



# Resolving Campus Disputes

Notes of a University  
Ombudsman

CAROLYN STIEBER

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The campus ombudsman performs a useful role in helping students to secure fair treatment. As an independent insider, who is usually also a faculty member, the ombudsman utilizes many techniques borrowed from other professionals in dispute settlement, but the position is less precisely defined than that of an arbitrator or mediator.

Ombudsmen use improvisation in dealing with a wide variety of student problems, most of them academic in nature. Informality, access to all persons and records, and freedom to investigate are important characteristics of the job. The ombudsman's power is intangible, based on persuasion and credibility rather than on authority to issue orders.

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**R**elatively few academic disputes end up in court. Those that do usually involve fundamental policies, such as Allan Bakke's challenge to minority admissions at the University of California-Davis medical school, which, he charged, infringed upon his rights.<sup>1</sup> Arbitration on campuses is almost exclusively confined to faculty and staff grievances, where there are collective bargaining contracts, or to disputes over terms of new contracts. The relatively formal and familiar procedures for dispute resolution have almost no applicability in matters involving students.

Although the media focused attention on student protests in the 1960s, there is now a deceptive appearance of tranquillity, if not placidity, in academe, replacing yesteryear's militance, when some students actually carried arms and others were

injured or killed in angry confrontations with police and military units.

The times *have* changed, on and off campus, but what seems to be unrippled calm may be misleading. Protests and demonstrations have more or less vanished, but less visibly, below the surface, are a multitude of old and new antagonisms. The typical campus is no ivory tower and the "community of scholars" has always been more rhetoric than fact. There are inherent conflicts due to differences in perspective, exacerbated now by deepening budget cuts.

Students are infected by the general atmosphere. The prospect of greater economic insecurity in the world outside engenders more haggling than ever over grades and other aspects of academic life. Convinced that a transcript is one of life's major documents, some students will devote more time to arguing about term papers than to writing them. On the other hand, the increased competition for students amidst a declining age cohort also tends to inject a note of "consumerism" into a society that was already becoming increasingly litigious.

It is in this 1980s milieu that the campus ombudsman, a legacy from the more turbulent period, has proved very useful. Students can turn for assistance to someone whose designated responsibility it is to help them.

The ombudsman is not yet institutionalized in the sense that every campus has one, as it would have a registrar or placement office, but at least 100 colleges and universities have established ombudsmen for students, especially those schools which are large, tax-supported, and experienced rapid growth in the past few decades.<sup>2</sup> This development is unique to the United States and Canada.

### THE CHAOTIC CAMPUS: COAST TO COAST

Events that swept university students from Berkeley to Columbia in the 1960s found resonance, at least to

some degree, on every campus in America, even the most staid. A glaring anomaly bedevils academe: the same faculties who eagerly press innovation on an often reluctant society shield themselves behind strong bastions, with ancient and encrusted prerogatives. Change is for others, not for them. They are very resistant to change.

The hallowed precept of "academic freedom" had come to mean much more than protected expression of unpopular ideas. For some it meant the freedom not to meet scheduled classes at all or at least not very often; to give grades inexplicable by any logical process even to one's peers; to juggle exams in order to meet pressing research and consultant commitments or suit private convenience—in short, to treat students as *lumpenproletariat*, without rights and almost beneath contempt. (It is interesting to note that disdain and indifference are also the most common faculty complaints against administrators.)

The great expansion of academic centers had been accompanied by a corresponding increase in bureaucracy that seemed remote and insensitive to student concerns. Believing themselves to be faceless numbers, caught up in giant pedagogical assembly lines that recognized and rewarded faculty research far more than merely teaching, there was an underlying current of student resentment, shared by some faculty as well, for which the Vietnam War served as a potent catalyst.

This view of the academic landscape, although exaggerated and never universal, was salient enough to rock the customary way in which even the most prestigious universities went about their business of imparting knowledge. Clark Kerr, in his "Uses of the University," noted that faculty have historically been intent on very few rules for themselves and a good many for students.<sup>3</sup> On some campuses students encountered scorn and indifference not so much from faculty as from staff—secretaries, registrars, financial aid

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<sup>1</sup> Federal Court (Supreme Court) University of California Regents v. Bakke, 438 U.S. 265 (1978).

<sup>2</sup> Ombudsman Directory, 1981, San Jose State University (mimeographed).

<sup>3</sup> Clark Kerr, *The Uses of the University* (New York: Harper & Row, 1966).



officials, librarians. Relations with campus police were invariably hostile, with the student usually perceived as someone to be protected against.

Then several different political pressures began to converge. An unpopular war, accompanied by a military draft, caused bewildered and disappointed reaction, especially among the college-age population, to U.S. leadership and policies. Campus demonstrations expressing outrage over Vietnam coincided with a more aggressive response to perceived academic inadequacies. The new passions ignited old grievances. On a few campuses the degree of student protest was strong enough to topple presidents (Berkeley, Columbia), revise the grading system (San Jose State), or persuade the governor to intervene by calling out the National Guard or police, leading to the tragic events of Kent State in Ohio and Jackson State in Mississippi.

Shocked by the turmoil and eager to restore public confidence in their management of student conflict, many educators were receptive to experimenting with a European development known as an ombudsman.

## OMBUDSMEN

The original concept of an ombudsman came from Sweden (the word, which is Swedish, means "representative of the people"). An ombudsman reporting to the parliament has been provided for in the Swedish constitution more than 100 years, affirming a successful arrangement from the early 18th century when the Swedish monarch, confined by a Turkish sultan, left behind an emissary to protect his people against unjust judges, tax collectors, and the like.

Variations followed in scores of other countries, both at the national and local levels, with many specialized adaptations in Sweden as well as other places. Most ombudsmen are government officials, but there has been some growth of the idea in private industry as well. American interest in ombudsmen was sparked by a number of popular and scholarly articles that began to appear after

1964. The European experience had been studied with approval, and something similar was urged for the United States.<sup>4</sup> Both in 1966 and 1968 there were discussions of this subject in the *Annals of the American Academy of Political and Social Science* and an American Assembly conference during that period was also devoted to this theme.<sup>5</sup>

None of the models then being considered had academic jurisdictions, but it was only a short leap from government to universities; among the "reforms" suggested for coping with campus unrest was the Carnegie Commission's proposal of an ombudsman to deal with student complaints and actively assist students in securing fair treatment.<sup>6</sup>

Eastern Montana College was the first to establish a campus ombudsman, in October 1966, but the first major university to adopt the idea, in August 1967, was Michigan State University, a Big Ten school. The position, considered a substantial reform at the time, grew out of one paragraph in a broad-ranging report entitled "Academic Freedom for Students at Michigan State University."<sup>7</sup> The report itself had been precipitated by a period of disorder, with many incidents of confrontation between university administrators and protesting students. The structure that emerged at Michigan State has been widely copied elsewhere.

<sup>4</sup> See, for example, Henry S. Reuss, "An Ombudsman for America," *The New York Times Magazine*, September 13, 1964; Walter Gelhorn, *Ombudsmen and Others: Citizens' Protectors in Nine Countries* (Cambridge, Mass.: Harvard University Press, 1966); and Donald Rowat, "Ombudsman for North America," *Public Administration Review* XXIV (December 1964).

<sup>5</sup> Stanley Anderson and Henry S. Reuss, "Ombudsman: Tribune of the People," *Annals of the American Academy of Political and Social Science* CCCLXIII (January 1966); *Ibid.*, 14 articles, CCCLXXVII (May 1968); *The Ombudsman*, Report of the 32nd American Assembly, October 26-29, 1967, Columbia University, Arden House, N.Y.

<sup>6</sup> *Dissent and Disruption: Proposals for Consideration by the Campus*, A Report and Recommendations by The Carnegie Commission on Higher Education (New York: McGraw-Hill, 1971).

<sup>7</sup> "Academic Freedom for Students at Michigan State University," a report of the Faculty Committee on Student Affairs to the Academic Council, January 10, 1967.



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It specified that the ombudsman was to be a senior faculty member, reporting directly to the president of the university. This guaranteed a high degree of independence that no other organizational arrangement provides to the same extent. There are, however, many variations, with some ombudsmen placed lower in the hierarchy, in student affairs



offices for example, or not having faculty rank. There are a few instances where students serve as ombudsmen; their jurisdiction is usually limited, focusing on intergroup quarrels much more than on academic or administrative problems.

Unlike the arbitrator who must render a decision, or the mediator who attempts to bridge the claims of opposing parties, the ombudsman is free to champion the cause of only one side in a disagreement, to pick and choose among available remedies, with the occasional possibility of creating a new solution, or to turn the whole matter over to others for settlement or redress. In some cases strict enforcement of a rule is favored while in others a rule's "exception" will be argued.

There are campus ombudsmen who handle complaints and grievances of faculty and other employees as well as students. It is more common, however, for the staff, some of whom may be organized in unions, to have separate channels of redress. Yet, those who serve only students may have a large purview, since the population of many state-supported universities numbers more than 40,000.

One or two of the early campus ombudsmen had credentials in industrial relations—Cornell's choice of Professor Alice Cook was a notable example—but most, chosen from a diversity of disciplines, have learned their trade on the job. In the California state college system and a few other places ombudsmen have often come from the ranks of ministers or psychologists who can provide personal counseling as an adjunct to institutional problem solving. But such a mingling of functions is atypical; the jurisdiction and expertise of most ombudsmen is more limited.

There is neither a journal nor a nationally recognized professional meeting for ombudsmen. A few regional groups have attempted a very loose form of association but the only real organization thus far centers around governmental ombudsmen who maintain an institute with headquarters at the University of Alberta's Law Centre in Edmonton.

## ECLECTIC NATURE OF THE WORK

Techniques used by arbitrators, mediators, and fact-finders may also be borrowed by ombudsmen on occasion, but their role is much less well defined, with considerable improvisation on a daily basis. It is not easy to categorize a job whose incumbent is not authorized to issue orders, and whose power to a great extent depends on no one knowing for certain how much power the position carries. The clout is indirect, deriving from the fact that the ombudsman is typically independent of all hierarchical pressures, is often a part of the president's office, and has wide powers of investigation.

The very existence of the ombudsman's office represents a presence, a commitment to pragmatic forms of justice—neither legal nor formal nor publicized—for those whose complaints or grievances seem legitimate and solvable, given the limitations of academic resources. Some students may be given only the attention that no one else has bothered to give them. The opportunity to "ventilate" is all that many frustrated students seek.

The process requires constant sorting of the unjust charge from the just complaint, a screening that many faculty and administrators, but by no means all, recognize as protection for them as well as for students. Facts must be patiently checked out and assembled, conflicting accounts weighed, the trivial separated from the serious. A certain degree of distress will always follow from the fact that a campus is, by its nature, an ego-intensive place, where delightful eccentricity, encouraged by centuries of tradition, has a way of shading into arrogance and contempt.

Every ombudsman encounters students for whom missed classes and failing grades are metaphors for insufficient money, troubled marriages, family squabbles, or personality disorders. Their rage is internal, with the university serving as a convenient target. Such students cannot be helped much, at least not by the ombudsman, but with tact and skill they may be steered to a counseling

office. Others, with private off-campus burdens, may need assistance in finding a lawyer. In more ordinary circumstances however, substantial help can be given by the ombudsman in many different forms, from merely listening to rendering active assistance when the facts suggest this is warranted.

Periodically, ombudsmen from the major midwestern universities meet to exchange ideas with one another. Their discussions reveal remarkably similar experiences, despite the diversity of schools represented. Each has described problems ranging across a wide spectrum. Although a few matters are highly complicated and possibly unique to a single campus, many others are routine, almost universal, and recur term after term.

Every ombudsman is familiar with professors who will not accept serious injury or even family death as a legitimate excuse for missing class. Invariably, there are a few who absentmindedly or lazily forget to report completed work to the registrar's office, who fail to show up for scheduled office hours, or, on occasion, do not meet classes without providing substitutes or any explanation.

On every campus financial aid is slow, the paperwork a tangle, with regulations increasing while the money shrinks. Inevitably, against all odds, there are students striving to gain acceptance to programs with restricted entry, whether business or medicine. Others are trying to stay in, get back in, transfer, or drop out. There is always the promised refund that didn't arrive, the "in-state" tuition that wasn't granted, the dormitory situation that can't be endured.

## THE TIMID AND THE PUGNACIOUS

The ombudsman serves both sinners and victims, counseling students accused of cheating on their rights while aiding, in a very different way, those who level accusations—against an amorous instructor, for example.

No ombudsman deals only with the meek. There are combative stu-



dents who want to even scores with professors they perceive as tormenters, lovelorn students who mourn rejection rather than unfair grades, students who are giddy with the thought (erroneously) that heads will roll in the wake of their complaints. Yet, some heads *do* roll, more often, given academia's tenure system, the younger transgressor who lacks job protection. When something drastic does happen, it is only because a litany of student complaints over time has been augmented by unfavorable colleague perceptions.

There are daily complaints about unfairly administered examinations, undeserved grades (too low), unrealistic professorial expectations (too high), insufficient recognition for a student's faithful attendance or hard work—what was called EFFORT in primary school. Little can be done about grades unless there is convincing evidence that the student's grade was based on factors extraneous to course performance. The ombudsman is not the judge in such cases but typically will give appropriate assistance to the student—informally, if possible—in a grievance, if necessary.

The ombudsman's role is to investigate the facts, examine pertinent records, and, if convinced of injustice, attempt to resolve the matter as quickly and casually as possible. If oral persuasion fails, a cogently argued memo may follow, with the ever-present possibility of taking arguments upward in the administrative ladder. Willingness to do combat on a student's behalf is often all that is needed to persuade the recalcitrant; relatively few disputes actually reach the hearing stage.

It is the affected department and college that must ultimately be convinced. Some universities require their departments to establish a hearing procedure; others handle cases on an ad hoc basis. Most often there is a panel composed of faculty and, frequently, students who hear all parties to a dispute. A conscious effort is made on most campuses to keep formal hearings to a minimum. The possibility of having to face additional hearings off campus, in the courts for example, can be a powerful force in keeping any hearing, formal or informal, procedurally impeccable.



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In a few rare instances extraneous factors have been found to enter into grading and grades have been changed. Normally, this will occur

only after protracted investigation, with the burden of proof in such cases on the student. Thus, grades remain very protected from alteration, as they should be. To treat grades loosely would be to open up the possibility of pressure from politically influential persons or wealthy donors, temptations that any self-respecting college or university is determined to resist.

A professor's high standards are never, in themselves, a proper basis for a grade grievance. Still, there are exceptions. When one instructor failed an entire class of considerable size, his department judged that to be something other than a sudden outbreak of mass stupidity. Those grades were changed; the virtually unanimous perception was an instructor "getting even" with a department he disliked and was about to leave.

While "performance" is a key issue in grade disputes, "clear and convincing evidence" of dishonesty is a common standard in cheating cases. Most often nonacademic disciplinary matters such as vandalism in dormitories will be handled by campuswide judiciaries that have heavy student representation.

All hearings provide for at least one level of appeal, and the ombudsman is usually free to participate actively or as an observer at any stage of the proceedings.

Requests for help in grade changes persist, despite the odds against success. The ombudsman, however, deals frequently with many other matters where remedies are more readily attainable. Failures in communication are clarified; errors in records, which may involve substantial sums of money, are corrected; definitive answers are secured where information is conflicting or confused.

While outright unfairness may often be inadvertent rather than deliberate, and not all students are models of civilized behavior, it is not unheard of for them to be threatened by those in supervisory relationships. Quite often, in campus jobs, the supervisors may be officious fellow students who take their authority roles very seriously. There have also been instances where very harsh penalties are given by professors for petty in-

fractions without regard for the substance of the work. In one case a student received a zero for writing on both sides of the paper; another received a zero for putting his name in the wrong place on an examination even though the questions he answered on the test earned the highest possible grade.

At Michigan State, where I have been ombudsman seven years, I have dealt with almost every corner of the campus, from Pest Management to the Health Service. Approximately 1,000 people annually seek my assistance. The number has been surprisingly constant, as is the breakdown of complaints. Quite steadily, about 60 percent of the contacts involve academic matters, year after year. Also highly consistent, even a little mysterious, is the male-female ratio, with males slightly predominating, and the fact that senior males always outnumber every other group.

The table lists the major categories under which academic and non-academic matters fall. Percentages shown are for 1980-1981.

## JUDGMENT CALLS

It is not appropriate for an ombudsman to substitute his or her own judgment for that of others. One may personally feel that a particular professor's grading system is Byzantine in complexity, excessively precise—some confidently carry their calculations to two decimal points—or very flabby and totally devoid of standards. But if the grades are administered consistently and fairly, that should be the end of the matter. Furthermore, since much grading is inherently subjective, and the judgment even of colleagues will sometimes differ, it is inevitable that one professor's discretionary flexibility is another's arbitrary and discriminatory treatment.

Unfortunately, the boundaries are not always that clear. More information might very well have led to a different judgment on whether a student merited a time extension or a chance to retake an examination. Therefore, on occasion the ombudsman uses knowledge of extenuating circumstances in trying to persuade

TABLE  
Issues Brought before the Michigan State University Ombudsman, 1980-1981

Academic	%	Nonacademic	%
Instruction (grades, exams, course content, instructional methods, cheating)	37	Fees and tuition (refunds, scholarships, loans, V.A. and Social Security benefits, residential status)	15
Requirements (degree, certification, honors)	7	Personal problems (emotional, medical, legal, financial, police)	8
Status (admission, readmission, recess, dismissal, voluntary withdrawal)	5	Housing (residence halls and apartments, fraternities and sororities)	6
Registration	5	University facilities (transportation, health, library, bookstore, athletic)	4
Records (transcript, transfer credits, access)	4	Miscellaneous	3
Advising and miscellaneous	1	Student employment (wages and working conditions, assistantships)	3
Total	59	Vehicles and bicycles (parking permits, traffic tickets)	2
		Total	41

others to change their decisions.

It is possible not to uphold the exact complaint and yet still find plenty to criticize—the haste with which graded work may be discarded before students can inspect it, or the very thin evidence that supports some cheating charges. There are instructors who can't be bothered proctoring exams but are outraged by cheating; advisors who are indifferent or uninformed; teaching assistants who are too contemptuous to answer questions. The latter, perhaps understandably, are the focus of a disproportionate share of legitimate complaints on those campuses that utilize their services for teaching purposes. They also do some complaining in their turn, with too much work for too little pay leading the list of grievances.

## CONCLUSION

The disputes ombudsmen handle and the techniques they use are much less precise than those of other professionals who work at conflict settlement. The power itself is intangible, tied to credibility and heavily dependent on prestige, persuasion, as well as thorough knowledge of the campus bureaucracy and its rules.

Normally, an ombudsman will have little impact in conflicts over policy, but in the course of resolving individual problems, there may be evidence of persistent difficulties. Thus, an ombudsman is excellently positioned to flag, for the attention of higher-level administrators, what works well or poorly in the institution as a whole. If superiors show responsiveness, this reporting function is



correspondingly encouraged. Therefore, a degree of policy influence may occur in connection with routine reports on the office.

At Michigan State University, it has been the practice of the president to direct pertinent paragraphs of the ombudsman's report to appropriate units. They are then expected to comment on the identified problems and indicate to the president what steps are being taken by way of remedy. Such use of an ombudsman's report adds considerably to its worth.

The one indispensable tool that any effective ombudsman must have is access to all persons, offices, and records in the institution. While ombudsmen cannot transform a mediocre college or university into a superb one, they are in a position to make a peaceful contribution to the "Rights Revolution" and seem here to stay. Few disappear, once established. One did, at SUNY in Stony Brook, New York, where the position was eliminated after 17 months' existence. One or two others have been caught in budget crunches, now en-

demic in academia, but many more appear than disappear each year. The little directory that San Jose State publishes adds a few pages in every new edition.

A faculty member's freedom to make professional evaluations of student work is as protected as ever from outside interference. High standards have in no way been threatened, but professors and all other staff are themselves held to accepted norms of professional behavior that can now be questioned after many decades, if not centuries, of absolute authority.

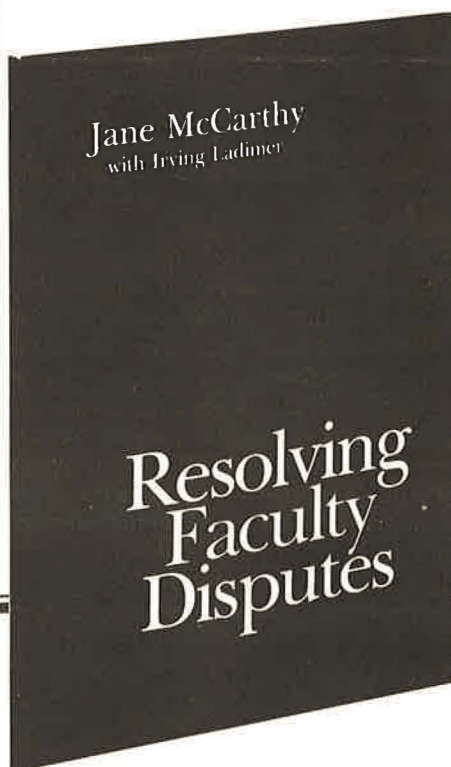
There is wide agreement that an individual does not "consume" education as a product might be consumed. The results depend mightily on the place of study itself and what is brought by the student—native ability, degree of commitment, realism of expectation. These are infinitely complex, but for the first time in history a college catalog is regarded as fair game to be scrutinized for "truth in advertising," rather than a sometimes careless compendium of what may be

out-of-date and conflicting requirements, sporadically enforced rules, or untaught courses that nonetheless continue to be listed.

Institutions of higher education are, by necessity, dynamic, with strong differences of opinion and a measure of controversy not only inevitable but even indispensable. In the larger sense this will not change and should indeed be nurtured. It is in the particular area of equity to individuals that ombudsmen perform a valuable role.

The possibility of critical scrutiny by an independent insider, which the classic ombudsman is, can, with respect for confidentiality, prevent some disputes and misunderstandings from spilling over into the outside world. With a reasonable basis for quiet settlement afforded, ombudsmen have assisted in the process of making colleges and universities more accountable and more responsive to their students, whose sense of well-being and fair treatment have much to do with the very future of academic life. ■

*ALSO of interest to the  
academic  
community . . .*



## RESOLVING FACULTY DISPUTES

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