analyzing relationships between the ombuds and the client. It is behavioral in its emphasis on what ombuds do in carrying out our various roles and functions. It is grounded in theory and can be used in practical ways to study and manage relationships. I have used this model in two ways: (1) to identify the needs or problems reported by clients who requested help related to a broad range of conflicts, needs and concerns; (2) to frame responses that guide me and the client through various strategies for preventing, managing, and resolving conflict. The ombuds who uses this behavioral model will possess a very reliable guide that can be followed through various interactions with a client extending from the initial encounter through the resolution or referral process.

This behavioral model consists of phases and roles: four generic phases that apply to every ombuds-client relationship and nine roles played by the ombuds as the relationship progresses through these phases. By raising their consciousness of phases and roles, ombuds can enhance their ability to achieve the following outcomes:

- Help the client define the problem, need, or conflict that motivated the request for ombuds services;
- Engage the client in a systematic search for relevant strategies to intervene in, manage, and resolve the conflict;
- Promote knowledge, skill, and competency development in the client;
- Identify how the newly acquired competencies can be used to prevent similar problems in the future.

Phases of the Ombudsing Process

My colleague, Susan Neff, and I identified four phases of the ombudsing process as they are carried out in our office (Price Spratlen and Neff, 1996). They are orientation, facilitation, termination, and evaluation. While each has characteristics that distinguish it from the others, they overlap and interact with one another. To the degree that they are different, however, their conscious recognition by the ombuds provides a structure within which all the details of each ombuds-client relationship occur.

Orientation. The client and the ombuds meet face-to-face and introduce themselves. After the ombuds briefly describes services available in that office, the client briefly describes the problem that brought him or her to the office. Together, they develop a plan of action.

Facilitation. The majority of work in problem solving and conflict management occurs in this phase. If no resolution can be found, the ombuds refers the client to other resources or services available on or off campus.

Termination. The ombuds and the client review the processes and achievements of the facilitation phase and plan for the client’s re-entry into the learning or workplace environment. The client learns of the importance of follow-up on all agreements and of the continuing availability of ombudsing services as needed.

Evaluation. The client completes an evaluation form (first given during the orientation
phase and completed away from the ombuds’ office) that covers all four phases of the om-budsing process and that is to be returned through campus mail. Direct intervention with the client concludes.

Roles Enacted by the Ombuds

In directing thought to the matter of what ombuds do, a specific role such as mediator might readily come to mind. However, others that follow in close association would be counselor or educator. In his analysis, Olswang (1998) described seven roles. As a participant-observer of my own process, I noted two more. What each role generally involves or includes as carried out in this ombuds office is identified below. The nine roles are:

**Understanding** - The ombuds actively listens with compassion and seeks to understand the client’s perception of the nature and meaning of the problem. The ombuds also identifies interventions that will quickly engage the client in seeking solutions to the problem (including both the client’s own actions and other sources of institutional support).

**Clarifying** - The ombuds reviews the client’s description of the problem, setting it in a context of institutional policies and procedures that are relevant to the client’s unit or department.

**Communicating** - The ombuds identifies the appropriate institutional representative(s) (e.g., supervisor, manager, chair, dean, director, or provost) who must know about the client’s problem and, with the client’s concurrence and participation, establishes communication with this person.

**Mediating** - The ombuds guides the interaction between the complainant and the respondent. The designated institutional representative (see above) is present to observe this process and provide a degree of accountability. The main goal is to resolve the conflict.

**Counseling** - The ombuds encourages each client in the dispute to search for options and alternatives that may help to resolve the conflict. Often this role involves suggesting possible ways of reaching a mutually satisfactory outcome or resolution.

**Educating** - The ombuds provides material resources and directions for acquiring information and skills needed to resolve the conflict and strategies for preventing similar problems from occurring in the future.

**Reporting** - The ombuds reviews the case to determine which information may be used as a basis for recommending changes in or additions to unit, departmental, or institutional policies.

**Role-modeling** - The ombuds demonstrates, through his or her own behavior, methods of analysis that are practical, teachable, and useful for enhancing clients’ self-confidence and ability to participate actively in conflict or problem resolution.

**Collaborative** - The ombuds engages the complainant and respondent in a process designed to elicit communication, cooperation, compromise, and change, minimizing competition and highlighting conflict resolution.
An extended example later in this article depicts a case in which an ombuds plays each of these roles in the resolution of a university-staff problem.

Relationship Building and Role Investment

In the approach to ombudsing described here, the relationship between the ombuds and the client is intensely interpersonal, though it differs from most other interpersonal relationships in several ways:

- It focuses on work-related conflicts and client needs.
- It involves at least two people: one who needs help and the other who is an institutionally designated helper.
- It reflects a supportive, yet neutral, relationship.
- Its duration is time-limited until resolution or referral occurs.

In colleges and universities, academic administrators grant authority to the ombuds to perform this unique service. In terms of the roles identified above, they have been carried out successfully in our office over an extended period. We have found that they serve the clients, the institution, and the entire university community. Although not described here, this behavioral model is structured to promote accountability as well as effective service delivery to our clients.

In establishing and maintaining this relationship, it is the responsibility of the ombuds to provide a physical space and an emotional climate in the office that is esthetically pleasing to the eye and conducive to the client’s feeling safe and listened to with respect. The ombuds must also use the time efficiently, while not making anyone feel that the process is rushed or superficial. Therefore, it is helpful to add to one’s awareness of phases and roles a sense of the degree of the ombuds’ investment in each successive role. The exhibit on p. 37 suggests these degrees of investment.

Role investment or role involvement refers to the personal and professional resources that the ombuds and the client expend or commit during the process of their interactions in a given situation. The ombuds expends time, effort, knowledge, insight, and shared experiences in problem solving to meet the client’s needs. The client makes available information, trust, a willingness to cooperate, personal accounts of feelings, and the meaning of the experiences that brought her/him to the ombudsman for help.

The levels of investment vary as shown in Exhibit 1. When the client makes a high level of investment, a higher quality and greater quantity of information is provided to the ombuds. The ombuds is then in a better position to respond by creating a wider range of choices or alternatives in attempting to find a solution to the problems or issues discussed. It is more likely that mutually satisfactory outcomes will result. In situations when the levels of investment or involvement are low on the part of the client, every aspect of the intervention is less effective than when the level is high.

Role intensity (the actual magnitude of the level of investment) varies across all four phases of this dynamic interpersonal process. Intensity is influenced by the range of topics discussed, depth of the inquiry, level of client participation in the interaction, and the number of roles enacted by the ombuds. During the facilitation phase, when the greatest degree of problem solving occurs, the intensity of the level of investment is high in all roles.
except the reporting role. This is also the phase in which eight of the nine roles are enacted. Knowledge and understanding of these relationships enable the ombuds to plan and use interventions that will maximize their benefits for the client.

The four roles of understanding, education, role modeling, and collaboration are of high intensity across three phases of this interactive process. Knowledge of these relationships can be employed collaboratively by the ombuds and client in planning and using specific intervention strategies to prevent, manage, and resolve conflict. For instance, when the intensity of the investment in understanding is high, the shared meaning of ideas, concepts, and relationships is conducive to mutually perceiving and comprehending information, experiences, and interactions between the ombudsman and the client. The examples that follow with respect to the understanding and counseling roles will illustrate how the various concepts and relationships can be interpreted and applied.

In the understanding role, the foundation is laid for moving effectively through orientation and facilitation. The client’s level of intensity of investment must provide sufficient facts and comparisons of the situation in order to establish some level of grievance. In addition, de-

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\[\square = \text{none} \quad \square = \text{low} \quad \square = \text{moderate} \quad \square = \text{high}\]
tails of the time and frequency of incidents related to the client’s problem or situation must be made clear. Investment intensity must be at a sufficiently high level to reach mutually satisfactory outcomes or to make other referrals. The ombuds then uses the information to frame the nature and scope of the main issues, potential responses, or interventions and some general direction for problem solving.

In the counseling role the ombuds guides the interactions that lead towards acceptable interventions. The client reflects a willingness to learn from the interactive process and to be prepared to change in response to what is being learned. Often it is necessary for clients to practice what they are learning as they gain competency to prevent or solve similar problems in the future. This also requires a high level of investment intensity on the part of clients to make the best use of what they are learning in the process and to ensure that they do all that they can to promote a fair and effective problem-solving process.

The following extended example provides an application of the model. It shows concretely how the phases and roles, with their varying intensities and interpersonal relationships, all come together as one hypothetical ombuds deals with the case brought by Leza, a university laboratory researcher.

Leza and the Ombuds: A Representative Example of Ombudsing

Orientation phase. Leza came alone to the ombuds’ office, having made an appointment by telephone with an office staff person. (In the following account of this orientation session **boldface** indicates a paraphrase of what was said and certain physical details of setting and behavior. *Italic* indicates analysis and comment on what the ombuds does and thinks about the roles she plays and the interpersonal relationship that develops.)

0. welcomes Leza and asks her to come into her private office, where there is a round table, 4 comfortable chairs, a tissue box on the table, a pitcher of water and cups, and plenty of light; closes the office door; asks whether Leza has used ombuds’ services before. Leza replies no and adds that her director “told me” to call and schedule an appointment.

0. stands as client enters office, smiles, and stretches out her right hand so as to immediately signal a friendly, professional interpersonal relationship. 0., in understanding role, asks a neutral but relevant question that allows the client to reveal her attitude (in this case somewhat negative) about visiting 0.

0. asks whether the unit director offered information about the reason for Leza to see 0. Leza replies yes, saying the director is aware of conflict between her and Zell, as are colleagues in their unit.

0., in clarifying role, asks a nonthreatening question that enables the client to reveal the scope of her knowledge and permits 0. to assess the client’s comfort level with talking about an emotionally charged subject; this assessment allows 0. to determine how quickly she may adopt the collaborative role.

0. asks for an explanation of the nature of the conflict. Leza replies, “It’s all Zell’s fault”; explains the history of their working relationship as coequal laboratory research workers, successful for 5 years, turning sour after the director’s refusal to appoint them co-managers of the unit and his
appointment of Zell as manager, with Leza her subordinate; claims that Zell has rejected her ever since; says she feels betrayed and wants an immediate and clean break with her as lab-research worker.

0. concludes that the collaborative role is developing quickly because of the amount of information the client volunteers—about both facts and feelings; during the client's explanation, 0. looks into her eyes, body tilted slightly toward her, and interjects an occasional I see, Oh, or Yes—using body language and tone of voice to deepen the desired caring and respectful interpersonal relationship. 0. notes to herself that Leza's statement of the background of the conflict is contributing greatly to her further use of the understanding and clarifying roles and probably, later, of the educating role.

0. suggests that her conclusion may be premature and that they both need more information about how such employee relationships are handled in other campus units; adds that she would like to explain ombuds services, emphasizing the 4 phases in the process; proposes that Leza write her story about the conflict so that both will have a complete version—one that reveals and connects facts and feelings. Leza agrees, saying she is willing to try anything that will make her feel less upset; says she will write her story within the next 4 days, even if she has to stay up late to do it.

0. adopts the educating role in a gentle way (using words such as may, might, could, would like, seem, perhaps), having determined that an explanation of ombuds services at this point will not interfere with the client's willingness to disclose the nature of the conflict and her feelings about it; in the understanding role, keeps her tone of voice tentative, not accusatory, so as to strengthen the respectful interpersonal relationship; urges the writing of the client's story—a very important step in the process—but does so in a way that allows the client to refuse or to ask for further explanation of the reasons for doing this and to secure a promise of confidentiality (If the client had balked at writing her story—a probably unanticipated request—0. would have worked more in the understanding and clarifying roles to try to persuade her to undertake the writing.)

0. tells of her pleasure in Leza's agreeing to use the ombuds' services and suggests the likelihood of a resolution to the conflict that will satisfy everyone involved. Leza expresses her belief that such an outcome may be possible.

0. stands up after the client shows signs of willingness to cooperate in the ombuds process; cementing the collaborative role, she smiles frequently, adopts a stronger affirmative tone, reaches out her hand to the client, and moves toward the door to open it and escort the client to the outside office door; she makes sure not to seem hurried but uses body language to suggest that the session has concluded.

Note: While this orientation session was extremely productive, others, of course, may not be. When the client is closemouthed or reluctant about exposing facts and feelings, the understanding and clarifying roles may completely dominate the first session, with even more intensive attention to the body language and tone of voice that will create the desired caring and respectful interpersonal relationship. With actively hostile clients, even these attempts to establish the necessary client-ombuds relationship may fail.
Facilitation phase. Leza followed through as promised within 4 days, dropping off her written description of the conflict and scheduling a second appointment. The facilitation phase begins with that appointment.

0. has read Leza’s story—which traces the entire history of Leza’s and Zell’s relationship and runs to 25 pages—and placed dots in the margin next to parts of the story she wants Leza to explain further. When Leza shows up for the appointment, she looks confident and even eager and responds vigorously to 0.’s proffered handshake. Seated again at the round table, 0. thanks Leza for bringing the story in, and they quickly engage in intense, uninterrupted two-way dialogue about Leza’s story. Leza emphasizes her lack of involvement in major problems until the present and also that she and Zell were the first two women to enter a male-dominated laboratory environment. They considered that their success in bringing in research dollars was a remarkable result of their being able to work collaboratively so well. This part of the session takes about twenty minutes.

0. is only mildly surprised that the written story is as long as it is; indeed, most female clients write up to ten pages (men generally write much less and include only facts, nothing about feelings) when they feel that 0. really wants to understand their stories. After reading this detailed story, 0. has concrete evidence that this client is fully ready and willing to collaborate in finding a resolution. She also knows that the mediation must go first to the place where the client hurts most—in this case, the feelings of disappointment and betrayal. 0. plays an understanding role, both as she reads and as she presses the client for elaboration; full immersion in this role helps her prepare for her later playing educating, role-modeling, and collaborative roles. 0. makes sure that she gives focused and full attention to everything the client says, her aim at this point being to focus the client’s attention on the substantive content of her story. She asks questions—what could be called instrumental input—in a genuinely inquisitive tone of voice, with eyes constantly focused on the client’s face and occasional nodding of the head, so as to heighten the interpersonal relationship. The client’s active participation, of course, makes this connection fairly easy to achieve. (This client fought back tears, but for those who do cry 0. simply pauses, lets them cry, says things like That’s understandable, and suggests a break or a drink of water.)

0. then asks Leza what she thinks the main problem is; she replies that she wants Zell “to know how I feel.” 0. asks what facts about the situation ought to be considered as well, such as what their future is to be like in this laboratory. Leza listens closely and shows some tension in her face and upper body. 0. asks Leza to state in her own words what she thinks are the 4 main points of conflict; 0. asks Leza to write them on a piece of paper headed Client Plan. She next asks Leza to prioritize these points by numbering each and then to sign her name at the bottom of the sheet. 0. also signs it and states that this will be the guide for everything else that happens. This concretizes the scope of problems to be addressed for this grievance.

0. adopts clarifying, educating, and collaborative roles with the use of a client plan—not imposing a strategy but making sure that the client creates a clearly stated description of the problem as she sees it. 0. must not convey to the client that she will solve the problem;
she will use her knowledge and skill only to help the client solve the problem. 0., still in clarifying role, wants to help the client separate feelings from facts, with the expectation that a resolution of the problem must involve somewhat different actions where facts are concerned from actions that affect feelings. (Cognitive understandings do not necessarily correspond directly with understanding of feelings, and each develops at a different rate.)

0. thanks Leza for her work in clarifying the problem and states that she will carry out the same steps that Leza has just completed with Zell, the respondent, and with their unit director. This will occur in separate sessions over the next few days and will result in two more client plans containing each person’s prioritized list of points of conflict.

0.’s concern about performing understanding and clarifying roles is visibly demonstrated, as is her concern for fairness--everyone who is a party to the conflict having equal time and opportunity to state their views and feelings. It is extremely important that the complainant and client know about this evenhanded process.

Mediation occupies the remainder of the facilitation phase--after 10 to 12 hours’ investment of the ombuds’ time. It brings complainant, respondent, and institutional representative together at the round table in the ombuds’ private office. In the example presented here, the mediation process, because it was carefully preceded by the ombuds’ orchestration of roles, was entirely successful. Though Leza’s status as subordinate to Zell did not change, they came to an agreement which the unit director also endorsed. Zell would continue as manager. (Leza was not the second choice if Zell declined.) It was preferable to both Leza and Zell that she continue to serve in this leadership position so that the job would not return to a male member of the unit (though this information was to remain confidential among all participants); Leza and Zell determined exactly what their working relationship would be in the future; and the director agreed that there would be no retaliation against Leza for having brought the complaint. Throughout this mediation process, the ombuds played four dominant roles: mediating, educating, role-modeling, and collaborative.

Benefits and Limitations of the Model

Six benefits are likely from applying this model to academic ombudsing:

- The framework of phases, roles, and relationships can be generalized and used with any complaint that is reported in the ombuds’ office.
- The process can be taught and readily learned by both ombuds and the clients we serve.
- The model of intervention is practical for a wide variety of complaints reported by staff, students, faculty, or others in the university community.
- The model integrates case analysis and this ombuds’ behavioral model in a comprehensive and systematic structure.
- The model identifies variables, i.e., roles and phases, that enable the ombuds and others to evaluate role performance.
- The model raises the level and complexity of this analysis to a place where a body of knowledge unique to academic ombudsing can be collected, described, and reported in a systematic manner.
The most obvious limitations include:

- Adoption of this behavioral model requires the ombuds to be a participant-observer of one's own practice.
- Most ombuds have been socialized to focus attention on the needs of clients. Yet this model focuses on the interaction(s) between the ombuds and the client. Adoption requires time for learning and for change.
- Some proportion of ombuds will not want to take time to learn a new approach to practice.
- The positive yield from attempting to use this model may not be sufficient to justify further investment of limited resources. It is a judgment that each ombuds must make for her/himself.

Conclusion

Academic ombudsing is completing over thirty years of existence and service on college and university campuses. It stands to benefit from being viewed in more academic terms as represented by the kind of analysis presented in this paper. By using a behavioral model, ombudsing practice can be more effectively described, taught, learned, and applied. More specifically, through its use the client's case and the ombuds' roles and other relationships can be simultaneously analyzed and understood. Those of us who practice ombudsing can help move it towards becoming more systematic and, eventually, scientific through the kind of discipline-based work incorporated in this analysis. As we prepare for the new millennium, it is imperative that we extend ombudsing by including in our practice a vision of its possibilities. This is one step towards such a new direction.

References


Majority Spaces and Black Folks’ Places:  
Institutional Responses to Racism and the Role of the Ombuds  
by Andrea Y. Simpson

ABSTRACT

The issues and incidents surrounding racial conflict on college campuses threaten and violate the rights of those who are targets of racial harassment and discrimination. If ombudsmen become more proactive and educative in their practice, and work in collaboration with other campus entities, it should be possible to reduce the occurrence and negative effects of such conduct. This paper explores various forms of harassment and discrimination experienced by young black college students on majority campuses. Their political attitudes and personal aspirations often clash within the context of racial conflict. The environment in which they live and learn is shown to be antagonistic on issues of race. It is important for ombuds and others who have the responsibility of protecting student rights to understand how political attitudes and racial conflict develop in such multiracial settings. When combined with the knowledge and skills of their practice, ombuds and other campus entities can develop educational and outreach programs to empower minority students and create a more hospitable learning environment.

Introduction

During the civil rights movement, black leaders believed that ending Jim Crow segregation would lead to increased opportunities, as well as the end of racial prejudice, since racism was thought to stem from ignorance and fear (King, 1954). Integration of public spaces was soon followed by an earnest effort to desegregate public schools. By the 1970s and into the early 1980s, black students were entering majority-white colleges and universities in unprecedented numbers. It was hoped that since black and white students would be living, studying, and working together in an environment of intellectual openness, racial
attitudes would improve over time. However, what we have witnessed is a transformation of race relations with cruder forms of racial prejudice replaced with more elusive forms (Omi and Winant, 1986).

This age of racial insinuation and innuendo has been punctuated by eruptions of racial conflict in its ugliest form. In the 1980s and 1990s, colleges and universities throughout the United States have been plagued with racial strife. How have administrators at these institutions responded to these eruptions? What factors may have contributed to the proliferation of such occurrences? This paper is a preliminary exploration into institutionally based explanations for the surge in racial conflict on college campuses, using data collected in a small sample of colleges and universities.

Interviews with young black student leaders at several majority-white institutions augment these data and further illuminate how isolated black students feel on majority-white campuses. Their learning may also be adversely affected by insensitivity, disparagement, and harassment from white students, faculty, or other members of the university community.

The preliminary research discussed here supports the argument that university ombuds can be a positive force in making the academic environment more hospitable and conducive to a positive learning experience. Supporting this notion as well is the fact that many institutions have developed policies on hate-speech and have offered black students theme dorms and multicultural student centers. From this discussion, I hope that ombuds will seek new opportunities for their services through educational outreach and program development.

The Contemporary Campus

Contemporary societal upheaval is often chronicled on the campuses of American colleges and universities. In the 1960s there were college protests against the Vietnam War and discrimination against blacks, women, and the disabled. At the end of the twentieth century, the college radical is no more, but colleges and universities are still theaters of political conflict, especially racial conflict. Several volleys have been recently fired in this conflict. The University of California Board of Regents has ended affirmative action programs in admissions, with impressive results: the Boalt Hall Law School at Berkeley had one African-American student in the 1997-98 incoming class, compared to fourteen the previous year. Only graduate and professional programs were affected by the new policy for the 1999-2000 academic year, so we have yet to see the results for undergraduate admission. Other areas of conflict include debates on multicultural education and affirmative action programs in the hiring of faculty and staff.

One of the reasons for controversy is that affirmative action in school admissions is an area of intense struggle between those who favor such programs and those who do not. According to Kinder and Sanders (1996), the issue of school admissions triggers opposition to other racial policies. While opposition to affirmative action in college admissions comes from the perception of personal racial threat—that the blacks who are admitted may take the place of family members and friends who are more deserving. This perception may or may not be altered by increased understanding or knowledge about the different kinds of affirmative action or why it was established. If institutions
of higher learning are ambivalent about affirmative action and afraid to confront other tough racial issues, it is likely that attitudes and awareness levels of members of the majority community will be influenced more by fear than by fact.

There are more than 1,300 institutions of higher learning that have less than 10% minority enrollment and about 1,200 that have from 10 to 25% minority enrollment. Only 181 institutions have minority enrollments of 50% or more.¹ In 1994, about 280,000 students, most of them African American, were enrolled in historically black colleges and universities, hereafter referred to as HBCUs, and, in 1993, about 1.3 million (including the ones enrolled in HBCUs) total undergraduates. We can estimate that slightly more than one million African-American students are distributed among the approximately 3,400 majority-white institutions included in the data.² Wherever black students are present on university campuses, there is the opportunity for the exchange of ideas and experiences that could lead to some form of racial conflict.

Why Focus on African Americans?

This paper focuses on black-white conflict because racial resentment seems to be more concentrated against African Americans. One of the reasons is that blacks are still the largest minority in the United States, and they are the only minority with a history of slavery. The latter characteristic has much to do with the vulnerability of blacks to racism. Slavery was justified by characterizing blacks as inherently inferior to whites. There are other oppressed minorities—Latinos, Asian Americans, and Native Americans. Nonracial minorities—gays and women—are victimized as often as racial minorities according some data (Higher Education Extension Service Review, 1995). Their absence from this discussion is not intended to diminish their experience. It is simply the volatility of black-white relations in the larger society that justifies a narrower discussion. Consider the following research findings.

Recent experiments in public opinion research add credence to the exceptional status of black Americans. The experiments, which offered some respondents a race-neutral question and others a race-conscious question (one that specifically mentions blacks), show that white Americans are more likely to support government help for blacks and other minorities than they are to blacks alone (Kinder and Sanders, 1996, p. 183).

Other minorities are more welcome than blacks in white communities. Blacks across socioeconomic strata remain far more residentially segregated than other racial minorities. In fact, if more than a few African-American families move into an all-white neighborhood, the neighborhood rapidly “turns over,” with black families replacing the white families that move out (Massey and Denton, 1993). Residential segregation is perpetuated by institutionalized racism, which denies home mortgages to blacks in certain predominantly white areas. Students on predominantly white campuses bring the attitudes and experiences shaped by these developments in the larger society.

If blacks are the exceptional minority with respect to pervasive hostile treatment—and there are solid reasons to accept that they are--then increasing tolerance for blacks would increase tolerance for other racial, and nonracial, minorities. However, efforts to increase racial tolerance for blacks are met with more
resistance, making it a much more delicate matter for universities. For example, many universities have both African-American studies departments and the more general ethnic studies departments. But often times they are surrounded in controversy in comparison with traditional disciplines. Beyond the accepted popularity of black athletes, it is commonplace for other black students to be referred to as affirmative-action or educational-opportunity-program students. So even these basic perception issues usually need to be acknowledged and corrected on most campuses.

Racial Conflict on College Campuses

As the 1980s progressed, racial tensions on college campuses all across the country increased, marked by increasing verbal and physical assaults involving black and white students. The University of California system reported a 60% increase in racial-ethnic incidents between 1985 and 1986. The individual campuses reported the following numbers for that three-year period: 34 at UC Berkeley; 15 at UC Davis; 7 at UC Irvine; 21 at UC Los Angeles; 22 at UC Riverside; 6 at UC San Diego; 39 at UC Santa Barbara; and 34 at UC Santa Cruz. The Missouri Advisory Committee to the U.S. Commission on Civil Rights reported that in 1988 they could uncover only 20 racially motivated crimes but conceded that, because some of the campus police could not corroborate stories of hate crimes, they went unreported (Missouri Advisory Committee, 1990).

An examination of only the most publicized incidents on campuses, using the Lexis-Nexis newspaper database, yielded ninety-six occurrences from 1980 through 1995. One of the most symbolic episodes was one in which two white students, wielding guns, donned Ronald Reagan masks and attacked a black student in his dormitory room at the University of Texas. Many incidents revealed gross insensitivity by white students. For example, many episodes involved white students appearing in blackface and Afro wigs at parties or during pledging activities. This insensitivity to the power of racial symbols to inflict pain upon black students shows that institutions have failed to devise effective strategies to deal with racial issues. This is an area where ombuds have an opportunity to play a positive and very visible role through educational programs designed to improve the racial climate on campus.

Interestingly, black enrollment at historically black colleges and universities (HBCUs) is on the rise. This may be a result of a resurgence of interest in black culture; however, it may also be due to an increase in racial hostility at majority white institutions. As Figure 1 indicates, before 1986, enrollment at HBCUs was steadily declining. Since 1986, enrollment has dramatically increased. Forty of the ninety-six incidents reported in the national media occurred in 1987 and 1992 (20 per year). This is about the same time that enrollment increases occurred at HBCUs. While historically black colleges and universities remain crucial to the education of African Americans and should always be supported, it is less than ideal when they become a refuge from the hostile environments that exist on some majority-white campuses. When this happens, they are in effect placed back to the pre-civil-rights days, when this was the only choice for African American students. After all, they deserve the opportunity and should have the same rights as majority students to be educated at predominantly white colleges and universities.

According to data compiled by The Prejudice Institute at Towson State University near Bal-
timore, racial incidents have been static for the last several years. Unfortunately, that means that one of every four minority students is victimized for reasons of prejudice at least once during the school year. Dr. Howard J. Erlich, co-director of the Institute and a principal investigator in the study, writes that "the most common forms of ethnoviolence are acts of verbal aggression" (Erlich, 1995). These acts become more potent as they are related to other members of the group, creating what Erlich has termed *covictims*—people who experience the same distress as the victim upon hearing about the incident. Feagin and Sites (1994) call this aspect of racism—the coupling of one’s own experiences with racism with the experiences of other members of the group—the cumulative effect of racism. On one majority white campus, more than half (59%) of the black students had experienced verbal assaults by whites on campus, and an amazing 81% said that they did not report all incidents of racial harassment to authorities (D’Augelli and Hershberger, 1993, p. 76).

Although many institutions have attempted to promote racial harmony through providing ethnic studies courses and cultural centers, more needs to be done. A 1990 report by the United States Commission on Civil Rights mentions that universities have failed on several levels to quell growing racial resentment. First, most institutions do not respond swiftly and firmly to violations against minority students. Second, Generation-X students, because they lack understanding of the history
and rationale that created affirmative action programs, feel resentful of minority students. Some are annoyed that blacks are encouraged to celebrate their ethnicity, but doing the same seems taboo for whites. White Generation Xers support egalitarian principles in the abstract but balk at affirmative action (Sonner and Mayer, 1997). Few mechanisms exist, such as mandatory seminars or courses, for students to develop an informed opinion. Third, there are more minority students on white campuses, who are more likely than others to unite in making demands for equal treatment. When minority students protest or make demands as a group, white students are resentful. A void in leadership and mechanisms exists for gaining interracial understanding on most majority-white campuses with which I am familiar.

Moreover, the contemporary racial climate on these campuses reflects a pattern of symbolic and aversive racism. According to John Brigham (1993), this kind of racism involves an avoidance of blacks and a rationalization of their rejection and disparagement. The resulting lack of engagement and interaction helps to perpetuate stereotypes that each group holds about the other. While there is a loss for both groups, blacks pay a higher personal cost by being placed on the margins of university life.

Black Students and White Institutions

The two students whose interviews I report in this section attend a university (a fictional name, Abbott, is used here) with a total enrollment of about 6,000 undergraduate students. At the time of these interviews, the undergraduate population was 12% African American. The students, Lawrence Sims and Lana Tolliver, are from working class families and single parent households. Each had experiences that illustrate racial disparagement and conflict.

Lawrence participated in a program that allowed him to attend a preparatory school away from home. It was here that he first became aware of his status as a black person---at least in the eyes of his white classmates. A white classmate was engaged in a heated debate with a black classmate. When the black student walked away from the debate, having won, Lawrence said that the white student commented, “What’s her problem? She must not realize my father pays her tuition.” The comment took Lawrence aback. He recognized it as a reflection of the privilege that he believes white brings. It also reminded him of his feelings that sometimes just being in the classroom with whites, observing their prejudiced attitudes and hearing their opinions on things, affects him negatively. It made him think back to his beginnings in all-black environments. It reinforced his belief that Abbott does not welcome black students and helps to explain why most do not feel a part of the student body. Lawrence says he has no white friends and spends his time working to change the atmosphere for African-American students at the university.

Lana Tolliver is a dancer, writer, and organizer of volunteer services at Abbott University. She had an encounter with an English professor that she believes reflects the racism of many college professors. In her first year, Lana went to see this professor about a C on an essay. She said that the professor told her that blacks were known for their inability to write and that her C was to be expected. When asked how she responded, she answered:
I responded by becoming associate editor of the newsletter here and majoring in English. I remember saying, “You’ve got to be kidding. You mean to say that Maya Angelou as an African American can’t write, or she couldn’t write—or Angela Davis—all these profound writers? They shouldn’t be where they are, according to your theory.

The professor said that they had to learn it. He said that he wasn’t saying blacks couldn’t learn, but they had to be trained. For Lana, there is no doubt that whites, overall, perceive that blacks are less capable and are unwilling and unable to treat blacks equitably.

Lawrence Sims and Lana Tolliver are examples of how exclusion from white peer groups has obstructed integration, in its ideal form. This leads to a perception that whites cannot, or will not, understand their experiences as blacks.

The Internalization of Racial Stereotypes

The next two students whose interviews I report attend an institution (fictionally called Ames here) that has suffered occasional outbreaks of racial conflict in recent years, as have many other institutions. It also has an undergraduate population of about 6,000 students, with only 8% classified as African American. Lynn Stevens was an excellent student in high school but was disappointed with her academic performance at Ames. She accepted personal responsibility for the decisions she had made. But experiences with racism, for Lynn, have been intense and numerous. She was hard-pressed to decide which ones to relate during my interview with her. After a long silence, Lynn finally said that she was trying to decide which might be the worst cases:

I think it’s hard because at home the stuff was blatant. Either some red-neck would lean out of a truck [and yell] “you nigger” or that kind of thing. But here at Ames it is very subtle. It has always been implied, which makes it very frustrating. I feel like I have learned the most from this [subtle racism] than from the . . . blatant name-calling or teachers saying not nice things.

Leah Somers is one of Lynn’s classmates. She is a soft-spoken young woman who states immediately that she is unhappy at the university and feels very isolated. After attending a summer program at Ames, thoroughly impressed with the prestige enjoyed by students at the university, she decided to attend. Leah now thinks she made a mistake.

Leah remembers an experience in a class at Ames in which a group assignment became uncomfortable when she was shut out of group discussions.

They would sit with me, but they would crowd me out; their backs would be turned. I just sat there at first and I said, “OK, maybe it’s because . . .” I don’t know. I couldn’t think of anything except that either it’s “I’m a woman,” or “I’m black,” or “It’s both.” I didn’t really know how to approach it or how to say anything.

Leah’s professor asked to see her after the class and let her know that he noticed it and was
displeased. He wanted her to do something about it but assured her that he would take care of it if she was uneasy. She arranged to meet the group leader and discuss the situation. When she asked if he were aware of shutting her out of the group meetings, he said he was not aware that this was happening. He insisted that he was not prejudiced and cited having black friends as evidence of that. Leah said that this was the “first time I realized that prejudice does exist.” The experience was even more frustrating because of the group leader’s denial that it had happened.

These are excerpts from a sample of extensive interviews conducted with 25 black college student leaders at historically black and majority-white institutions. Students in majority-white universities talked about small things, and large things, that make them feel disaffected from their campus communities. Several mentioned an aspect that may underlie some of this disaffection: a perception that whites do not recognize, respond to, or respect the perspectives that they have acquired through their experiences as African Americans. An example was Lana Tolliver’s anger over her English professor’s assertion that blacks could not be expected to write well. Some students said they believed that blacks and whites could never coexist and pointed to continuing residential segregation as proof that African Americans exhaust tremendous reserves of energy coping with the attending problems of blackness. Leaving behind this tiresome truth was a driving force behind the civil-rights-movement’s support for educational integration. Why, after years of integration, are racial antagonisms growing on our college campuses?

Institutional Responses to Racial Unrest and the Importance of Ombuds on Campus

It must be acknowledged that many universities have attempted to create a more comfortable climate through the establishment of codes that bar campus hate-speech and the establishment of ombuds offices. These codes have been portrayed both as an extension of political correctness, and therefore a form of censorship, and as a protective measure for minority students. Work by The Prejudice Institute and Feagin and Sikes (1994) indicates that verbal abuse is almost as damaging as physical assault. In a survey of speech codes that included 179 colleges and universities, only 30% of public schools and 37% of private schools had rules against verbal abuse aimed at specific groups, while 61% had rules against some general form of verbal abuse (First Amendment Center, 1994). Other forms of speech—threats, “fighting words,” disruptive discourse, and the “expression of outrageous viewpoints”—are also banned by some of the schools in the sample. However, it is not known how, or if, these speech codes affect the racial climate on the college campuses where they have been adopted. Those who oppose such codes say they are insulting to minority groups and address only the symptoms of a deeper problem. Those who favor such codes believe that universities have an obligation to create a comfortable climate for their minority students. Because verbal assault is a major form of racial harassment, a method of including it as a variable in the analysis of campus race relations is necessary.

Often the first line of defense is campus-security personnel. They should be prepared to
handle, with sensitivity, such incidents. An informal survey of 23 campus-security forces revealed no special procedures for incidents of ethnoviolence. Training security personnel in appropriate procedures may already be conducted by some ombuds, but universities without ombuds offices, or those that have not utilized them in this way, would certainly help to create a healthier environment for minority students.

Several reports have been issued by state advisory committees on civil rights in response to the spate of hate crimes on campuses in the mid-to-late 1980s. In the October, 1992 report on racial tensions in Massachusetts colleges and universities, students complained about the lack of responsiveness of officials at the University of Massachusetts at Amherst. They reported that the campus police frequently used racial epithets and harassed black male students with impunity. Swastikas and offensive graffiti in hallways and elevators were tolerated, and humiliation in the classroom was common. The same report states that minority students, some faculty, and a few administrators at Smith College also believe institutional responses to racial tensions were “insufficient or ineffective” (Massachusetts Advisory Committee, 1992, p. 38).

Reports from other states indicate that forums or other opportunities for students to express their concerns and experiences can be beneficial. Creation of a bias-related task force is another example of a beneficial institutional response. A noteworthy example of assigning official responsibility for addressing issues of racial relations on campus is that of UC Davis. They appointed an assistant vice chancellor for faculty development and diversity and a director of educational programs for diversity.

The Associated Students of UC Davis have also produced a brochure entitled Open Your Eyes to Diversity. The campus at UC Santa Barbara produced a film series on “what it is like to be a black or Hispanic student at UC Santa Barbara.” According to the report, the series is “very powerful” (California Advisory Committee, p. 13). This report, however, admits that the UC police department has remained untrained in diversity issues. Students complained that the negative attitudes of administrators, faculty, and staff encourage bigotry and hate crimes in the University of California system. So even the best efforts of some can be considered inadequate by others. Still, proactive stances offer the best means of attempting to reduce tensions and improve the racial climate on campuses.

Numbers on racial incidents on campuses, and the administration’s response to those incidents, were scarce in the four reports gathered from the U.S. Commission on Civil Rights. Data on the nature of these incidents and their resolution are nearly nonexistent. The Prejudice Institute at Towson State is the only scholarly center of research on this subject and has managed to survey only a small sample of colleges and universities in the mid-Atlantic region and northeastern corridor. They have developed an extensive survey universities may use to assess the state of race relations in their communities and have made recommendations for improving campus race relations. However, more data must be gathered to determine what conditions foment racial unrest and how it is best resolved.

In my experience as a professor, the ombuds office at the University of Washington has been crucial in helping to empower students of color. In one case, a student related an inci-
dent to me that caused her some fairly serious emotional harm. Initially, I was at a loss as to how to help her and address the problem since the incident, although it involved other University of Washington students, had taken place off campus. I initiated contact with the ombuds office to explore some options. A meeting between the ombuds and the student followed. Fortunately, the ombuds was able to counsel the student and help her to objectively analyze the incident and work out a solution on her own. More importantly, the student was empowered by exercising control over the ultimate outcome.

Some of the students interviewed in this work exhibited confusion and anguish over their experiences. Ombuds can help such students identify the source of their anguish, which is not always race or gender discrimination. The creation of an optimal environment for academic success depends on the ability of college campuses to manage an increasingly multiethnic student body. The skills and experience of ombuds are essential to this process.

Conclusions

Whenever students are subjected to racial harassment and discrimination, their rights in the learning process are threatened or limited in some way. While ombuds can and do respond to the incidents that are brought to them as complaints, it is known that only a few such incidents will be reported. This discussion has called attention to the need and opportunity for some form of outreach and educational program to improve the racial climate on majority-white campuses. Each ombuds is challenged to seek new opportunities for taking a visible and active role in the search for ways of improving the racial climate on his or her campus. Clearly there are resource, time, and other limitations that must be recognized, but those who can find a way to expand their role in this area can render a much-needed service to their institutions.

Notes

2 The above table indicates that there are 3,561 institutions of higher education in the sample, including the approximately 123 historically black colleges.
3 California Advisory Committee to the U.S. Commission on Civil Rights. Fair and Open Environment? Bigotry and Violence on College Campuses in California, June, 1991.
4 These interviews, approximately two hours in length, were conducted in 1994. The results are reported in a book by the author, The Tie That Binds: Identity and Political Attitudes in the Post-Civil Rights Generation, NY: New York University Press, 1998.
6 Massachusetts Advisory Committee to the U.S. Commission on Civil Rights, Campus Tensions in Massachusetts: Searching for Solutions in the Nineties, October, 1992.
References


The Power of Language and the Language of Power:
The Politics of Language and its Relationship to the Ombuds Setting
by Barbara M. Schaffer

In fulfilling the role of a designated neutral, whose job it is to resolve conflict through mediation, an ombuds has an ethical obligation to adhere to the standards of neutrality and impartiality. Often the goal of the ombuds is to help parties reach informal agreement in the resolution of conflict rather than to adjudicate outcomes; therefore, the need for the ombuds to remain objective is apparent. For the mediation process to be effective not only must the mediator have no vested interest in the outcome, but also she must be seen to have no vested interest by the parties involved (UCOA Ethical Principles). After all, if any of the participants in the mediation process believe that the ombuds is partial and favors a particular side or outcome, then the chance for success at finding a resolution which will be accepted by all parties involved is lessened considerably, if not destroyed.

For this reason, the ombuds is often viewed, both conceptually and institutionally, as an outsider, and, indeed, the effectiveness of the ombuds can be aided by an understanding of this metaphor. The outsider represents one who is neither dependent upon nor bound by institutional power, individual or group control. This position allows the ombuds to involve herself in the process of bringing about a fair and equitable solution, which is not subject to the whims of others, or even, perhaps, her own institutional insecurities. However, the reality must mirror the appearance: that is, when viewed by others, it should not only be apparent that the ombuds is not aligned with, or bound by, either the institutional structure or particular interest, but also the ombuds must, in fact, be so.

A great deal of literature regarding the theory and practice of ombudsing has focused upon this area of concern. A recent event highlights the need to explore this topic once again. In January, 1999 David Howard, ombuds for Washington, D.C., was forced to resign (although he was subsequently reinstated) after he used the term niggardly at a staff meeting to discuss his approach to the spending of government funds. Immediately upon becoming public, this linguistic incident sparked a fierce national, even international, response in newspapers and on talk shows around the world. On Academic Universe, an Internet site providing full text articles from major newspapers around the globe, 126 "hits" (indicating articles in 126 newspapers) occurred within a month, signaling a deep concern extending far beyond what one would expect to emanate from such an incident.

This incident highlights the larger linguistic debate surrounding language today. What has surfaced is a polarized debate centering on language that encompasses entrenched feelings about the relationship between language and identity, language and power, and lan-
guage and social values. This debate has serious implications for our culture generally and for ombuds in particular. Although Howard was not acting in his ombuds capacity when this incident occurred, what if he had been? How would an incident such as this affect one’s ability to successfully fulfill the ombuds role? These questions necessarily lead to an analysis of the functions of language in specific contexts—one that I attempt here by arguing that language reflects our cultural and social context and identity, both as individuals and as a nation and functions very specifically as an indicator of “location.”2 Embedded within this location are assumptions of race, class, and education regarding the way the world is organized, as well as particular values and norms, which, when not intended and inappropriate, can have serious repercussions. This is particularly important for ombuds, whose core undertaking is predicated upon both the reality and the perception or appearance of impartiality.

I also argue that, as a symbolic structure which defines the possibilities of communication and shapes the relationship between people, language becomes a strategy to reinforce power dynamics. The unique mission of the ombuds requires us to understand power dynamics, not only within a multicultural context but also within a structural hierarchy. It is therefore necessary for us to understand to what extent our own use of language reflects our biases, positions of authority and cultural contexts.

On January 15, 1990, David Howard, the white ombuds of Washington, D.C., was in a budget discussion meeting with two staff members, describing his response to the tight budget, saying, “I will have to be niggardly with this fund because it’s not going to be a lot of money” (NY Times, Jan. 29, 1999). One member of his staff, an African American, offended by the use of the word niggardly, angrily walked out of the room. Rumors began to circulate around the city, claiming that Howard had used the racial epithet, an almost-homophone (one of two or more words pronounced alike but different in meaning, derivation, or spelling) of niggardly. Soon calls and complaints, demanding Howard’s dismissal, came into the city offices. Howard then resigned, and Mayor Anthony Williams hastily accepted it. (Howard was ultimately rehired, but in a different position.)

The initial response to the Washington situation was predictable: most commentators were immediately critical of Howard’s resignation and the mayor’s acceptance. They accused the mayor of “caving in” to linguistic “political correctness”—that is, pandering to interests, in this case racial, by his refusal to use certain words and phrases in the public discourse because of offenses they may give, real or imagined, to a particular group.3

Secondly, Howard’s forced resignation was seen as an example of the continuing problem of the “dumbing down” of this country—the lowering standards of education and literacy. The mayor was criticized for his refusal to support Howard and “educate” his constituents to the fact that the word used by Howard bore no relationship—etymologically, ethnically, or otherwise—to the “n” word. The word Howard had used was of Swedish origin and was in no way related to the racial epithet. Howard had used a word that had in fact been misunderstood by the listener. Niggardly means stingy, evolving from a 14th century Scandinavian niggard, which means miser.
while the racial slur *nigger* evolved from the 17th-century Latin word *niger*, meaning black (*NY Times*, Jan. 29, 1999).

On the face of it, we have a horrible linguistic misunderstanding, in which the mayor’s actions ostensibly support the view that we must never utter words which offend—even words which aren’t offensive but sound like ones that are. The argument continues on the premise that those who have confused the two words are just plain ignorant and nothing else.

Recent research seems to contradict this view. As noted MIT linguist, Dr. Steven Pinker, points out in an op-ed article (*NY Times*, Feb. 2, 1999) that this isn’t necessarily so. He states that recent experiments indicate that it is impossible for someone to hear the one word *niggardly* and not think of the other word, *nigger*. This is because the brain at first brings to the surface all similar-sounding words, which have various and often unrelated meanings. The brain then discards those meanings that are inappropriate. In this case, the brain, at least momentarily, does not hear the pronunciation distinction between them, both because of the grammatical idiosyncrasies of English and aural confusion.

I am reminded of an example of this same problem in a less emotionally charged context. During a family conversation, my husband, older daughter, and I were talking about a rabid dog. Our youngest daughter, who was around 5 at the time, was silent. Finally, she turned to her father, asking, “Is it a rabbit or a dog?” Here, as with the niggardly incident, our daughter misheard and then misunderstood the meanings.

However, there is more to this situation than meets the ear. This aural analysis does not fully explain what has occurred. In both of the cases above, pronunciation was not the entire problem. Neither my daughter nor the angry staff member, Marshall Brown, knew the meanings of the original word, so their brains defaulted to the homophone they knew. The issue is again thrown into the “just plain ignorance” category. Once again, I argue that this is not the appropriate analysis. It is here that sociolinguistic theory may help us understand what occurred.

Many socio-cultural linguists see communication as a process, whereby meaning is created under social conditions as a social phenomenon (*Hodge and Kress*, 1988). Verbal language can be described as a meaning system, with words as one of its basic elements. However, a word does not exist in a vacuum. In order for relevant meaning to be constructed and/or understood, words must be combined with other words spoken in particular intonations, using structural rules of order and punctuation—all of which help create meaning. In addition to this, there are external “social rules” evolving from the social context, which also help determine linguistic choices (*Bernstein*, 1973).

Most of us readily accept this last idea that often the external social context determines the words we use. We see this in our everyday reality. For example, we often use language in our business environment that makes little sense when transferred to our social environment. In fact, we have created terms for such context-specific language, such as the word *legalese*, to describe the way lawyers use and structure language.

When we edit our language in this way, choosing to use some words over others, we rarely interpret this negatively; in fact, often the op-
posite is true. Often, we are relieved to "change vocabularies" and sense that, by doing so, we are somehow different people. This recognition highlights our understanding of how intimately related language and identity are. Yet we become hostile when people use words that "don't belong" or use jargon indiscriminately, regardless of context. As with legalese and other specialized vocabularies, the language used is seen to have very defined, concrete boundaries: that is, to speak legalese means to use words which have evolved within and from the legal context only and then are applied inappropriately to other contexts.

The argument of "dumbing down" in part rests upon the premise that there are words which are seemingly "context free" in origin—that they belong everywhere and to everyone and have evolved somehow outside of a particular discipline or milieu. Certainly this is how many critics interpreted what occurred in the Howard case, and they decry the potential loss of such an illustrious word. However, I posit that this word, in fact, is as context-bound as any other and that critics, and Howard himself, illustrate this. This word, although Swedish in origin, from its beginnings in English usage has been appropriated and used by the educated elite, and it seemingly has remained there ever since. The newspapers and Howard unknowingly confirm this. The newspapers identified the word's pedigree by indicating its use by Chaucer, Milton, and Shakespeare. Considering the number of literate people at that time, can there be any doubt of the word's early context? Howard learned the word while preparing for his SATs, indicating its transmission through and location in the world of education. This limited understanding of this word was confirmed by other sources as well. The Dallas Morning News printed an apology to its readers after using the word niggardly in a restaurant review. The review stated that the chef had been niggardly with his use of spices (NY Times, Jan. 30, 1999). Here we see an instance that did not rely on aural misunderstanding but rather a lack of recognition, even when printed—confirmation, once more, that the word is not readily recognized. When combined with the fact that there exists the public discourse a word similar in sound and spelling which is more widely known but which has dubious and emotionally charged meanings, there is reason to understand that the word remains in the rarefied world of the elite.

Those who bemoan the potential loss of the word niggardly may be in very good company, from an historical point of view. George Thomas, in Linguistic Purism, details a long tradition of linguistic purists, whose objective it was—and is—to identify a theory about what language should be like "in order for the language to achieve or maintain its proper status as a prestigious code." Thomas offers a comparative and cross-cultural view of purism and its proponents' attempts to rid a language of "foreign" elements. He states that, at certain periods in history, correct usage of the language is important and, historically, has been identified with elitist elements of the culture. He also implies that questions of etymology are a part of the process of establishing correct usage and therefore status. Apparently, etymology functions similarly to lineage: the further back you can trace the roots of a word, the more status it holds.

For Thomas, this codification of language is often a response to a series of external and/or internal threats, due, in part, to insecurity. In fact, a fear of external threat, while linguistic, is also cultural, political, and religious. We have seen evidence of this in Kosovo, where the Serbians have banned the language of the
ethnic Albanians (The Gazette [Montreal], July 7, 1999). In addition, Thomas notes that there is an important ideological component in codifying and purifying the language: by doing so, feelings of patriotism and national identity are heightened.

Thomas' analysis offers insight into the niggardly imbroglio. Set within the framework of a country attempting to deal with issues such as immigration and bilingual education, on the one hand, to the introduction of Spanglish and Ebonics, on the other, many feel that the national character and even the definition of what it means to be an American are being corrupted. Language, and its relationship to American identity, has long been a concern of this country. In the United States, national identity is still largely conceptualized through the metaphor of the melting pot, and the belief is that the English language is the "uniting" factor. At the extreme side of this are those who believe English should be codified as the national language. Yet if we look at the 1990 statistics, we see that 3% of the population of this country either speaks English "not at all" or "not well."

Clearly the critics in Washington feel as if the language is being threatened. Their insistence upon the etymological purity, as well as their references to the word's historical usage, help to codify the language and to establish the "prestigious code" to which Thomas refers.

This attempt at codification is an example of the way in which language may be used to establish power and control. Words become the strategy through which those in power establish their dominance. In this sense, those who control the language, who "own" the most number of words or decide which discourse is acceptable and which is not, have the power. In a very concrete way, then, this domination is reproduced: it is those with control of the language who decide who will enter the universities (remember, Howard learned the word niggardly while studying for the SAT's) and who will ultimately get positions of authority.

But power can be conceptualized in many ways. This incident highlights the institutionalizing of social power, also. In the very public rebuke of those without the vocabulary is also alienation and humiliation. When one does not "own" words, then that person is alienated from the discourse and cannot participate in the discussion. So it is clear that the public discussion--the discourse--is, in fact, not so public after all. There is the presumed assumption that the language operates outside of particular values and norms when, in fact, language operates clearly within a value-laden context. The standards concerning language as well as the nature of the appropriate discourse have been set.

What relationship does my analysis have to the ombuds' setting? I think there are three points to be made. Specifically, I have emphasized that words do not exist in a vacuum; they have impact based on the cultural context in which they are spoken. Most pointedly in the context of the niggardly debates, the very sound of the word can and frequently does have immediate impact. It is understandable, indeed predictable, in the context of 20th-century race relations in the United States, that many listeners would have heard the "n" word, whatever Howard had intended. One need not be either a caricature of political correctness nor an uneducated buffoon to consider the effect or the impact of a word.
sounding identical to the “n” word. It seems obvious, then, that, in fulfilling our roles, it is our obligation to understand the context of the words we speak.

We cannot ignore the fact that words remind us of other words, as well as the fact that words often have associative elements to them, such as emotions and values. They also remind us of and spin off to other contexts, to other associations. Language evolves, in part from specific social contexts. In the example under discussion in this paper, the meaning of the incident—what happened and what it meant—to the press, to the participants, to the rest of us, was constructed through the lens of race relations, through a particular social condition and context. Ombuds must see this larger arena in which discourse operates.

At the same time, all individuals come to the communicative process from their own vantage point or “location,” where words and understandings have been constructed by their own experience. It is incumbent upon ombuds to recognize those limitations. If ombuds truly wish to operate “outside,” to have no vested interests, then they must be aware of the “interests” their own backgrounds imply. Understanding the location from which one operates allows ombuds to recognize their own leanings and biases in attempting to negotiate an equitable solution.

I have argued that there is a fundamental connection between social structure, language, and the making of meaning. This has clear implications for the ombuds. The very definition of designated neutral implies one who is not tied to the institutional power structure, one who can operate outside of the power dynamic. It is important to understand the way language is implicated in the establishment of that power structure. The role and burden of ombuds requires that they recognize that inherent even in the language that they use are assumptions and consequences that may affect their ability to be effective. As indicated at the beginning of this paper, ombuds, like Caesar’s wife, must not only be pure but perceived to be purer still. If we truly wish to be perceived and, in fact, to be neutrals in the outcomes or parties existing outside of the power structures, we must be acutely aware of the way language is used to privilege certain values and premises over others—frequently those which we, as ombuds, are intimately connected. We must analyze our own assumptions to free ourselves and to become true “outsiders” so that we can effectively mediate equitable solutions.

Notes

1 This paper is premised primarily on the description of the “internal ombudsman” as described by Mary Rowe in The Ombudsman’s Role in a Dispute Resolution System (1991). An interesting discussion on the distinctions between the classical and organizational ombuds occurred online in December, 1998, where Marshall Lux characterizes two functions of the classical ombuds: the “conflict resolution function” and the “critical function.” Here he argues that the critical function requires that the classical ombuds “investigate . . . report and . . . criticize, openly and sometimes harshly.” This function operates outside of neutrality and is not handled here.

2 This term “political location,” in its fullest, was first conceptualized by Adrienne Rich (1984) in Blood, Bread and Poetry. She argues that each individual has a “political location: that hampers the individual from maintaining an unbiased perspective in any given situation. This location consists, in part, of one’s race, gender, and sexual identity.

3 This debate has occurred “in our own backyard,” so to speak. Duncan Fowler posts the article sent to him by Marshall Lux, “Another Point of View: The Word Police on Patrol,” by Thomas Martin on the ombuds net, which sparks flurries of responses regarding the term ombudsman and the title’s gender-specific use of the word man. Mary Lou Fenili counters with the suggestion of a 1998 Peggy McIntosh article entitled “White Privilege and Male Privilege: A Personal Account of Coming to See Correspondences through Work in Women’s Studies.” Using the premise
of the Martin article, Fenili argues that the term woman is all inclusive and universal; therefore, ombuds should be called ombudswomen. This debate underscores the acknowledgement of the use of language in conceptualizing reality and the recognition that words do play important roles in structuring reality. Interestingly, in the directions for submission to this journal, a note is given which clarifies CCCUO’s position: “Note: CCCUO has adopted use of the term ‘ombuds’ rather than ‘ombudsman’ or ‘ombuds’ for any specific titles in use within an institution.” For those interested in the dialogue, see “Ombuds E-mail Debate,” listed in the references.

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Notes from Underground: An Ombuds' Dostoyevskian Journey in Academe
by Myron Schwartzman

They're gonna put me in an office
They're gonna make an ombud out of me
I'll listen to the fussin' and the fightin'
And all I gotta do is ..... act neutrally

They tell me I'll be independent
Folks can see me confidentially
They think I have just the right prescription
To solve all these disputes so magically

Well I hope you'll come see me in the office
You c'n schedule Mons, Weds, & Thursday afts for free
Just spill your guts & pour your heart out to me
And all I've got to do is... act neutrally

Tom Sebok, Act Neutrally, 1996

When I was introduced to my faculty colleagues as the new ombuds at Baruch College of the City University of New York in 1995, I had already been ombudsing for several months. Consequently, I used what seemed an appropriate metaphor when I spoke—something like this: "Hello, my name is Myron Schwartzman. As your new ombuds, I've been in the trenches for a while now, and I look forward to ombudsing."

My trenches metaphor seemed serviceable enough, until I sat down next to my predecessor and esteemed mentor, Don Watkins. "Myron," he said playfully, "you're supposed to be making peace, not war." That gave me pause and set my philosophical agenda for the ensuing years. My job as ombuds seems to have consisted in trying to increase the peace by acting neutrally. And the ombuds office—that off-the-record haven for the grade-weary, the bureaucracy-battered, the insulted and injured of the groves of academe—seems to be located (at least symbolically) at root-level: underground. That is my current metaphor. From that nether region, then, flow an ombuds' notes.

A Capsule History of Baruch and Its Ombuds Office

Baruch College was established in 1968 as a new senior (4-year) College of the City University of New York. Historically, Baruch was the downtown campus of City College, whose history as the Free Academy of New York City dates to 1847. In its first years as an independent senior college, New Yorkers continued to think of Baruch as "Downtown City" and as a school of business, although the college has strong schools of liberal arts and public administration.

The idea of an ombuds at Baruch—born two years after the college itself, in April, 1970—came about, naturally enough, as a response to a student strike (Price Spratlen and Neff, "Academic Ombudsing: Process, Roles, and Relationships," in R. Wilson, ed., The Journal, CCCUO, 1996). The strike was not over U.S. involvement in Vietnam but instead (this being Bernard M. Baruch College) over fees. Nevertheless, it paralyzed the college and generated a student-faculty conference committee to first devise a plan to end the strike and
then to “consider everything important to life at Baruch College.” Part of that consideration was to choose an ombuds to hear and mediate student grievances (Berrol, 1989). This first appointment of an ombuds by a student-faculty committee was changed in 1986 by a revised governance charter, which stipulated that the ombuds be appointed by the president for a (renewable) term of one year. The governance charter was again revised in 1998, at my request, shortening the word ombudsman to ombuds.

The average length of service for the ombuds at Baruch has been 5 to 6 years. Since 1970, there have been four ombuds; I am the fourth, now beginning my fifth year of service. So far, we’ve been full professors, who became ombuds at about the twenty-fifth year of teaching. This has meant we’ve known the college community and have been known by it; have enjoyed a measure of respect and trust; have made confidentiality the first commandment; and have served (one hopes) with intelligence and sound judgment.

Article XI of the college’s governance charter explains that the ombuds office is not intended to replace the normal administrative or faculty procedures. Consequently, complainants are advised to consult appropriate faculty, faculty office, or administrative units. However, many individuals explain their reasons for not doing so: s confidentiality questions, doubts that the system will be impartial, lack of knowledge of appropriate procedures, and concern about possible retaliation are--as cited in an ombuds’ report of 1991-95 (Watkins, 1995)--the usual reasons. Sometimes the opposite is the case: some individuals wish to bring their complaints directly to the college’s president, skipping every step in the normal set of procedures. Some reach beyond the president, wuth ccs to the chancellor, University Legal Office, etc. While the college president has been available to the student body, faculty, and personnel, these individuals are normally represented by their elected leaders, e.g., undergraduate student government, graduate student assembly, department chairs, deans, or Director of Human Resources.

However, some individuals often feel that the person they should appeal to, or the person who should be representing them, either cares insufficiently; cares but is overloaded with responsibilities; does not understand their plight adequately; or is actually against them. It takes the ombuds’ investigation to prove these opinions true, partially true, or untrue.

The Baruch College ombuds followed up on some 60 to 80 cases yearly in 1995-99; these involved 250-400 contacts yearly, including multiple contacts with the complainant, the person or persons complained about, and, for some cases, persons and offices outside of the college. Not all cases were resolved quickly or satisfactorily--some resolved in two minutes but others taking two years.

Note from underground #1: Threats by fax, phone, and in person

One day, a few months into ombudsing, a polite message on my answering machine requested help. Prior to seeing the complainant, a number of faxes detailing the complaint flooded the ombuds’ machine. Finally, the complainant was asked to stop faxing. It seemed the complainant was attempting to drop a course required for graduation and that the instructor refused to cooperate. The complainant had already withdrawn from the course with a grade of W (the early-drop date for withdrawal with even partial refund had
long since passed) but wanted the course tuition returned. The complainant asserted that the instructor was inept and could not even speak proper English. I said I'd look into it.

A new fax from the complainant was a blank copy of a form used for suing in small claims court. The accompanying letter said that the complainant felt victimized and in no way wished to bring the college to court, etc. It turned out that the instructor, who was a well-esteemed retiree from another college in the City University, liked the student but thought the student needed more work in the course than said student was willing to do. Therefore, the student had withdrawn from the course, and the instructor, while well disposed, did not feel able to help.

It turned out that the complainant typically took one course part-time each semester. The complainant had a GPA of over 3.5. Moreover, the complainant had seemingly withdrawn from any course where less than a B+ seemed likely. With law-school admission at stake, the student felt that very high grades were necessary, one semester at a time. Why settle for anything less?

I resolved to protect the integrity of the ombuds office: threats would not work in this office. If the student wanted to sue, so be it. I told the student that there was nothing the ombuds could do. A confrontation ensued, at the end of which the student said furiously, "YOU... JUST... DON'T... GET IT!" I said I thought I did and that the meeting was over. Case closed. No more faxes, no more calls, no suit in small claims court.

This was the first, but by no means the last, instance of such a threat. Complainants have cc'd the offices of the chancellor down the hierarchy to the college dean or department chairperson. Typically, however, the cc's have not included the party with whom the dispute began.

**Note from underground #2: Term grade not consistent with grades throughout term. Instructor or professor refuses to go over complaint with student. (Ombuds Report, 1995-1999)**

The student came to me with a complaint: his grade in a course should be an A-, not a B+. The issue was a decimal point. An A- is computed at a minimum 90.0 while a B+ is computed at maximum 89.9. The student had 89.97 by his computation (which he carried to seven places) and 89.2 by the professor's (which the professor carried to one place). It was a matter of principle, the student said. An accountancy major who helped (other) indigent students with their tax forms gratis, the student made an eloquent case that he could accept a C+, if it were given justly, but not this unfair B+. Moreover, the professor (an accountancy professor) didn’t want to discuss it. Could I help? I said I would look into it.

Both parties were willing to have me mediate. The three of us met, with me sitting at the end of a desk and the professor and student facing each other. We all knew the issue, and, as if they were playing chess at high noon, professor and student drew their calculators and calculated the student's final grade. Predictably, the student came up with 89.7, while the professor, with a victorious "Ha!" came up with 89.2. Stalemate. They asked me for my recommendation. I suggested referring the matter to an outside judge, perhaps a professor from the accountancy department at NYU,
Columbia, or Fordham. “No,” the student said, “let it be a professor within the college.” “Good,” said the professor. “Let it be an accountancy professor, any professor you wish.” The student opted by name for a statistics professor, in fact the very one who had given him a C+ he considered fair. “Very well,” said the professor.

I contacted the statistics professor, who remembered the student well and agreed to review the grade. In the end, he recommended the following solution: by the letter of the law, the professor was right; by the spirit of the law, the student’s request for an A-deserved favorable consideration. This went beyond reasoning; it was inspired! The student received his A; the professor felt he had been given the proper respect; and the statistics professor (a true wise man!) said to me, when I called to thank him, “The grade was the professor’s to give, but there has to be some Rachmawnis (Hebrew, Yiddish: compassion).”

It was a matter of great satisfaction that two of the individuals commended by the college president at the 1997 commencement exercises—students who had extraordinarily high GPAs or who had shown extraordinary courage in the face of adversity—had been helped by the ombuds office at Baruch. One of them was the accountancy major.

It is an interesting mediation to remember. Both parties—the student and the professor—had looked toward me (as an admitted statistical ignoramus) more than at each other and decided (with some limited help from me) to resolve the issue. I was quite willing to play the part of court jester or wise fool, knowing full well that, without me, they wouldn’t have been speaking to each other much longer.

Note from underground #3:
- Reduced grade or failed student for alleged cheating/plagiarism (usually denied) without submitting formal charges as required by college policy
- Prejudicial attitudes towards various national and ethnic groups (e.g. Russians, Asians) (Ombuds Report, 1995-1999)

“We are designated neutrals . . . We serve no additional role (within an organization where we serve as ombudsmen) which would compromise our neutrality.” (The Ombudsman Association: Standards of Practice, The Ombudsman Association, 1995)

I teach and am an ombuds—all at the same time.

My college’s governance charter, in fact, mandates that the ombuds not give up any prerogatives as a faculty member. As a Professor of English, this has its up and down sides when I must deal with a fellow professor in the English Department, say, over a student complaint.

Also as Professor of English, I have had to see a student as both professor and ombuds. This requires compartmentalization. I ask the student in what capacity he or she is seeing me—as teacher or ombuds. Fortunately, I have never had to deal with one of my students complaining to the ombuds—me—about my teaching.

She was one of the best students I’d had in 25 years of teaching literature. Russian, with a demeanor worthy of a Dostoyevskian heroine, Lizaveta (not her real name) was incredibly thorough, well read, and, to my mind, completely honest. At the end of the course, I had given her an A and wished her well.
Some months later, I greeted Liza at the college library. She looked upset and said she’d been the victim of prejudice against Russian (actually Ukrainian) students and that she wished to complain. She and two fellow Ukrainian students had been failed on an accountancy final for cheating. Could I help? I scheduled a meeting with the three students and a subsequent meeting with Liza. It is my usual practice to deal with students on a case-by-case basis. Moreover, I thought to begin with Liza, since I was convinced, on the basis of her course work with me, of her honesty.

In addition, I spoke with the dean of students about a case in which five Russian students had been failed for cheating after one had admitted showing a crib sheet to four others. I wondered aloud whether cheating was a culturally accepted phenomenon among Russian students or among any other national groups in business-school courses. If so, what was the solution? How could such behavior be nipped in the bud? Were honest members of particular ethnic or national groups paying for the behavior of the dishonest? The dean of students didn’t know the answers to these questions but thought the issues were important and worth pursuing.

I spoke with Liza’s professor, who agreed to set her a new final examination and to regrade her. The result stunned me.

Upon reexamination, the professor contended that there was still something fishy about Liza’s exam, a conclusion he based on a comparison of the “blue book” with her Scantron answer sheet. There was no basis for my concluding that the professor was making this up. The professor said that he had to adhere to his original computation of Liza’s grade; the final was set apart as a failure, and the course grade remained a C or C+. I saw Liza again after she received this result. She remained adamant that this was unfair and that she had not cheated. I reluctantly advised her to accept the grade, since I had no further way, except to ask the professor to show me exactly what he had found “fishy.” I felt heartsick.

The entire experience confirmed my belief that (a) ethnic and nationalistic prejudice against certain groups was a fact of life at the college; (b) questions about cheating should result in an openness to formal charges being lodged by the professor, as college policy mandated; (c) it’s sometimes a struggle, as ombuds, to act neutrally.

I brought the issue of academic honesty to the president’s attention as one crucial to revisit. He called a meeting of a V.P. of students and two deans from the Office of Students, with the ombuds as neutral advisor. The work begun at that meeting has gone on for two years (seemingly the half-life of a policy change) and two presidents. A draft policy statement on academic honesty is now ready. It sets forth mechanisms for determining when cheating is strongly suspected; what charges should then be brought; the grade to be assigned in the interim; and the means by which a “paper trail” could be established when cheating is in fact determined to have taken place.

Once the policy has been voted on by the faculty, it must be implemented. This is initially a work of faculty education, which may take some time.

“The notes of this paradoxicalist go on and on: it is impossible to get him to stop,” we read at the end of Dostoyevsky’s Notes from Underground, as the notes of the “underground man” are cut off abruptly. Acting as my own
editor, I have decided to stop the presses on my own “notes from underground” in order to come up for air and to allow my reader to breathe free. Finding an adequate metaphor for the place we ombuds work and the quality of the work we do is difficult. Nevertheless, gentle readers, if you have detected a certain resemblance in this metaphorical mirror I have held up, then please know that what makes us different is far less crucial than what, ombudswise, we share.

References


Reviews of Books Pertinent to Ombuds

Review by Susan L. Neff


Two recently published books provide relevant information for the ombuds practitioner seeking tools for assisting clients in competency development. They may also stimulate us to reflect on how we implement the role of educator in our work as ombuds.

*Difficult Conversations, How to Discuss What Matters Most,* the latest book from the Harvard Negotiation Project (HNP), was written by faculty members at Harvard Law School. (Bruce Patton, co-author of the second edition of *Getting to Yes,* is the current Deputy Director of the HNP.) They have turned fifteen years of research at HNP into a how-to book, using a strategy “proven” by years of HNP research, which is designed to get the reader through any type of difficult conversation. The book is marketed as self-help to general audiences and does not cite the underlying HNP research for a reader who wants an in-depth understanding of the approach or needs to evaluate its merit.

The book blends work from many disciplines into a highly readable and practical guide to handling “any” difficult situation. A step-by-step approach or “road map” moves readers from a difficult conversation into a “learning conversation.” Step #1 is to develop a “learning stance” by taking time to sort out one’s own version of what happened from one’s feelings and the identity questions the subject raises. The next step is to use self-understanding to explore what one can change through personal effort. Later steps in handling difficult conversations include inviting the other party to join in sorting out the differences, active listening, and working to create mutually satisfactory options. In adopting this learning stance, readers can expect to experience self-learning and to reduce their stress, regardless of the outcome of the anticipated difficult conversation.

The learning conversation is a reasonable approach and sound advice but not news to most ombuds, who recognize that emotion often drives behavior. Helping clients distinguish facts from feelings and interpretation is a basic part of the ombuds’ work. Furthermore, advice for guiding clients in using this information for self-learning and competency development has already been presented in this journal (Price Spratlen, L., “Academic Ombudsing: Contributions of Research to Practice.” *CCCUO Journal,* 1991).
The importance of feelings has also been emphasized in earlier books from HNP. In *Getting to Yes*, Roger Fisher and William Ury wrote of the relevance of emotion as they focused us on interests, not positions, and reminded us to separate people from the problem. In *Getting Together*, Fisher and Scott Brown built on this foundation, reminding us of the opportunities to build relationships during negotiations if we take time to understand the interests, perceptions, and values of the other side. Then, in *Getting Past No*, Ury presented a strategy to turn confrontation into cooperation when difficult people have trouble getting to yes.

Much of what has become known as the Harvard Method of understanding negotiation through easy, two-way conversation is reframed in *Difficult Conversations* but with an additional step. That is to emphasize the importance of self-understanding and responsibility for the difficulty and how to use this information for self-learning, even when the conversation remains difficult. The effect of this step is to empower the individual.

I would recommend the book to a client seeking self-help strategies because they are presented in a logical, motivational format, one that may instill confidence in the reader to believe that a successful outcome is achievable with this road map. Main points are summarized in catchy, easy-to-remember phrases. Although the authors provide no index, they offer a condensed version at the end of the book--"Roadmap for Successful Conversations"--which is similar to the analytical-table-of-contents format used in earlier HNP books. Of special interest to ombuds is the distillation of information into an accessible format, one that could serve as an excellent training outline. Exploration of such foundations of conflict resolution as effective listening and respectful acknowledgement provides our clients with a basic technique for understanding what is really going on, as well as self-focused strategies for resolution and competencies in communicating.

They also learn that the learning-conversation strategy won't always achieve the user's goals. When patience fails, the authors suggest introducing a coach into the conversation to provide support and to facilitate one party's self-reflection. The coach demonstrates how an ombuds could assist a client in using the learning-conversation strategy, but the authors do not further develop the concept of learning through reflection.

Where *Difficult Conversations* ends *Coaching* begins. Flaherty, a coaching and leadership-training practitioner, presents a principle-based model for increasing competence through observation and self-reflection. Its aim is to "rethink the way you work with people."

The essence of a "coaching conversation" is the questioning of a client to generate information and to shape achievable outcomes. In the process, the coach demonstrates the potential of questioning and reflection as tools for learning, self-correction, and self-generation.

Flaherty contends that the practitioner must understand people before coaching them, attempting his answer to the question, "What does it mean to be a human being?" He then asks the reader to formulate a response, argu-
ing that the answer will frame both what the coach has to offer and what s/he will expect in response from a client.

Three assessment models help the coach use observation to assess the usefulness of coaching for the client. Questions appended to three sample coaching conversations guide a coach-client exchange, with the intention of stimulating a client’s self-reflection. The desired result is to get the client to consider new, more effective actions. With great importance attached to language, he also suggests how to help clients find ways of speaking about what is happening to them.

The coach-client relationship described by Flaherty will feel comfortable to most ombuds because it is grounded in familiar tenets: a voluntary relationship, mutual respect, and collaboration. Out of these tenets grow three concepts that guide ombuds’ practice: (1) the essence of competency development is the ability to observe one’s own performance and make necessary adjustments independent of the reliance on coaches or others; (2) the coach/practitioner must consider the individuality of the person requesting assistance and use this information to provide appropriate services; (3) the process must allow for change, competence, and excellent performance.

An annotated bibliography for each chapter provides resource information for further exploration, and the final chapter focuses on self-assessment by the coach practitioner. Again using questions, Flaherty challenges readers to consider basic assumptions about people, how they work with clients, and what methods of working with people they might change.

These two books provide both new and renewed information for ombuds’ use in providing assistance to clients. Clients seeking my services typically are in conflict and want to get to resolution. Providing the client with a road map highlighting a direct route is fast, efficient, and, in many cases, effective in getting from conflict to resolution. Questioning the client about reasons for being in conflict or goals in traveling to resolution might allow for consideration of alternate routes. But is it worth the investment of additional time and effort? As an academic ombuds, I work in an institution where the use of questioning is a foundation of education and where self-reflection is a goal for all. These books will help me to make better use of questioning and to create a reflective environment for conflict resolution.

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Review by Tim D. Griffin


Rivers’ book, although not specifically targeted to conflict-resolution professionals in higher education environments, is more directly applicable to them in their work than any other single text I have read. Applying a
Taoist or Buddhist perspective to Western life, he minimizes the trite and all-too-common references to martial arts and simplistic dichotomous analogies of mountain and stream so typical in such works. Instead, he uses metaphors which encourage ombuds (and others) to think about elements of specific conflict-resolution cases and about more general ethical standards of professional practice and personal behavior.

By no means is this a how-to technical manual; specific dispute resolution techniques are not delineated. It is indeed this very lack of scholarly specificity that makes the book so widely applicable. Ombuds of any personality type, cultural and ethnic background, or professional style can benefit greatly from the integration of the principles promulgated in this work. Leading one obliquely to creative approaches and perspective framing, it also honors the vital importance of maintaining one's personal and professional integrity, as the title would suggest, in a world that for ombuds is frequently filled with conflict and unrest. Though the book is also not a spiritual manual with practical guidelines for meditation or stress-reduction techniques, ombuds who approach our work from the perspectives discussed will likely experience lower stress than many of us currently experience in our daily lives—all without violation of our varied religious beliefs.

Because of her superior experience, the owl is inclined to see conflicted relationships not as problems or obstacles, but as opportunities for creative expression. Instead of focusing on something she would like to get rid of, she concentrates on something she would like to bring into being. Instead of opposing conflict, the owl embraces its inherent value. Each encounter with resistance offers an opportunity for education, beauty, meaning, and value.

Both the problem-solving and the creative approaches are valuable parts of the owl’s repertoire. . . . Remember, the musician does not see sound as a problem. The painter does not see color as a problem. The dancer does not see movement as a problem. On the contrary, these artists see opportunities for creative engagement.

Whether read completely in a single two-hour session or in brief respites during one’s otherwise hectic day, the potential usefulness of this book to those in our field is priceless.

Following is a sample of Rivers’ way of discussing conflict:
The Journal seeks manuscripts

The Journal of the California Caucus of College and University Ombuds, published annually, features articles that promote, advance, and celebrate the profession of ombudsing. To that end, the editors encourage writers to submit articles that focus on any aspect of ombudsing: practice, research, education, legislation, or management.

Prospective writers who may have doubts or hesitations about their contributions are welcome to seek counsel and assistance from the editors or any member of the editorial board. Such help can be available at any stage of writing--from initial concept to late stages of editing. A telephone call or e-mail is all that is needed to initiate a cooperative writing process.

Manuscript preparation

Three copies of a manuscript should be submitted--typed, double-spaced, with one-inch margins. Maximum length is 20 pages, including tables, figures, notes, and references.

A title page should bear the name(s) of the contributor(s), along with institutional affiliation of the writer(s), institutional title, mailing address, voice and fax numbers, and e-mail address.

For articles exceeding 15 pages, an abstract of 100 words or less is desirable but not required.

Note: CCCUO has adopted the term ombuds (in lower case) rather than ombudsman or ombudsperson except where the two latter terms are part of any institutional title.

Art work

All tables, figures, photographs, and other graphics should be submitted on computer disk, together with camera-ready copy for each graphic item.

Copyright transmittal

A letter of copyright transmittal should accompany each manuscript, including the following statement:

I hereby transfer, assign, or otherwise convey all copyright ownership to CCCUO. This transferral relates to all forms of publication, including electronic media.

The writer should also state:

To my knowledge this manuscript contains nothing that is libelous or unlawful or that infringes upon rights under U.S. copyright law.

Permissions

It is the responsibility of the writer to obtain appropriate permissions from institutions and organizations to use reports, documents, and policy statements cited in a manuscript.

Peer review

All manuscripts will be reviewed by at least two editorial board members. Reviewers may recommend acceptance, rejection (with reasons given), revision (with specific suggestions), or resubmission. Recommendations in writing will be sent to each writer.
Peer review cont’d.

To assure a blind-review process, writers should omit any personal identification on every page except the title page.

Manuscripts may be edited for clarity, stylistic consistency, and format. The edited manuscript will be returned before publication for the writer’s concurrence.

A writer who wishes to submit a manuscript on a computer disk should first check with the editor to determine its usability in the review and editing process.

Book-review guidelines

The editor welcomes reviews of recent books relating to the practice of ombudsing, with particular application to institutions of higher education. Books that deal primarily with ombudsing in other types of organizations may occasionally be suitable; a query to the editor in advance of undertaking the review of such a book is recommended.

The following guidelines apply to all reviews:

1. Stay within a maximum of 1,500 words.
2. Orient the reader to the thesis or major purpose of the book.
3. Adopt an argumentative/evaluative stance near the beginning of the review and make that stance a thread throughout the review.

Submission of manuscripts and inquiries

For further information about manuscript submission or to seek assistance in writing, call or write one of the co-editors:

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