

POLICY 2500-039

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In the event of a discrepancy between the French and English versions, the French version takes precedence.

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PREAMBLE

The Université de Sherbrooke (University) fosters student success by creating an environment and conditions that are conducive to academic achievement.

The University places great importance on respect for student rights, on student responsibilities, and on the fair and equitable treatment of members of the University community.

The University mandates an individual to serve as student ombudsman.¹ This person ensures that students are treated fairly, with respect for their rights, while considering the responsibilities incumbent upon them.

1. OBJECTIVES

The student ombudsman's function is to foster within the University respect for the rights of students, all the while ensuring that students uphold their responsibilities. The success of the ombudsman's work depends in particular on the implementation of a climate of collaboration, trust, and communication between the people involved, especially in situations of conflict.

The objectives of this policy are mainly to:

- define the role and responsibilities of the student ombudsman;
- specify the principles guiding exercise of the function;
- present the terms for intervention by the ombudsman.

2. APPLICATION SCOPE

Subject to Section 5.4, this Policy applies to everyone who has the status of student in compliance with the Université de Sherbrooke's *Règlement des études* (Bylaw 2575-009), at the time that a student's rights are presumed to have been contravened. A post-doctoral intern as well as senior students of the University may also call on the services of the ombudsman.

The student ombudsman may also be consulted by members of the University community to prevent and resolve disagreements regarding students' rights.

3. ROLE AND RESPONSIBILITIES OF THE STUDENT OMBUDSMAN

The student ombudsman's role consists mainly of intervening in situations presented to them that may contravene or do contravene students' rights in order to try to resolve the situation through conciliation before initiating a formal intervention process. In their intervention, the student ombudsman considers the responsibilities incumbent upon students, as defined in the policies, regulations, and guidelines of the University, as well as the *Déclaration des droits et responsabilités des étudiantes et des étudiants* (CA-2001-12-10-18) (Declaration of Student Rights and Responsibilities).

The ombudsman's services are not a substitute for the internal complaint resolution procedures defined in the policies, regulations, and guidelines in effect. As such, the

¹ Following the linguistic verification carried out, the word "ombudsman" applies to both the feminine and masculine forms (Antidote dictionary).

ombudsman shall let those procedures follow their course and intervene only when existing recourses have been exhausted or when the people involved are not able to resolve the disputed situation involving student rights, while also taking into consideration the responsibilities incumbent upon them.

Regarding students and other members of the University community, in terms of student rights, the student ombudsman's responsibilities are to:

- guide students and any other member of the University community who consults the ombudsman on the content and scope of the University's institutional policies, procedures, and regulations, and especially on the obligations and rights contained therein;
- inform students and any other members of the University community who consult the ombudsman on the existence of the *Politique sur la promotion des droits fondamentaux des personnes et la prévention de toute forme de harcèlement et de discrimination* (Policy 2500-015), if necessary, and direct them to the appropriate resources, as required by application of that policy;
- refer, where appropriate, students and any other members of the University community who consult the ombudsman to the appropriate resources and inform them about the existing procedures;
- advise and help students and any other members of the University community who request assistance from the ombudsman in the analysis of a problem, the determination of issues, and the search for and assessment of appropriate actions;
- offer coaching to students and any other members of the University community who request assistance from the ombudsman on how to address and resolve a problem;
- intervene promptly to take stock of a problematic situation and to help the people involved resolve it;
- use a conflict-resolution approach, based on dialogue in order to foster reconciliation between the parties, when the parties consent to it;
- analyze the causes of a disagreement and, based on the assessment and analysis of this information, provide recommendations for the people directly affected, the management personnel, and the relevant authorities in order to prevent or correct situations that contravene students' rights, while also taking into consideration the responsibilities incumbent upon them;
- contribute to the improvement of University practices by making proposals for changes to policies and regulations in order to avoid the recurrence of harmful situations.

The ombudsman has the right to obtain all information required to handle the cases received by communicating directly with the people concerned, while respecting the University's obligations in terms of the right to access documents and the protection of personal information. The ombudsman can count on the cooperation of all people directly or indirectly concerned to provide them with the information required to treat the cases received.

The student ombudsman's *raison d'être*, role, and responsibilities shall be published. The established procedures are simple and clear, and the service is free.

The University shall apply the necessary means to ensure all members of the University community can communicate easily with the ombudsman.

The ombudsman shall report on their work to the Board of Directors, which through its human resources committee evaluates its quality.

4. PRINCIPLES IN CARRYING OUT THE FUNCTION OF STUDENT OMBUDSMAN

The student ombudsman shall intervene with the people involved in a given situation by communicating the adequate information, by fostering communication and the sharing of information, or when the situation requires by using the appropriate methods and principles of dispute resolution within a process that is most often informal, which may give rise to recommendations communicated to one or more people involved in the situation.

To preserve their impartiality, neutrality, and legitimacy with members of the University community and University authorities, the student ombudsman shall remain independent of the University's administration in carrying out the ombudsman's duties, while also remaining accountable to the University's Board of Directors, from whose authority the ombudsman's office is derived. The ombudsman shall avoid any conflict of interest and may not simultaneously carry out any other university function.

The work of the student ombudsman shall be based on the three main principles that follow.

4.1. Consistency

The ombudsman's work shall be consistent with the University's mission and values, based on its policies, regulations, and guidelines in effect as well as its Declaration of Student Rights and Responsibilities.

4.2. Fairness

To respect the rights of all, the ombudsman shall carry out their functions respecting the duty to act fairly.

4.3. Confidentiality

The ombudsman shall respect the confidentiality of all information to which they have access regarding the people involved in their interventions, unless the ombudsman is expressly released from that obligation by the person or by applicable law, regulation, or policy, such as the *Directive relative aux cas exceptionnels d'intimidation ou de violence mettant ou pouvant mettre en danger la sécurité et la santé de personnes ou l'intégrité des biens* (Directive 2600-056). However, this clause shall not be interpreted as an impediment to seeking counsel from any resource person of the ombudsman's choice, to the extent that the confidentiality of the people involved is preserved, or to obtaining in advance the appropriate commitments from the people from whom the ombudsman must gather personal information in the exercise of their duties.

If applicable, the ombudsman shall restrict communications to only the information required and only for the sole person or persons who must receive the information in the framework of their duties, and the information shall be communicated confidentially.

The principle of confidentiality shall extend to all elements of a file and to all the ombudsman's communications with the people involved in their interventions.

5. STUDENT OMBUDSMAN'S INTERVENTION METHODS

5.1. Request for consultation and intervention

Students may submit a request for intervention regarding their rights, or they may give testimony to the ombudsman without fear of reprisal, unless the approach or testimony has the intention of misleading, in particular through a false statement or false accusation. If a request is demonstrated to be frivolous,² abusive, in bad faith, or gives the impression of malice, the student who made the request may be subject to the applicable disciplinary or administrative measures regarding their status at the University.

When the ombudsman deems that the student submitting a request for consultation or intervention has recourses provided for by the regulations and policies in effect, the ombudsman shall inform the student about those recourses and the way to go about using them.

A student who makes a request for intervention by the student ombudsman shall:

- provide the ombudsman with their full name, student identification number, e-mail address, civic address, and telephone number, unless the specific circumstances justify anonymity;
- describe the facts motivating the request as well as a chronological description of the related events;
- provide the ombudsman with any other information or document required for a proper understanding of the facts.

A student or member of the University community making a request for consultation with the ombudsman shall provide the information required by the ombudsman.

When the ombudsman deems it necessary due to the circumstances, they may require that the request for consultation or intervention be made in writing.

5.2. Investigation

To complete the information related to a problematic situation and to properly and thoroughly analyze it, the student ombudsman shall have the right to investigate, providing access to all information related to the situation as well as the applicable student file, such as that held by the faculty or University training centre. Pursuant to this right, the ombudsman may communicate directly with any staff member to obtain the required information. Since time is usually an important factor in resolving disputes and resuming university activities, the people called upon by the ombudsman shall respond to their requests and questions promptly and diligently.

5.3. Recommendations

In seeking to resolve any particular case, the student ombudsman shall proceed by making recommendations to the people directly involved and management staff of the University and the administrative branches involved, according to the situation presented to the ombudsman.

² By frivolous we mean a request that is manifestly ill founded or groundless, without justification, of little value or importance, not serious, of little interest, or that has no merit.

The ombudsman shall carry out the relevant consultations before formalizing their recommendations, particularly to validate their feasibility.

The ombudsman may orally present to University management or management of the units concerned the recommendations that they deem relevant in terms of the means that are likely to resolve a situation or the prejudices endured by the students involved.

In the even that informal interventions do not correct the situation or that they involve a systemic problem that may undermine the rights of other students or a group of students, the ombudsman may formally intervene resulting in a written report that contains their recommendations. In this case, the ombudsman shall inform the people involved and the unit affected of the decision to proceed formally.

An ombudsman's report shall contain the subject of the request, relevant facts, the pertinent clauses of the appropriate regulatory framework supporting their analysis, the context, and the efforts made, if applicable, to resolve the situation with the help of appropriate methods of dispute resolution, situational analysis, and recommendations.

In the case of a written report, depending on the circumstances, it shall be sent to management of the administrative unit concerned, to the student making the complaint, to the person who is the subject of complaint, or to the member of the University's management committee concerned.

Following the analysis of a case, the ombudsman may recommend sensitizing the management department concerned (including management of the University, if applicable) or the group concerned regarding a problem that is systemic or not under its jurisdiction, in order to avoid recurrence of the harmful situation, to initiate or facilitate organizational change.

Depending on the circumstances and the risks inherent to a given situation, the ombudsman shall make the appropriate follow-up to their recommendations with the people concerned by the recommendations.

The ombudsman's recommendations and response to the student shall close the file.

5.4. Refusal to intervene or interruption

The student ombudsman shall refuse to take on a request for intervention and for investigation when they deem that, in view of the circumstances:

- the student making the complaint has not used the recourses set out in the University's guidelines, regulations, and policies;
- the complaint is premature;
- the student making the complaint is not demonstrating adequate cooperativeness;
- the request for intervention is frivolous, abusive, in bad faith, or has the impression of malice;
- the intervention is not necessary under the circumstances.

The ombudsman shall refuse to intervene or shall terminate their intervention at any point during the process when:

- the student has already used or is using a recourse before a court of justice, administrative tribunal, or organization with a power of investigation into the facts on which the request for intervention is based;
- the request for intervention deals with a question of application or interpretation of a collective agreement or work protocol or a question of rights to representation of a salaried person represented by an accredited union or association;
- the student neglects or refuses to provide the information or documents required by the ombudsman to support the request for intervention or to cooperate in the investigation or in the search for appropriate methods of dispute resolution;
- the behaviour of the student making the complaint or the facts brought to the ombudsman's attention lead them to believe that the complaint is abusive, frivolous, vexatious, manifestly ill founded, or made in bad faith. Before making their decision, the ombudsman shall give the student making the complaint the opportunity to present their observations on this point.

Notwithstanding the status of student as defined in the *Règlement des études* (Regulation 2575-009), the ombudsman shall refuse to take on a complaint when more than two terms have passed since the last occurrence of conduct that may contravene students' rights, unless the student demonstrates that it was impossible for them to act sooner.

In all cases, the ombudsman shall inform the student involved of their decision to terminate the intervention and of the motives for making that decision.

5.5. Other recourses

Any recourse used pursuant to the regulations, agreements, and protocols in effect at the University, as well as under the law, shall terminate the procedures involved in treating the situation under this policy and shall lead to closure of the file.

After the ombudsman's intervention ends, they shall be responsible for informing the person who made the request for intervention that other recourses may exist externally and that they should consult a legal advisor for information to this effect. Such person shall take into account the fact that the other recourses available, if applicable, under the regulations, agreements, and protocols in effect, and under the law, are subject to limitation periods that must be respected. The choice of recourse belongs to the student.

Submission of a request for intervention or consultation under this policy may not replace or substitute for any other recourse available. Such other recourses are the sole responsibility of the student, and the University shall not champion the person using such recourses; nor will it assume in whole or in part their legal or extrajudicial fees.

6. ADMINISTRATIVE CONSIDERATIONS

6.1. Nomination and duration of mandate

The student ombudsman shall be named by the Board of Directors upon recommendation of the University's management committee, after consultation with the Conseil de la vie étudiante (Student Council). The ombudsman shall sign a sworn statement in which they agree to carry out the ombudsman's duties with honesty, impartiality, neutrality, and confidentiality and by avoiding all situations of conflict of interest.

The ombudsman's mandate shall be for the duration of five years and may be renewed. If it is not, the ombudsman shall remain in office until they are replaced. While the ombudsman's office comes directly under the authority of the Board of Directors, they are administratively linked to the University's Secretary General.

6.2. Accountability and reporting

The student ombudsman shall report on their actions in an annual activity report that they present to the Board of Directors, and to the University Council, for information purposes. The anonymized report shall then be published on the University's website. The activity report may include general recommendations for the improvement of University practices, which may consist of proposals for modifications to the regulations, policies, and procedures in effect and of comments on practices in effect at the University. It is the secretary general's responsibility to ensure the recommendations adopted by the Board of Directors are followed.

6.3. Record keeping

The ombudsman shall be responsible for keeping files on the student interventions and consultations they undertake. The conditions for accessing these files are those described in the *Act respecting Access to documents held by public bodies and the Protection of personal information* and fall under the jurisdiction of the person responsible for access to documents and protection of personal information. The files are destroyed at the end of the conservation period described in the *Calendrier de conservation des documents de l'Université de Sherbrooke*, approved pursuant to the *Archives Act*.

7. CONSEQUENTIAL PROVISIONS

For the purposes of application of the Declaration of Student Rights and Responsibilities (resolutions CA-97-10-07, CA-97-11-15, and CA-2001-12-10-18), the function of student ombudsman corresponds to the function of protector of student rights.

Upon taking effect, this policy shall replace the *Mandat de la protectrice ou du protecteur des droits des étudiantes et des étudiants* (resolution CA-2001-12-10-19).

8. RESPONSIBILITY

Subject to the particular prerogatives of the Board of Directors regarding the function of student ombudsman, the Secretary General is responsible for applying, revising, modifying, and publishing this policy.

9. ENTRY INTO FORCE

This policy takes effect upon the date of its adoption by the Board of Directors.