Charter Agreement for the Office of the University Ombudsman

I. INTRODUCTION

The Binghamton University Office of the Ombudsman (the “Office”) has a rich history of service to the University, dating back to 1969. The inaugural office, like many established during this era of social and political unrest, served only students and acted as a liaison between disgruntled students and the University’s administration. In 1997, Lois B. DeFleur formally established the Office as a confidential, neutral, independent and informal dispute resolution resource for all members of the University community. The spirit of the organizational ombudsman function is consistent with the core values of both the State University of New York system generally and of Binghamton University specifically. Over the past decade, the University’s strategic plans have each affirmed the University’s dedication to fostering a campus culture of respect and inclusion, and encouraging collaborative problem-solving among all members of the University community. The Office is committed to helping the University further these and other strategic objectives within a culture that is ethical, respectful, inclusive and insistent upon fair process.

This Charter Agreement supersedes the agreement entered into October 12, 2011, a copy of which is attached as Appendix A, between C. Peter Magrath and the Office of the Ombudsman. This Agreement defines the Office’s standards of practice, privileges, responsibilities, authority and limitations on authority and shall be reviewed, updated and reaffirmed on a bi-annual basis.

II. PURPOSE AND SCOPE OF SERVICES

The Office provides informal dispute resolution services to the University community, including students, faculty and staff, and serves as a place where all members of the University community can confidentially voice concerns, seek guidance, develop options and generally problem-solve at any stage in the resolution process. The Office is responsible for providing the University community, at regular intervals, with information about the role of the University Ombudsman (the “Ombudsman”) and for making the services of the Office easily accessible to those it serves.
The Ombudsman confidentially receives complaints, concerns or questions about alleged acts, omissions, improprieties and/or broader systemic problems. The Ombudsman’s response is tailored to the dynamics of the situation and the visitor’s concerns. The Ombudsman listens to the visitor and may make informal inquiries or otherwise review matters received, offer resolution options, make referrals to other offices, explain University policies and procedures, coach visitors on how to help themselves, engage in shuttle diplomacy and/or otherwise facilitate the resolution of disputes independently and impartially. The Ombudsman assists those involved in a particular matter in reaching resolutions that are consistent with the articulated values, ideals and objectives of the University. The Ombudsman is empowered to provide informal assistance only and his/her services supplement, but do not replace, formal processes available to the University community.

In addition, the Ombudsman serves as a source of informal feedback and recommendations for institutional improvement and change. The Ombudsman may serve as an early warning system and provide feedback to the University when trends, patterns, policies or procedures generate concerns or conflicts. The Ombudsman will identify such trends and patterns without breaching confidentiality and anonymity and may provide recommendations to the University for responsibly addressing the identified issues.

III. STANDARDS OF PRACTICE AND CODE OF ETHICS

The Ombudsman practices according to the International Ombudsman Association (“IOA”) Standards of Practice and Code of Ethics. All staff of the Office are required to adhere to these standards, available at http://www.ombudsassociation.org. The Ombudsman is a member of IOA and attends regular trainings and the annual IOA conference. The Ombudsman publicizes the confidential, independent, neutral and informal nature of his/her services and explains these ethical standards to each visitor.

A. Independence

The Ombudsman will be, and appear to be, free from interference in the performance of his/her duties. This independence is effected primarily through organizational recognition, reporting structure, and neutrality. The Ombudsman operates independent of ordinary line and staff structures and exercises sole discretion over whether and how to act regarding individual matters or systemic concerns. The Ombudsman is entitled to make informal inquiry about any issue concerning the University and affecting any member of the University community. The Ombudsman may request access to information related to visitors’ concerns, from files and offices of the University, and will respect the

---

1 “All Staff” refers to both paid and volunteer staff of the Office of the University Ombudsman.
confidentiality of that information. Requests by the Ombudsman for information should be handled with reasonable promptness by University departments.

To fulfill his/her function, the Ombudsman has a specific allocated budget, adequate space, and sufficient resources to meet operating needs and pursue continuing professional development. The Ombudsman has the sole authority to manage the budget and operations of the Office. The Ombudsman reports to the President of Binghamton University for administrative and budgetary matters and trends affecting the University climate.

B. Confidentiality

Strict confidentiality is essential to the effectiveness of the Office and helps create a safe place for visitors to voice concerns, evaluate issues, and identify options. The only exception to confidentiality is where the Ombudsman determines there is an imminent risk of serious harm.

The Office holds all communications with those seeking assistance in strict confidence and takes all reasonable steps to safeguard confidentiality. The Office asserts that there is a privilege of confidentiality with respect to the identity of visitors and their issues. As a result, the Office will not confirm communicating with any party, the identity of any visitor, or the substance of confidential communications without both the visitor’s express permission and the Ombudsman’s agreement that such disclosure is an appropriate option. Furthermore, even with the permission of the complainant, the Office will not willingly disclose documents, or testify at, attend, or participate in formal proceedings. The Office will have written standard operating procedures detailing the means by which staff implement the relevant standards of practice. Pursuant to such procedures, visitors seeking assistance from the Office will be advised that they are considered to have understood and agreed to the Office’s standards of practice and have, therefore, agreed not to seek to compel the Office to testify with respect to any confidential communications.

The University will make every effort to protect the confidentiality of Office communications. The University will not ask the Ombudsman to testify on the University’s behalf in internal or external proceedings. The Ombudsman shall be provided with legal counsel independent from the University in the event a conflict of interest arises between the Office and the administration of the University.

A visitor’s confidential disclosure to the Ombudsman is strictly “off-the-record” and does not constitute a formal report of wrongdoing. Therefore, conversations with the Ombudsman do not constitute notice to the University of any legal or administrative claims the visitor may have. Moreover, such conversations with the Ombudsman do not toll or extend any time limits by which notice of claims must be provided to the University.

The Office does not keep records for the University and does not create or maintain any permanent records identifying individual visitors or confidential information.
Permanent records kept by the Office include only non-confidential and statistical information. Notes and any other materials related to working with a specific visitor will be maintained in a secure location and destroyed once the Ombudsman concludes his/her involvement in the matter.

C. Neutrality/Impartiality

The Ombudsman does not take sides in any conflict, issue or dispute and provides objective assessments of concerns brought to the Office, taking into consideration the rights and interests of all parties, as well as the welfare of the University and University community. The Ombudsman is not an advocate for any individual, group or cause but rather an advocate for equity, fair process and the fair administration of process.

The Ombudsman will take all reasonable steps to avoid conflicts of interest. A conflict of interest occurs when the Ombudsman’s private interests, real or perceived, supersede or compete with his/her dedication to the neutral and independent role of the Ombudsman. When a conflict of interest exists, the Ombudsman will take all steps necessary to disclose and/or avoid such conflict.

D. Informality

The Office will be a resource for informal dispute resolution only. The Ombudsman will not give legal advice nor will s/he formally investigate, arbitrate or otherwise participate in any internal or external formal process or action. The Ombudsman has no authority to impose remedies or sanctions, to establish, enforce, set aside or change University policies or rules, or to override the decisions of University officials. Use of the services of the Office will be voluntary and not a required step in any grievance process or University policy.

The Ombudsman may not inquire (informally or otherwise) into the application or interpretation of a collective bargaining agreement, or into the alleged violation of the duty of fair representation against a certified union.

The Ombudsman may withdraw from or decline to look into a matter if the Ombudsman believes involvement would be inappropriate or inconsistent with the values of the Office. This includes matters not brought in good faith or which appear to be misuses of the ombudsman function.

IV. LIMITATIONS ON RECEIVING NOTICE FOR THE UNIVERSITY

Pursuant to the foregoing standards of practice, the Ombudsman has no authority to accept legal notice or to make decisions on behalf of the University. Communications with the Office shall not constitute legal notice to the University and the Office shall publicize this non-notice role. The Ombudsman is not a “campus security authority” as defined by the
Clery Act\(^2\), nor is s/he required to report allegations that may be perceived to be violations of laws, regulations or policies.

For those visitors wishing to provide notice to the University, the Ombudsman will make referrals to appropriate formal channels so that the individual(s) may make informed choices about which formal process(es) to pursue.

V. **PROHIBITION OF RETALIATION**

Members of the University community will have the right to consult the Ombudsman without reprisal.

References:

IOA Standards of Practice


IOA Code of Ethics


IOA Best Practices


Agreed and accepted by:

[Signature]

Harvey G. Stenger, Jr.
President

[Signature]

Dawn Osborne-Adams
University Ombudsman

Date: 12/22/2012

Date: 12/21/2012

APPENDIX A
Charter Agreement for the Office of the University Ombudsman

I. INTRODUCTION

The Binghamton University Office of the Ombudsman (the "Office") has a rich history of service to the University, dating back to 1969. The inaugural office, like many established during this era of social and political unrest, served only students and acted as a liaison between disgruntled students and the University's administration. In 1997, Lois B. DeFleur formally established the Office as a confidential, neutral, independent and informal dispute resolution resource for all members of the University community. The spirit of the organizational ombudsman function is consistent with the core values of both the State University of New York system generally and of Binghamton University specifically. Over the past decade, the University's strategic plans have each affirmed the University's dedication to fostering a campus culture of respect and inclusion, and encouraging collaborative problem-solving among all members of the University community. The Office is committed to helping the University further these and other strategic objectives within a culture that is ethical, respectful, inclusive and insistent upon fair process. This Charter Agreement defines the Office's standards of practice, privileges, responsibilities, authority and limitations on authority.

II. PURPOSE AND SCOPE OF SERVICES

The Office provides informal dispute resolution services to the University community, including students, faculty and staff, and serves as a place where all members of the University community can confidentially voice concerns, seek guidance, develop options and generally problem-solve at any stage in the resolution process. The Office is responsible for providing the University community, at regular intervals, with information about the role of the University Ombudsman (the "Ombudsman") and for making the services of the Office easily accessible to those it serves.

The Ombudsman confidentially receives complaints, concerns or questions about alleged acts, omissions, improprieties and/or broader systemic problems. The Ombudsman's response is tailored to the dynamics of the situation and the visitor's concerns. The Ombudsman listens to the visitor and may make informal inquiries or otherwise review matters received, offer resolution options, make referrals to other offices, explain University policies and procedures, coach visitors on how to help themselves, engage in shuttle diplomacy and/or otherwise
facilitate the resolution of disputes independently and impartially. The Ombudsman assists those involved in a particular matter in reaching resolutions that are consistent with the articulated values, ideals and objectives of the University. The Ombudsman is empowered to provide informal assistance only and his/her services supplement, but do not replace, other more formal processes available to the University community.

In addition, the Ombudsman serves as a source of informal feedback and recommendations for institutional improvement and change. The Ombudsman may serve as an early warning system and provide feedback to the University when trends, patterns, policies or procedures generate concerns or conflicts. The Ombudsman will identify such trends and patterns without breaching confidentiality and anonymity and may provide recommendations to the University for responsibly addressing the identified issues.

III. STANDARDS OF PRACTICE AND CODE OF ETHICS

The Ombudsman practices according to the International Ombudsman Association ("IOA") Standards of Practice and Code of Ethics. All staff\(^1\) of the Office are required to adhere to these standards, available at [http://www.ombudsassociation.org](http://www.ombudsassociation.org). The Ombudsman is a member of IOA and attends regular trainings and the annual IOA conference. The Ombudsman publicizes the confidential, independent, neutral and informal nature of his/her services and explains these ethical standards to each visitor.

A. Independence

The Ombudsman will be, and appear to be, free from interference in the performance of his/her duties. This independence is effected primarily through organizational recognition, reporting structure, and neutrality. The Ombudsman operates independent of ordinary line and staff structures and exercises sole discretion over whether and how to act regarding individual matters or systemic concerns. The Ombudsman is entitled to make informal inquiry about any issue concerning the University and affecting any member of the University community. The Ombudsman may request access to information related to visitors’ concerns, from files and offices of the University, and will respect the confidentiality of that information. Requests by the Ombudsman for information should be handled with reasonable promptness by University departments.

To fulfill his/her functions, the Ombudsman has a specific allocated budget, adequate space, and sufficient resources to meet operating needs and pursue continuing professional development. The Ombudsman has the sole authority to manage the budget and operations of the Office. The Ombudsman reports to the Office of the President for administrative and budgetary matters and trends affecting the University climate.

\(^1\) "All Staff" refers to both paid and volunteer staff of the Office of the University Ombudsman.
B. Confidentiality

Strict confidentiality is essential to the effectiveness of the Office and helps create a safe place for visitors to voice concerns, evaluate issues, and identify options. The only exception to confidentiality is where the Ombudsman determines there is an imminent risk of serious harm.

The Office holds all communications with those seeking assistance in strict confidence and takes all reasonable steps to safeguard confidentiality. The Office asserts that there is a privilege of confidentiality with respect to the identity of visitors and their issues. As a result, the Office will not confirm communicating with any party, the identity of any visitor, or the substance of confidential communications without both the visitor’s express permission and the Ombudsman’s agreement that such disclosure is an appropriate option. Furthermore, even with the permission of the complainant, the Office will not willingly disclose documents, or testify at, attend, or participate in formal proceedings. The Office will have written standard operating procedures detailing the means by which staff implement the relevant standards of practice. Pursuant to such procedures, visitors seeking assistance from the Office will be advised that they are considered to have understood and agreed to the Office’s standards of practice and have, therefore, agreed not to seek to compel the Office to testify with respect to any confidential communications.

The University will make every effort to protect the confidentiality of Office communications. The University will not ask the Ombudsman to testify on the University’s behalf in internal or external proceedings. The Ombudsman shall be provided with legal counsel independent from the University in the event a conflict of interest arises between the Office and the administration of the University.

A visitor’s confidential disclosure to the Ombudsman is strictly “off-the-record” and does not constitute a formal report of wrongdoing. Therefore, conversations with the Ombudsman do not constitute notice to the University of any legal or administrative claims the visitor may have. Moreover, such conversations with the Ombudsman do not toll or extend any time limits by which notice of claims must be provided to the University.

The Office does not keep records for the University and does not create or maintain any permanent records identifying individual visitors or confidential information. Permanent records kept by the Office include only non-confidential and statistical information. Notes and any other materials related to working with a specific visitor will be maintained in a secure location and destroyed once the Ombudsman concludes his/her involvement in the matter.
C. Neutrality/Impartiality

The Ombudsman does not take sides in any conflict, issue or dispute and provides objective assessments of concerns brought to the Office, taking into consideration the rights and interests of all parties, as well as the welfare of the University and University community. The Ombudsman is not an advocate for any individual, group or cause but rather an advocate for equity, fair process and the fair administration of process.

The Ombudsman will take all reasonable steps to avoid conflicts of interest. A conflict of interest occurs when the Ombudsman’s private interests, real or perceived, supersede or compete with his/her dedication to the neutral and independent role of the Ombudsman. When a conflict of interest exists, the Ombudsman will take all steps necessary to disclose and/or avoid such conflict.

D. Informality

The Office will be a resource for informal dispute resolution only. The Ombudsman will not give legal advice nor will s/he formally investigate, arbitrate or otherwise participate in any internal or external formal process or action. The Ombudsman has no authority to impose remedies or sanctions, to establish, enforce, set aside or change University policies or rules, or to override the decisions of University officials. Use of the services of the Office will be voluntary and not a required step in any grievance process or University policy.

The Ombudsman may not inquire (informally or otherwise) into the application or interpretation of a collective bargaining agreement, or into the alleged violation of the duty of fair representation against a certified union.

The Ombudsman may withdraw from or decline to look into a matter if the Ombudsman believes involvement would be inappropriate or inconsistent with the values of the Office. This includes matters not brought in good faith or which appear to be misuses of the ombudsman function.

IV. LIMITATIONS ON RECEIVING NOTICE FOR THE UNIVERSITY

Pursuant to the foregoing standards of practice, the Ombudsman has no authority to accept legal notice or to make decisions on behalf of the University. Communications with the Office shall not constitute legal notice to the University and the Office shall publicize this non-notice role. The Ombudsman is not a “campus security authority” as defined by the Clery Act, nor is s/he required to report allegations that may be perceived to be violations of laws, regulations or policies.

---

For those visitors wishing to provide notice to the University, the Ombudsman will make referrals to appropriate formal channels so that the individual(s) may make informed choices about which formal process(es) to pursue.

V. PROHIBITION OF RETALIATION

Members of the University community will have the right to consult the Ombudsman without reprisal.

References:

IOA Standards of Practice

IOA Code of Ethics
http://www.ombudsassociation.org/about-us/code-ethics

IOA Best Practices

Agreed and accepted by:

C. Peter Magrath
President

Dawn Osborne-Adams
University Ombudsman