

Role and Value of the Higher Education Ombuds: A Focus on Canada and the Fairness Lens



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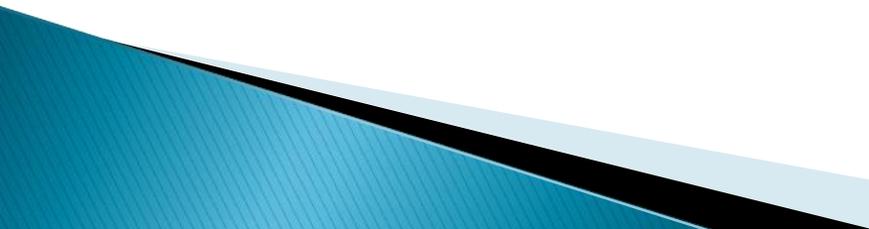
Objectives

- I. The Role and Value of a Higher Education (HE) Ombuds
 - II. The Challenges of Ombuds in Canada's Decentralized HE System
 - III. A Day in the Life of a HE Ombuds: Using the Fairness Lens
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I: The Role and Value of a HE Ombudsperson

- Robert Behren's international study of HE ombuds notes: "They symbolise and can often deliver an institution's commitment to being fair, to promoting a constructive and user-friendly approach to conflict resolution, to avoiding long and costly litigation and to helping identify policy weaknesses and gaps in the system. (Behrens:2017: 18 - 60 HE ombuds in 18 countries)
- Behrens sees an "existential struggle" as they "operate with impartiality and independence, confidentiality and informality" (through) "moral suasion" rather than coercive power." (ibid) They are **not** decision makers **nor** legal advocates.
- HE ombuds help to navigate complex bureaucracies: They fly under the radar to help the person navigate policies, assess the merits of their case, and teach them to effectively communicate their situation, needs and desired outcome.

How does the ombuds “add value” to HE institutions?

- **Offers a warm heart and empathetic ear** to build trust in a confusing and cold, hard-to-navigate, institutional bureaucracy
 - **Promotes a University’s reputation of fairness**, respect and building of collegial relationships
 - **Creates road maps** to find feasible options and a healthy resolution
 - **Encourages collaboration** to level the playing field (equity)
 - **Uses soft power/moral suasion** to do what is fair – exercise strong but diplomatic and strategic skills
 - **Encourages wiser practices: Wiser practices** are fair practices!
 - **Focuses on early, informal timely resolution** where appropriate, saving everyone (including the institution) costs (financial & moral)
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What are necessary qualities of a HE ombuds?

- **Specialist** in conflict management processes (fair systemic processes)
 - **Facilitator** for respectful, collegial dialogue (to build relationships)
 - **Teacher** in effective communication skills (coaching to encourage personal agency)
 - **Learned ability to use soft power/moral suasion** (to do what is fair)
 - **Demonstrates ethics of care and ethics of rights** (to remove systemic inequities)
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What rights need to be protected?

- Grades and Academic standing concerns - (bias and procedural error; appeal processes recognizing humanitarian, medical, equitable, Human Rights grounds)
- Allegations of cheating and plagiarism and/or severity of sanction
- Allegations of bullying and discrimination (includes SGBV disclosures) and severity of sanction/interim measures
- Allegations of lack of duty to accommodate (disability rights)
- Supervisory or Professor or Lab Conflicts (often student peers)
- Allegations of Professional Practice Misconduct (practicums)
- Intellectual Property Disputes (publication/authorship)

Due Process in all University processes, i.e., right to know the case against you, right to be heard and to defend yourself, and to have a clear and timely decision

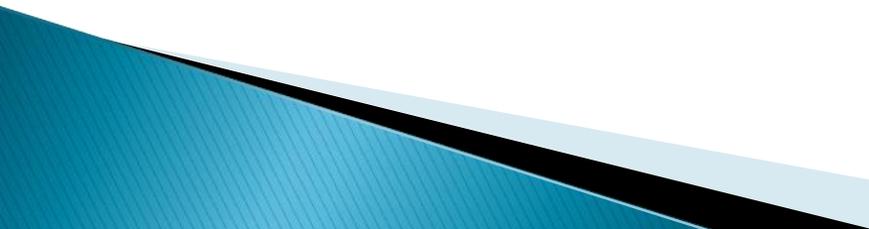
II. HE Ombuds in Canada (1)

- **Decentralized HE:** 10 provinces; 3 territories – **No national ombuds** nor legislated by HE ministries (except Ontario, BC provincial ombuds)
 - **Institution-driven:** 75% HE Ombuds have institutional mandates/ToR
 - 75% publish reports with recommendations
 - **1st Canadian HE ombuds (1965)** Offices grew during period of social unrest; provincial classical ombuds offices also appeared in the 1970s
 - **Varied models:** 25% universities with ombuds-like positions and 5% colleges; privates hire contract ombuds
 - **Varied oversight:** students only (67%); students/staff(33%)
 - **Varied reporting relationship:** President, Advisory Board, Dean of Students or Vice-Provost, Students' Union
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HE Ombuds in Canada (2)

- **Varied funding:** 100% University/SU or shared (usually 50/50)
 - **Varied appointments:** term to continuing
 - **Most are hybrid**, not classical watchdog models of last resort.
 - **More informality to handle disputes early.**
 - **Limited independence**
 - **Trusted** because of their **neutrality/impartiality/multipartiality and limited power (moral suasion)**
 - **Powers to investigate** (a few)
 - **Solo, limited budget** (majority)
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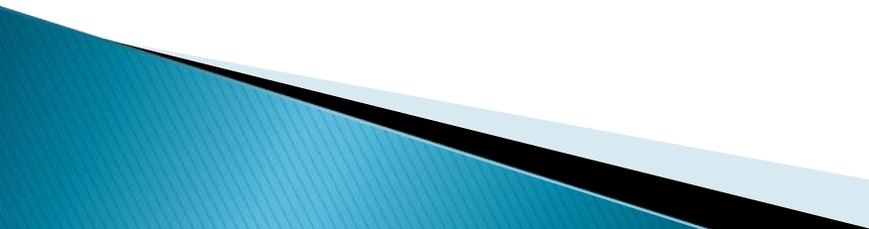
ACCUO/AOUCC Canadian HE ombuds assoc.

- **ACCUO/AOUCC (accuo.ca)** – 60 - 70 members from over 30 public institutions (1 private university)
 - Started meetings late 1970s; **formalized in 1983**
 - **Adopted Professional Standards of Practice (2012) Independence, Impartiality, Confidentiality and Accessibility**
 - Provide collegial membership support, professional development webinars, list:serv to discuss policies/practices, setting up office and terms of reference, research resources; mentorship, etc.
 - **Signatory to the ENOHE Leon Declaration** for international support
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Canadian HE Ombuds Standards of Practice (2012)

- **CONFIDENTIALITY** – Visiting an ombudsperson is confidential and cannot prejudice any other proceedings.
 - **ACCESSIBILITY** – All students have a right to an ombudsperson (free of charge).
 - **IMPARTIALITY** – We do not judge; we focus on equity (multipartiality).
 - **INDEPENDENCE** – We are not influenced or biased by other decision makers. (Independence is aspirational as students **often perceive** that if you are paid by the University or the Students' Union, you are under their influence.)
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Challenges for the Canadian HE Ombuds Role (1)

- Many do not have the power to investigate and are isolated, often hidden, solo offices, struggling to handle high caseloads.
 - Need to maintain focus on systemic inequities and not waste energy on “tilting at windmills”. Doing the wrong thing can end in reputational damage and the removal of the ombuds in an instant.
 - Who we report to and how we are funded has a great impact on whether our recommendations are heard and acted on. Our funding is precarious in poor fiscal times, especially when there is external political interference with government funding.
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Challenges for the Canadian HE Ombuds Role (2)

- Limited independence and institutional precarity. Some offices are created, then dissolved without warning. As Behrens notes: “While independence may be the ‘golden thread’ running through the governance of higher education ombudsmen, sometimes it is more talked about than practised.”
 - Often under-resourced which makes it difficult for studies, investigations and making recommendations. Constantly asked to demonstrate our value; we know there are fewer HE lawsuits because of our work but it is often not recognized (confidentiality).
 - HE ombuds are concentrated in larger metropolitan centres and not in rural regions where marginalized students need their services.
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III. Office of the Student Ombuds - A Day in the Life of the Ombuds at University of Alberta

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Office of the Student Ombuds

- About Us
- Common Questions
- Resources
- Services
- Fairness Day

Office of the Student Ombuds

IMPARTIAL ACCESSIBLE INDEPENDENT CONFIDENTIAL

The Office of the Student Ombuds is a confidential service that strives to ensure that university processes related to students operate as fairly as possible. We offer information, advice, and support to students, faculty, and staff as they deal with academic, discipline, interpersonal, and financial issues related to student programs.

<https://www.ualberta.ca/en/current-students/ombuds/index.html>

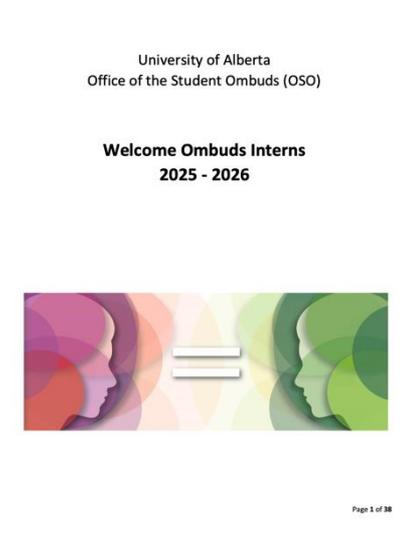
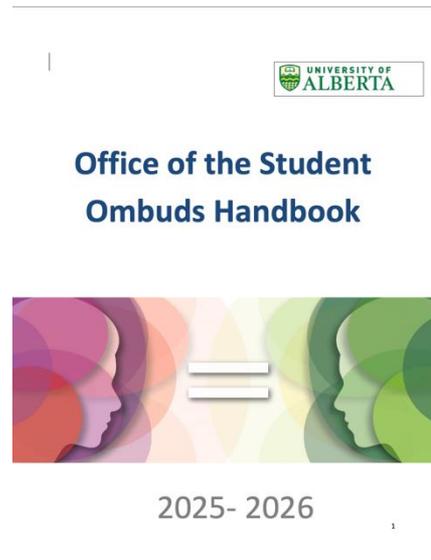
OSO History and Staffing – “ombudsing” 50 years+

- Early 1970s – First Alberta provincial ombudsman, the International Ombuds Institute opened at University of Alberta, and the first University of Alberta ombuds was appointed by the President.
- University ombuds for staff and students abolished; since 1975, a confusing period with a variety of ombuds offices serving students only, postdoctoral fellows and medical residents.
- Today: Office of the Student Ombuds has 3 full-time, continuing staff and 3 paid student internships in a decade-long internship program – full University funding reporting to a University VP.

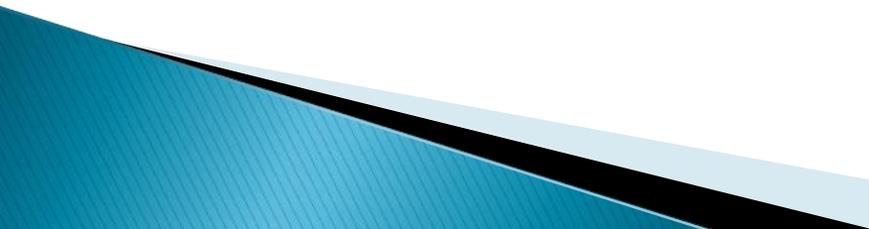
OSO Casework and Training for Service Standards

- ~1400 cases/yr in a 40K student population.
- Pro-active education sessions on Managing Conflict, Unconscious Biases, etc at Faculty and Department levels
- We attend University investigations and appeal hearings as impartial supports to ensure fair processes are followed.

Training
Manuals



Nature of Complaints Annually

- 35% Academic (grades, academic standing)
 - 30% Academic Discipline (cheating, plagiarism)
 - 15% Professor/Supervisor Conflicts (Over 60% of graduate student complaints are about conflicts with their supervisors)
 - 15% Miscellaneous (financial; residence and off-campus housing complaints; referral to other services, etc)
 - 5% Non-Academic Discipline
 - ~ 50 Discrimination and Harassment allegations/disclosures
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Status of Students Visiting Ombuds

- Graduate students, postdoctoral fellows, medical residents (60% international) visit more frequently than undergraduates because of longer programs, financial and funding issues, supervisory conflicts/practicum/clinical conflicts/lab/intellectual property disputes
 - International students visit more frequently than Domestic students due to high tuition, visa concerns, cultural and language concerns, lack of close family support, discrimination externally (housing) and internally (from other students, administration and faculty), etc.
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What does an Ombuds do? A day in the life...

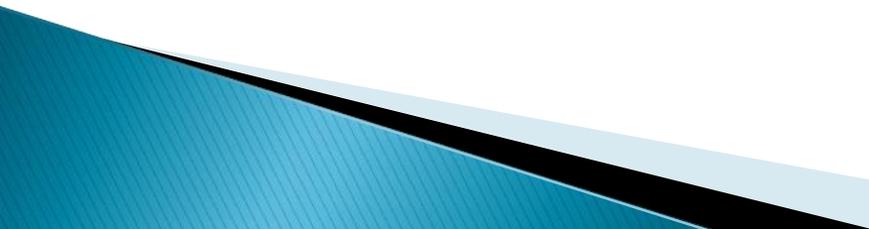
POLICY KNOWLEDGE AND REVISION

- Offer confidential, information, advice, and support to students to help them understand formal policies related to all academic requirements; academic and non-academic conduct; Discrimination and Harassment policy; Duty to Accommodate (disability) policy; Residence Community Standards; Research/Intellectual Property Rights
 - Offer early faculty consultation to revise policies so they are accessible and understood by students
 - Make annual recommendations for systemic changes
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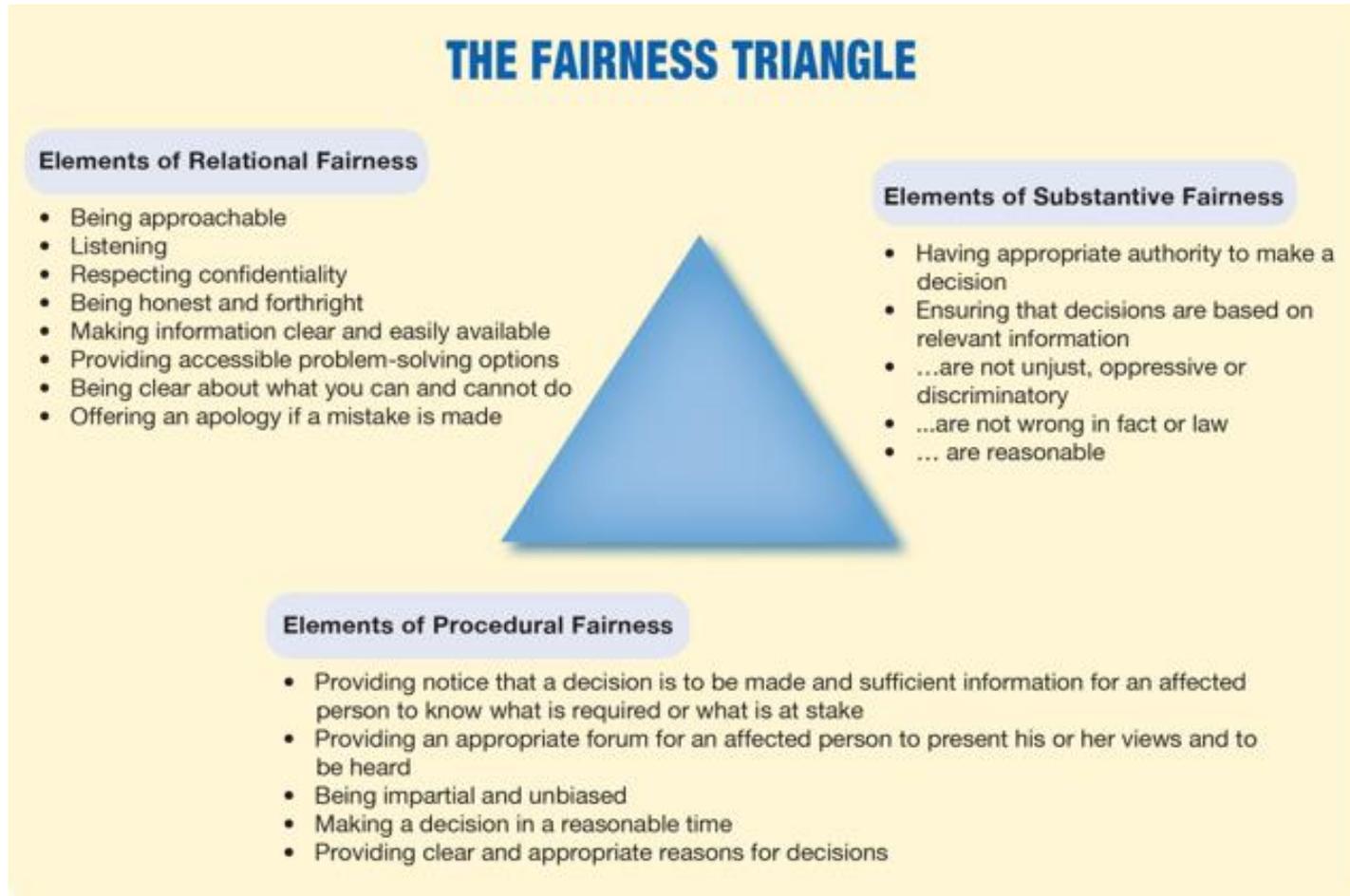
EMPOWERMENT TOOLS

- Provide one-on-one confidential meetings and coaching to help communicate effectively and gain skills in conflict resolution
 - Eg. Students learn how to engage in constructive dialogue rather than defensive stances with their peers and their instructors. For example, graduate students are coached on how to better articulate their concerns with their supervisors, and students facing investigations and appeal hearings can exercise their voice.
 - Early intervention means informal remedies are common.
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HOLISTIC PERSPECTIVE TO EXPAND OPTIONS

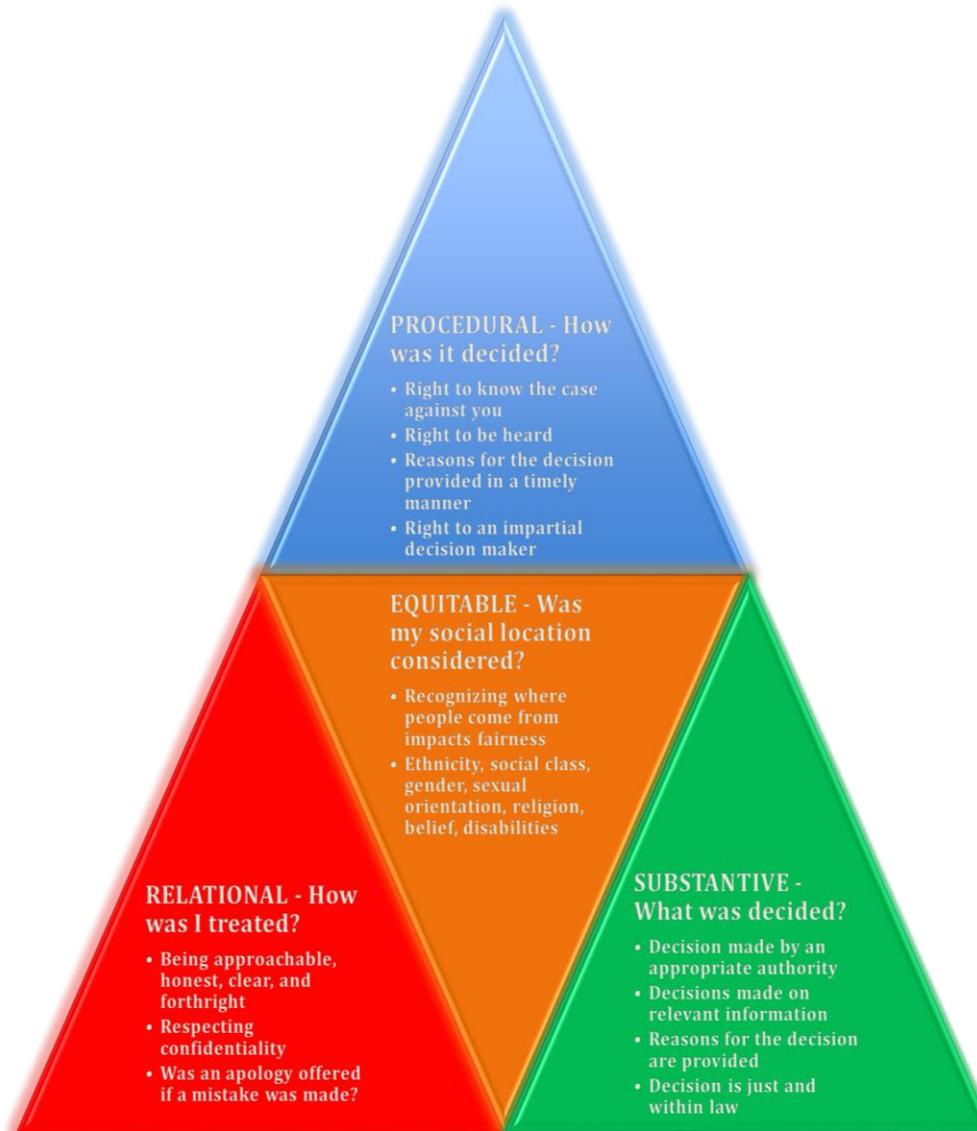
- Ombuds help students to see all sides (holistic view) in a conflict to expand their options for resolution. Ombuds use softer skills (moral suasion) to find mutual interests to bridge the gap and move to resolution. Eg. Supervisory conflict mediation/coaching.
 - Ombuds offer faculties advice on policy revisions and fairness in decision-making, and workshops to facilitate wiser practices: fair decision-making.
 - How do we do this? Through the Fairness lens (Fairness Triangle)
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The Fairness Triangle – Canadian HE Ombuds



(M Conway, U Victoria adapted from Saskatchewan Ombuds)

The OSO Fairness Triangle



Fairness Practices at a Formal Appeal Hearing

- ✓ Did the student **understand all allegations and concerns** about the situation?
- ✓ Was the student **provided sufficient information to know what was required (policy and procedures)** for the appeal?
- ✓ Was there **clear and timely notice** for the appeal?
- ✓ Was the student **notified of assistance and an impartial advisor**?
- ✓ Was the student allowed **effective participation in the process**: eg, present their case, question, call witnesses and rebut at a formal hearing?
- ✓ Was a **“duty to accommodate”** respected?
- ✓ Was the student **treated with dignity and respect**?
- ✓ Was the student’s **social location (marginalization)** considered?
- ✓ Was the **decision made by those who heard the case, and based upon evidence presented at the hearing**?
- ✓ Was there a **timely decision with sufficient reasons**?
- ✓ Was the **student given notice of any further right to appeal**?

Encouraging Wiser Practices: Check which fairness practices these procedures address: procedural, substantive, relational and equitable fairness

Resources

- ▶ Being an Ombuds in Higher Education: A Comparative Study by Robert Behrens June 2017 ENOHE (European Network of Ombudsman in Higher Education) <https://enohe.net/wpcontent/uploads/2017/Beingan-ombudsman.pdf>
- ▶ A Review of the Higher Education (HE) Ombuds in Canada: Why the Ombuds is Essential in every HE Community. Natalie Sharpe. Vienna, Austria 2018. <https://www.ualberta.ca/en/media-library/ualberta/students/ombuds/documents/accuo-president-presentation-on-he-ombudsman-in-canada.pdf>
- ▶ Association of Canadian College and University Ombudspersons ACCUO/AOUCC) <https://accuo.ca>
- ▶ University of Alberta Office of the Student Ombuds <https://www.ualberta.ca/en/current-students/ombuds/index.html>

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- B.A. (Hon) 1st Class, M.A., University of Alberta nsharpe@ualberta.ca
- Conflict Resolution Certificates in Negotiation, Mediation, Arbitration (Alberta Arbitration and Mediation Society, now ADRIA)
- Senior Student Manager, University of Alberta
- Teaches Alternative Dispute Resolution University courses, and other social science and labour studies courses
- Past President, Association of Canadian College and University Ombudspersons (ACCUO/AOUCC, Canada)
- Past Board Member and Conference Co-Chair, California Caucus of College and University Ombudspersons (CCCUCO, USA)
- Member, European Network of Ombuds in Higher Education (ENOHE)
- Pete Small Distinguished Ombuds Award (CCCUCO, USA)
- Lars Mannerheim Distinguished Service Award (ACCUO/AOUCC)
- Presentations at national and international HE ombuds conferences, national student service conferences, academic conferences, and university labour conferences