

METROPOLITAN STATE UNIVERSITY OF DENVER
UNIVERSITY OMBUDS OFFICE ANNUAL REPORT

G. Michael Kilpatrick, CO-OPSM

2013

ACKNOWLEDGEMENT

It is important to acknowledge the ongoing support in the creation and sustainability of the University Ombuds Office (hereinafter “UOO”) by Stephen Jordan, Ph.D., President of Metropolitan State University of Denver and Myron Anderson, Ph.D., Associate to the President for Diversity. Additionally I would like to acknowledge the assistance and guidance of Ms. Julie Sharer-Price. Her assistance has been key to the implementation and success of the office. Additionally, I must acknowledge, Ms. Laura Lempe, and Mr. Paul Hitchcock, for their assistance as well. Their assistance in all things administrative has and continues to be invaluable in creating, opening and sustaining the UOO.

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Metropolitan State University of Denver

University Ombuds Office

2013 Annual Report

INTRODUCTION

The first annual report (hereinafter “Report”), of Metropolitan State University of Denver (hereinafter “MSU Denver”), covers the time frame from March 01, 2013, through December 31, 2013. This report contains additional information explaining the history and background regarding ombudsmen, in order to educate the reader not familiar with the history, role and processes of the Ombudsman. This information is not likely to be included in this much detail in any subsequent reports.

The UOO acts as an early warning system for the University but without identifying sources of information. Thus, in bringing information forward and upward, the UOO acts also as a “change agent in presenting data, trends and others concerns to appropriate administrators.

This report presents data, along with information identifying trends and other concerns to the Administration. The UOO understands that the Administration may be privy to information not available to the UOO. Therefore, it is the Administration’s choice to act, or not to act on the information presented here.

TERMINOLOGY

The term “Ombudsman” is intended to be gender neutral, and is utilized as a term of art within the profession. Some institutions refer to the person holding this position as “Ombudsman,” “Ombudsperson,” “Ombuds,” or “Ombuds Officer.” All are acceptable and are widely used within the profession of ombudsmen. Additionally, the acronym “UOO” means the “University Ombuds Officer” including the office itself, any persons that might be employed within the office as Associate/Assistant Ombuds Officers, Administrative personnel and/or interns working within the office.

People who come to consult with the Ombudsman are referred to as “Visitors” and those that the UOO may work with in connection with a visitor contact are “Respondents.”

There are two main types of Ombudsmen. Generally speaking, the “Classical Ombudsman” has some level of power and authority to take certain actions, order changes and/or be directive within their organization. The “Classical Ombudsman” may have the power to engage in formal investigative functions. Their purpose is to ensure that rules, policies and procedures are administered fairly and equitably.

The “Organizational Ombudsman” can be described in four words: independent, informal, neutral and confidential. The Organizational Ombudsman has no power, except the power of persuasion. The focus is “interest” based conflict resolution and the safety of the Visitor. The Organizational Ombudsman is often the “ear to the ground” person who acts as a change agent by surfacing issues, concerns and trends to management without identifying the source of the information. This is the model utilized at MSU Denver.

HISTORY OF THE OMBUDSMAN¹

Although the origin of the Ombudsman may go much further back in time, the first recorded use of the term was in 1709, when King Charles XII of Sweden was deposed and exiled to Turkey. With his departure, he appointed a person within his government to hear concerns and complaints of the people regarding the administration of government. In short, this individual was to ensure that the government followed the law and fulfilled its obligations to the people. As part of his duties, this person also made recommendations to government officials regarding trends that were problematic, in hopes of making the government more responsive, fair and transparent.

Almost 100 years later, and following the defeat of Sweden by Russia, a “justitieombudsman” was appointed to oversee “... and supervise the observance of laws and statutes.” From these beginnings, the role spread throughout Europe for the next two hundred years.

The organizational role of the Ombudsman came to the United States in the 1960’s, during campus unrest that arose due to the civil rights movement and opposition to the war in South Vietnam. Eastern Montana College and Michigan State University were the first two institutions to hire Organizational Ombudsmen. Since that time, hundreds of academic institutions from Junior-Community Colleges, to large public and private research institutions (Pasadena Community College, MIT, Michigan, Michigan State, Auburn, Princeton, the Universities of California, Colorado, Oregon, North and South Carolina, Cornell, Brown, Florida and now MSU Denver), private sector businesses (Halliburton, Coca-Cola, AllianceBernstein, Chevron, Baker-Hughes, American Express, Eaton Corporation) and public sector entities (the United Nations, the Red Cross, The Department of Defense, Secret Service, The Transportation Security Administration) have identified the value of the Organizational Ombudsman role, hired them and now reap the benefits of these professionals.

THE INTERNATIONAL OMBUDSMAN ASSOCIATION

The International Ombudsman Association (hereinafter “IOA”) is the preeminent International organization representing the work of the Organizational Ombudsman. At its last conference, which was held in Denver in April 2014, Ombudsmen from 26 countries were represented. IOA espouses a Code of Ethics (Attached as addendum “A”), Standards of Practice (Addendum “B”)

¹ Howard, Charles L., *The Organizational Ombudsman: Origins, Roles, and Operations; A Legal Guide*, ABA Press, 2010.

and Best Practices (Addendum “C”) and has practice standards (collectively hereinafter ”Standards”) for Organizational Ombudsmen internationally.

In 2010, the IOA established a “certification” program for the Organizational Ombudsman. The process requires that an Organizational Ombudsman must have a minimum of 2,000 hours as a practicing Organizational Ombudsman. The practitioner must pass a written examination, demonstrate knowledge of the Standards and applicability of those Standards to their practice, and possess a broad knowledge of relevant law as well as conflict resolution theory, techniques and the ability to apply those theories and techniques to everyday situations. Finally, the Organizational Ombudsman must successfully pass an oral examination relating to current practice within the organization being served, as well as demonstrate a strict adherence to the Standards. Once certified, the Certified Organizational Ombudsman Practitioner (hereinafter “CO-OPSM”) must complete 60 approved Professional Development Hours every four years and submit an application that is reviewed by a committee appointed by the CO-OPSM Board to ensure adherence to Standards.

THE ORGANIZATIONAL OMBUDSMAN AT MSU DENVER

Although MSU Denver once had a part-time Ombuds during the 1990’s, the office closed. In 2010, following an Employee Climate Survey of staff and faculty at MSU Denver, a nationwide search commenced for an experienced Ombudsman to create an office, adherent to the IOA Standards. In January 2013, G. Michael Kilpatrick was hired as Director/University Ombuds Officer. His mandate was to open and maintain an effective office pursuant to IOA Standards that would serve faculty (Categories I, II, III, staff and administrators, student employees and interns² and external visitors (those having business with MSU Denver such as contractors, parents, and others). The UOO was not mandated to serve students of MSU Denver where the issues relate to academic questions, student success, wellness, services or financial aid.

At the time he presented for interviews, Kilpatrick possessed backgrounds in law (workers’ compensation and employment), medicine (trauma and cardiothoracic surgery), theology (applied theology in liturgics and mission) and conflict resolution. Kilpatrick has worked in the conflict resolution field for 14 years, as an Ombudsman, (classical and organizational), as a mediator (employment, workplace, eldercare, civil harassment and juvenile guardianships) and as a facilitator. At the time of hire, he had acted as the neutral in over 6,000 cases. Kilpatrick is also a CO-OPSM and at the time of hire, was one of 103 Ombudsmen with this designation worldwide.

It had been planned that the UOO would not open the office to Visitors until sometime in the summer of 2013. However, there was a demand very early on by Visitors for access to the UOO. Therefore, the UOO opened on March 01, 2013, and began seeing Visitors mid-March 2013. The UOO is located at Central Classrooms 306.

The Charter (hereinafter “Charter”) for the UOO was negotiated and signed by Dr. Jordan in May 2013. The Charter specifies the jurisdiction of the UOO, i.e. who the UOO may see and

² Student employees and interns may only come to the UOO with workplace related issues.

what issues (generally) may be brought to the UOO. In short, the limitations and guidelines of the UOO are specified within the Charter (attached as Addendum “D”).

The UOO practices in accordance with the Standards specified by the IOA. The Standards are described as the “four corners” of best practices. The following in italics is taken directly from the UOO’s “Welcome to the University Ombuds Office” brochure.

Independence

The UOO operates outside of the normal and formal line of authority within the University. The UOO has the right and power to decline or terminate services with anyone, or with any entity within the University should the UOO feel that continued assistance would be inappropriate for any reason.

The UOO reports to the President’s office for administrative matters only. Pursuant to the Charter, the UOO has the right and authority to look into any matter it deems appropriate at any time. The UOO shall have access to relevant records of the University. Additionally, the Administration will not interfere with the operations of the UOO. The UOO is not an agent of notice for MSU Denver regarding any matter.

Neutrality and Impartiality

The UOO does not take sides regarding any issue and does not advocate for any person, entity or the University. The UOO will advocate for fairness and equity.

The UOO does not give legal advice nor does the UOO engage in counseling. The UOO is an active listener, a welcoming person that de-escalates anger and listens to the Visitors concerns without judgment.

Informality

The UOO is intended to be an alternate channel of communications within the University and is not a part of any formal process inside or outside of the University. As such, utilizing the services of the UOO is strictly voluntary. Working with the UOO is off-the –record; the UOO does not keep or maintain records on behalf of the University.

The UOO is strictly informal. It is not the necessary first step to initiate any formal process, therefore the UOO process is strictly voluntary. The UOO will not participate in any formal process nor will the UOO give testimony in any informal or formal proceeding. If confronted with an order to testify, the UOO has access to independent counsel and will make every effort to quash any order to testify.

Confidentiality

The UOO holds all communications and identities of all those working with the UOO in the strictest confidence. The UOO’s intent is to create a safe and secure environment for those seeking assistance of the UOO in order to speak freely about any subject, issue or concern. The exception to this is when a person threatens imminent threats of physical harm. The UOO does not receive legal notice on behalf of the University on any matter.

The UOO asserts and the University supports that the UOO owns the privilege of confidentiality and will not waive this privilege for any reason, except for threats of imminent harm and only where the UOO cannot address the threat by other appropriate means. The UOO will not divulge the identity of any Visitor without their express permission and will only do so if the UOO believes this to be in the best interests of the Visitor. This is also true of the use of the information (voice, print or electronic) shared with the UOO by the Visitor.

THE PROCESS

Visitors initiate contact with the UOO. initial contact with the UOO is made by telephone, e-mail or walk-ins. Appointments are made for 1.5 hour segments. The Visitor generally comes to the UOO however, the UOO has met Visitors off campus or at other campus locations to ease concerns in coming to its current location. Additionally, “Skype,” “GoToMeeting” and “Face Time” have been utilized as modalities to meet with visitors.

Sometimes the matter is addressed through a simple phone conversation ending with a referral, a policy clarification, or an option suggested by the UOO that the Visitor had simply overlooked or did not know was available to them. Before a meeting begins, the UOO explains what the Ombuds process is and is not, within the confines of the “four corners” of practice described above. The UOO advises the Visitor (or Respondent) what the UOO can and will do, and those actions or processes that the UOO will not do or take part in. The UOO asks Visitors if they have questions or concerns and seeks their agreement to proceed under these rules. Although some came to the conclusion that the UOO process is not what they wanted, most Visitors agreed to the process as outlined by the UOO.

During a meeting, the UOO listens actively to the Visitor or Respondent and gathers information by asking specific and open-ended questions, in order to clarify and understand the issues. Next, the UOO discusses potential available options, clarifies policies, procedures and processes, and allows the Visitor or Respondent to identify the option(s) best suited to address the issues. At this point, the UOO will likely discuss the option(s) in more detail with the Visitor. The UOO may coach and role-play with the Visitor. The Visitor may request that the UOO intervene in a situation with shuttle-diplomacy or facilitated conversations. The UOO tracks trends and other issues and reports upwards without identifying the source of the information. The process is “interest-based” and non-judgmental.

Cases are secured within the UOO. Cases are shredded by the UOO on the very day the case closes. Demographic information is retained via an offsite program that does not contain names, contact information or any information that could identify a Visitor or respondent.

SERVICES PROVIDED BY THE UOO

- Non-judgmental and Empathetic Active Listening
- Consulting
- Conflict Coaching
- Option Discovery and Discussion
- Clarification of Policies and Procedures

- Reality Checking
- Shuttle Diplomacy
- Facilitated Conversations
- Instruction in Conflict Dynamics, Diagnosis and Communication
- Referrals
- A Safe Place to Talk about Issues and Concerns

OUTREACH

From March 01, 2013, through December 31, 2013, the UOO reached out to the University, offering 48 presentations to the UOO constituency, totaling 1,092 faculty and staff.

In these presentations, the UOO explained the function and limitations of its role in the context of the “four-corners” of the Standards noted above, the UOO constituency and how to contact the UOO. In general, the presentations were well received and generated questions. These presentations were also a part of the overall marketing strategy to introduce the office to the University community. The presentations will be ongoing until every University Department has the opportunity to be informed about the office.

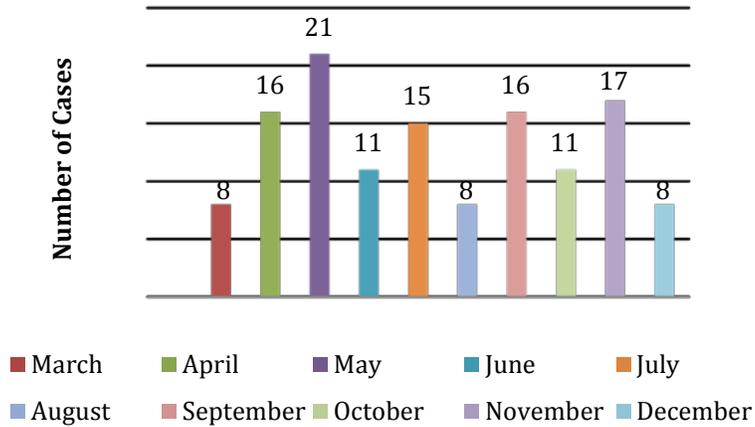
Additionally, the UOO participated in New Employee Orientations in this time frame. The UOO also participated in MSU Denver’s Professional Development Day, offering a morning and afternoon session on Conflict Dynamics to 85 attendees as well as New Faculty Orientation. The UOO also co-moderated a cultural conflict session at the 2013 Higher Education Diversity Summit.

In the spirit of communicating the function of the office to MSU Denver, the UOO produced a colorful and informative double-sided single card brochure containing information on: “Why Call the Ombuds,” the “Four-Corners,” “What the Ombuds does and will not do,” “Issues you can bring to the Ombuds” and “Tips for Communication.” Add to this, the useful and humorous “Stress-o-Meter” straight edge, by which staff and faculty can measure their level of calm or stress by utilizing the meter.

Finally, the UOO produced a very informative website that can be found at www.msudenver.edu/ombuds. On the website, one will find the core responsibilities of the office along with other relevant information which Visitors would find helpful and informative pertaining to conflict resolution.

NUMBER OF CASES PER MONTH IN 2013

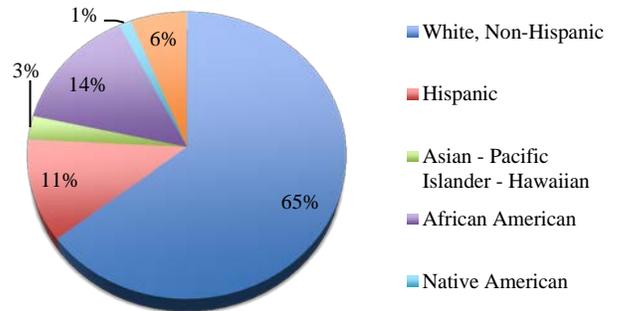
March – 08
 April – 16
 May – 21
 June – 11
 July – 15
 August – 08
 September – 16
 October – 11
 November – 17
 December – 08
Total – 131



DEMOGRAPHIC INFORMATION

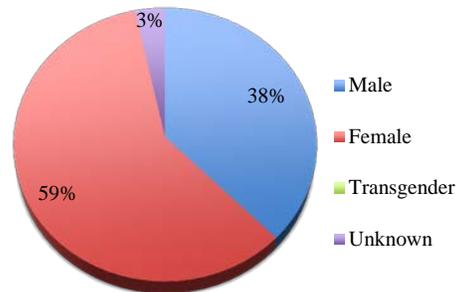
VISITORS BY ETHNICITY (total of 149)

White, Non-Hispanic – 96
 Hispanic – 17
 Asian-Pacific Islander-Hawaiian – 04
 African American – 21
 Native American – 02
 Unknown – 09



VISITORS BY GENDER (total of 149)

Male – 56
 Female – 88
 Transgender – 00
 Not Identified – 05



VISITOR CLASSIFICATION (total of 149)

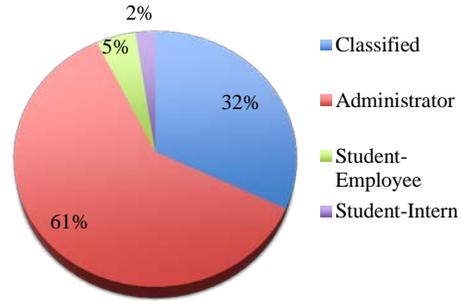
Staff – 84

Classified – 27

Administrator – 51

Student-Employee – 04

Student-Intern – 02

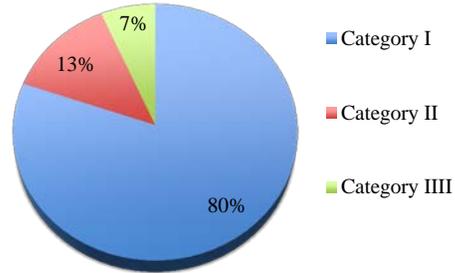


Faculty – 61

Category I – 49

Category II – 08

Category III – 04



Externals – 04

VISITORS BY DIVISION OR SCHOOL (total of 149)

President’s Office – 07

Administration, Finance and Facilities– 43

Advancement and External Relations – 08

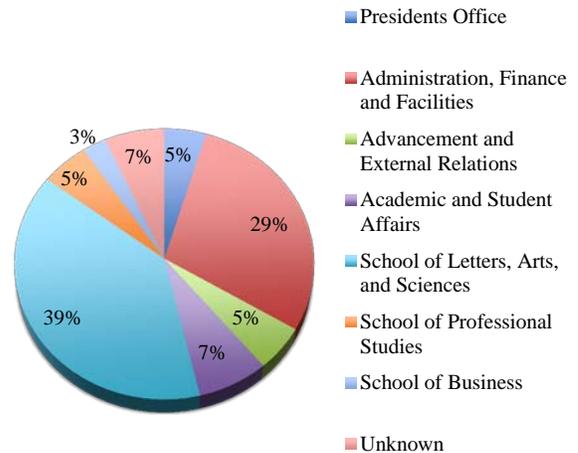
Academic and Student Affairs – 11

School of Letters, Arts and Sciences – 58

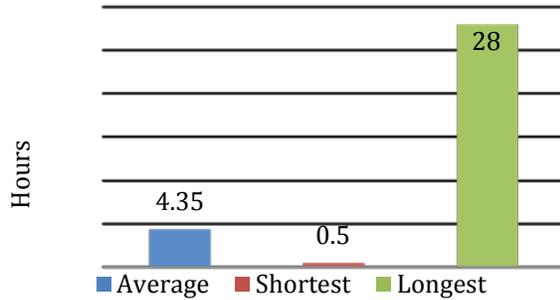
School of Professional Studies – 08

School of Business – 04

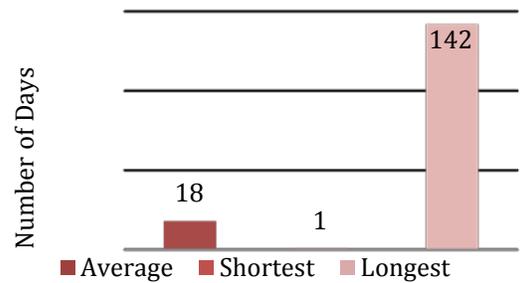
Unknown – 10



Average Time per Case – 4.35hrs
 Shortest Time - .5hrs
 Longest Time – 28.0hrs
 Average Days for an Open Case – 18.0 Days



Shortest Time – less than 1.0 Day
 Longest Time – 142 Days



ISSUES PRESENTED

In almost every case, Visitors presented multiple issues to the UOO. This is not uncommon. These issues were recorded utilizing the IOA Uniform Reporting Categories (hereinafter “URC”) that lists nine categories and multiple sub-categories (The URC is attached as Addendum “E”). Visitors identified a total of 1,160 issues.

I. Compensation and Benefits (07)

a. Compensation	04
b. Payroll	01
c. Benefits	01
d. Retirement, Pension	01
e. Other	00

II. Evaluative Relationships (471)

a. Priorities, Values, Beliefs	20
b. Respect, Treatment	58
c. Trust, Integrity	38
d. Reputation	05
e. Communication	47
f. Bullying, Mobbing	51

g. Diversity Related	10
h. Retaliation	21
i. Physical Violence	01
j. Assignments/Schedules	25
k. Feedback	12
l. Consultation	61
m. Performance Appraisal	27
n. Department Climate	36
o. Supervisory Effectiveness	22
p. Insubordination	09
q. Equity of Treatment	28
r. Other	00

III. Peer and Colleague Relationships (252)

a. Priorities, Values & Beliefs	19
b. Respect/Treatment	59
c. Trust/Integrity	41
d. Reputation	13
e. Communication	47
f. Bullying/Mobbing	48
g. Diversity Related	03
h. Retaliation	20
i. Physical Violence	00
j. Other	02

IV. Career Progression and Development (43)

a. Job Application/Selection	04
b. Job Classification	07
c. Involuntary transfer/change assignment	02
d. Tenure/Position Security	11
e. Career Progression	07
f. Rotation/Duration of assignment	00
g. Resignation	02
h. Termination/Non-Renewal	05
i. Re-employment of Former or Retired Staff	01
j. Position Elimination	00
k. Career Development, Coaching, and Mentoring	02
l. Other	02

V. Legal, Regulatory and Compliance (65)

a. Criminal Activity	05
b. Business and Financial Practices	03
c. Harassment	47
d. Discrimination	05
e. Disability-Temporary or Permanent Reasonable Accommodation	05
f. Accessibility	00
g. Intellectual/Property Rights	02
h. Privacy/Security of Info	01
i. Property Damage	01
j. Other	01

VI. Safety, Health and Physical Environment (110)

a. Safety	40
b. Physical Working Conditions	05
c. Ergonomics	03
d. Cleanliness	03
e. Security	00
f. Telework/Flexplace	01
g. Safety Equipment	04
h. Environmental Policies	23
i. Work Related Stress	31
j. Other	00

VII. Services and Administrative Issues (11)

a. Quality of Services	03
b. Responsiveness/Timeliness	01
c. Administrative Decisions/Application of Rules	06
d. Behavior of Service Provider	01
e. Other	00

VIII. Organizational, Strategic, and Mission Related (117)

a. Strategic/Mission Related	09
b. Leadership and Management	12
c. Use of Positional Power & Authority	10
d. Communication	12
e. Restructuring and Location	05
f. Organizational Climate	51
g. Change Management	11
h. Priority Setting/Funding	04
i. Data, Methodology and Interpretation of results	03
j. Interdepartmental/Inter-organization Work/Territory	00
k. Other	00

IX. Values, Ethics and Standards (84)

a. Standards of Conduct	59
b. Values and Culture	21
c. Scientific Conduct/Integrity	04
d. Policies and Procedures Not Covered in Broad Categories 1-8	00
e. Other	00

OUTCOMES

The UOO does not approach conflict and concerns from an “agreement focused” model, meaning it is not the goal of the UOO to obtain an agreement with a party or parties. Rather, the UOO focuses on “interest based” outcomes where those involved in the conflict identify options and solutions that are most satisfactory to them, work through the issues so that options and solutions are realistic and obtainable and solutions are consistent with the policies and procedures of the University. Self-determination is key to the work of the UOO.

The UOO does not always know the outcomes of cases. It is often the case that a Visitor contacts the UOO and after a phone conversation or meeting, there is no further contact with the Visitor.

Resolved – 51
 Partially Resolved – 21
 Not Resolved – 16
 Unknown – 43



HOW VISITORS AND RESPONDENTS VIEW THE UOO

During the summer of 2013, the UOO developed an online questionnaire to assist in evaluating the services of the UOO from the perspective of the Visitors and Respondents. The survey was password protected and could also be accessed in the UOO through an iPad. The response was poor at best.

Survey Questions

Each question could be answered as “Strongly Agree,” “Agree,” “Neither Agree or Disagree,” “Disagree,” “Strongly Disagree,” or “Non-Applicable.” All questions had to be answered before the survey would allow you to proceed to the next set of questions.

1. “When I contacted the UOO, the UOO returned my phone call, or other contact, promptly. *Strongly Agree (6), Agree (1)*

2. The UOO clearly explained the UOO role and answered my questions and concerns. *Strongly Agree (7)*
3. The UOO allowed me enough time to discuss my issues. *Strongly Agree (6), Agree (1)*
4. The UOO was respectful and courteous when working with me. *Strongly Agree - (6), Agree (1)*
5. The UOO listened carefully to my concerns. *Strongly Agree (6), Agree (1)*
6. The UOO asked appropriate questions and appeared to understand my concerns. *Strongly Agree (5), Agree (2)*
7. I felt welcomed, comfortable and safe discussing my concerns. *Strongly Agree (4), Agree (3)*
8. I was treated fairly, and without bias or prejudice. *Strongly Agree (5), Agree (2)*
9. The UOO used effective and helpful coaching to assist me in understanding and addressing my situation. *Strongly Agree (5), Agree (2)*
10. The UOO provided me with relevant, accurate, and adequate information to enable me to understand and evaluate my options. *Strongly Agree (5), Agree (2)*
11. The UOO maintained strict confidentiality appropriate to the role throughout the discussions regarding my issues. *Strongly Agree (6), Agree (1)*
12. The UOO allowed me to exercise self-determination in addressing my issues. *Strongly Agree (6), Agree (1)*
13. The UOO remained unbiased and neutral throughout the process. *Strongly Agree (6), Agree (1)*
14. I would utilize the services of the UOO again if needed. *Strongly Agree (6), Agree (1)*
15. I would recommend using the UOO to my colleagues. *Strongly Agree (6), Agree (1)*

16. COMMENTS

- *A great service, very helpful.*
- *My answer to Agree or not Strongly Agree on the one question is due to the "safe" factor. This does not pertain to the Ombuds area itself but the actual location of walking to and from which is not an area I would be in. This would raise questions why I am there during the time initial (sic) I wanted my actions completely discreet.*
- *Michael is great at what he does and this is a wonderful tool for the staff at Metro. I did occasionally feel as if he were (sic) playing devil's advocate and taking the side of the one with whom I had an issue with which is fine but not what I wanted to hear because it made me feel as if I was in the wrong. He has followed up with me quite a few times and asked about the coaching that he gave me, which I did and do appreciate.*
- *I felt supported. This is something I have not felt in a long time. It was definitely a new feeling. I feel as though I can continue on with what I need to do without anxiety. Thanks.*
- *I needed support to offer better communication with a faculty member connected to my department.*

17. If you had not used the services of the UOO, what action would you have taken, if any?

- Internalized the problem and avoided dealing with it. (1)
- Talked to friends. (1)
- Confronted the other party or parties. (1)
- Filed a grievance or entered into some other process. (3)
- Gone to the press or some other outside agency. (1)
- Changed jobs. (0)
- Left the University. (0)

DEMOGRAPHICS: Please furnish the following demographic information.

18. Gender

- Male (1)
- Female (6)
- Transgender (0)
- Unknown/Not Identified (0)

19. Number of years with the institution?

- 0-5 years = 2
- 6-10 years = 2
- 11-15 years = 2
- 16-20 = 1

20. Faculty

- Tenure - 3
- Tenure Track - 0
- Category II - 0
- Affiliate – 1

21. If not faculty

- Classified Staff -1
- Administrator - 2

COMMENTS

The survey was not activated until late summer 2013. Because of this, the UOO could not go back and recover data. Once the survey was up, many simply declined to utilize the survey, stating that they did not trust a survey that was created internally.

For 2014, the survey will be redesigned. It is the plan that a paper survey with a self-addressed stamped envelope will be given to each Visitor at the time of their first visit to the UOO. Additionally, the UOO may also utilize the “Survey Monkey” or other third-party platform for feedback relating to the office.

TREND(S)

In the ten months since the UOO opened its doors, only one clear trend emerged and is reported below.

INCIVILITY, BULLYING AND MOBBING

There are nine categories in the URC. Of the 1,160 issues brought to the UOO, Category II, (Evaluative Relationships) had 471 issues presented and Category III (Peer and Colleague Relationships) had 252 issues presented to the UOO totaling 723 issues or approximately 62.5% of all issues and concerns. In Category V (Legal, Regulatory and Compliance) 47 harassment issues were surfaced. In Category VI (Safety, Health and Physical Environment) 40 and 31 issues surfaced respectively, under safety and work related stress. Category VIII (Organizational, Strategic and Mission Related) 51 issues surfaced related to organizational climate. Combined, these issues total 77% of the total number of issues. The UOO believes this to be important, as these reports of failing communications, work-related stress, harassment, retaliation and organizational climate are interrelated to core issues of incivility, bullying and mobbing. Visitors often described perceptions of retaliation and harassment in terms of incivility, bullying and mobbing.

It is important to note that these terms were used often and interchangeably, meaning most Visitors do not have in their minds a clear definition of these terms versus behaviors. This is not at all uncommon. When Visitors used these terms they were asked to articulate what they meant in using these terms. Most of the Visitors spoke in experiential terms rather than using clinical or academic definitions.

Some of the terms used as descriptors were “inappropriate, harsh, mean-spirited, unkind, embarrassing, humiliating, hurtful, frightening, divulging confidences (where there was an assumed or expressed assurance of confidentiality), sabotage, silence, intolerance, constant and public criticism, deflation, marginalization, denial of work, overworked, locked-out, undervalued, devalued, fearful, rude, open hostility, favoritism, gossiping, betrayal,” and other like terms.

While these behaviors were often described as taking place in open meetings, in particular, where there was a sense of “mobbing,” there were almost as many issues that were described as “invisible incivility,” meaning many of these behaviors were experienced in private.

Faculty presented most of the issues relating to incivility, bullying and mobbing. These behaviors were described as a regular event among faculty and some staff. Most Visitors (victims) were tenure-track and some were tenured faculty. Perpetrators were identified as senior faculty, less senior faculty and staff. Two senior level staff were identified as engaging in bullying behaviors.

While one would expect that bullying would be attributed to power (top down) relationships where the management or senior level personnel are the perpetrators and subordinates are the victims, it has been reported to the UOO that some senior level administrators and faculty are the

victims of bullying by subordinates. Visitors described behaviors of being yelled at by staff, gossip being spread by staff, sabotage of work product and withholding of services offered, while performing the same services for others of like rank. Additionally, some bullying behaviors have taken the form of senior faculty approaching junior faculty members and pressing them into alliances with them. Reported also was a substantial amount of these behaviors by peers from both faculty and staff.

As referenced above, these behaviors naturally lead to the conclusion that harassment and/or retaliation result in a breakdown of communication, trust and respect, as well as work-related stress and perceived poor standards of conduct within the workforce.

Victims only know they are being hurt, frightened, embarrassed and marginalized. They know that coming to work is hard and many withdraw from participating. It is the perception of the victims that tell the tale.

The scope of the reported behaviors seems to indicate that bullying is likely a systemic issue affecting the University as a whole. Research indicates that targets confronting the bully, or formal processes such as Human Resources or EEO, are not as effective in addressing these issues and often make the situation(s) worse. What seems to be effective according to some reviewed research and literature is that written policies along with educational programs are the most effective. In other words, educating and changing the culture much like those approaches used twenty years ago in addressing sexual harassment are likely felt as the most effective approaches in addressing these behaviors.³

CONCERNS NOT CONSIDERED TRENDS

The UOO may look into any matter coming to the UOO's attention informally.

NON-MEDIATORS MEDIATING

There have been reports of administrators “mediating” disputes within their departments. The Visitors raised three concerns; (1) that there was a promise of confidentiality that was not kept, (2) that the situation worsened as the mediator revealed an agenda and addressed the issues as “rights based”- meaning there were consequences and retaliatory behaviors unless agreements were reached (therefore there must be an agreement on the mediator’s terms) and (3) mediators making improper suggestions on exactly what the content of the agreement must be.

³ (See Lester, Jaime (Ed), *Workplace Bullying in Higher Education*, Routledge, New York, 2013; Einarsen, Stale et al (Ed), *Bullying and Harassment in the Workplace; Developments in Theory, Research and Practice*, 2nd Edition, CRC Press, London, 2011; Daniel, Teresa A., *Stop Bullying at Work: Strategies and Tools for HR and Legal Professionals*, SHRM, 2009; Namie, Gary and Ruth; *The Bully at Work: What You Can Do To Stop The Hurt AND Reclaim Your Dignity On The Job* 2nd Edition, Sourcebooks, Naperville, 2009)

Mediation is defined as a form of intervening in conflicts where a neutral independent expert guides the communication and negotiations between the parties in order to reach agreements about behaviors and a mutually beneficial optimal solution, both based of the parties' actual interests.⁴

Mediation ought to be done by an appropriately trained neutral, often having subject matter expertise if appropriate, who facilitates a conversation between the disputants. Mediations are, by definition, voluntary and informal. The process is confidential until the parties agree to say otherwise.

Identifying oneself as a mediator brings with it a perception that one is neutral. In these instances, the mediators were not neutrals, but were engaging in what has been described as potential administrative disciplinary hearings. As such, representing such a process as "mediation" would appear to be a patent misrepresentation of the mediation process. Any "neutral" processes within the University may be compromised because of these misrepresentations. Even a single report of this behavior is troubling.

Thus, while taking steps to resolve conflict at the lowest level is commendable and should be the first choice in engaging conflict, this meeting ought not be described or represented as "mediation" as it creates an unrealistic expectation of a process not taking place.

HEALTH AND SAFETY

The UOO does not advocate for any party but will advocate for fairness.

One concern that has been mentioned a number of times to the UOO is an issue concerning the exposure to second hand smoke on campus.

The concern has been expressed in two parts: (1) around campus one is constantly exposed to second hand smoke and (2) that attempting to enter any building on campus necessitates running the gauntlet of smokers even though most smokers honor the 25 foot (about eleven yards) rule. The exposure to second-hand smoke seems to be the rule rather than an exception. The Visitors have expressed that second-hand smoke is a known health risk and that the University ought to be interested in protecting them (non-smokers) from this risk. In short, non-smokers expressed their perception that they do not have protections from smokers, and second-hand smoke while on campus.

The UOO understands that there is some movement by the students of MSU Denver and campus institutions to create a smoke-free campus. Given the number of visitors' concerns, it is hoped that these discussions will continue within the student body, the administration of MSU Denver and those same groups in our sister institutions.

⁴Illes, Rosabelle, Ellemers, Naomi, Harinck, 2014. "Mediating Value Conflicts." *Conflict Resolution Quarterly* 31: 332

UNWRITTEN PROCESSES

While Classified Staff, as well as Category I faculty have reasonably clear processes in matters of discipline and termination, this is not the case for Administrators who are “at-will” employees. A number of visitors reported concerns regarding differing approaches to progressive discipline. Although, progressive discipline is not guaranteed, the UOO was informed that Administrators are generally not simply terminated outright, except in case of egregious behaviors such as violence or theft. The visitors described inconsistent and conflicting episodes of what they described as “progressive discipline.” In checking with Human Resources and other sources, the UOO learned that progressive discipline is more a matter of “oral tradition.” It is the UOO’s understanding that there is some discussion regarding this subject under way.

EQUAL OPPORTUNITY OFFICE AND HUMAN RESOURCES

A significant number of visitors and others presented issues relating to the Equal Opportunity Office (hereinafter “EEO”) and Human Resources (hereinafter “HR”) to the UOO.

With Visitors, the scenario developed when options were being explained and clarified. When suggesting that two of these options were filing a formal grievance with EEO or asking HR for assistance, the responses were more often than not, rejected with comments.

Regarding EEO, the Visitors made comments such as: (1) EEO was in the President’s pocket, (2) the President had too much influence on the EEO, (3) EEO always took the President’s side, (4) seems to find for the University management and (5) that the EEO Director’s only mission is to guard the University.

Regarding the latter, the UOO agreed that this was part of the EEO’s mission (protecting the University) and added that the office was also in place to ensure the University was in compliance with Federal and State laws. The UOO then asked the Visitors to dig deeper and articulate the real problem.

It is here that the conversation turned to perceptions. The Visitors advised there were two issues relating to perceptions: (1) the direct reporting line of the EEO office to the President and (2) the proximity of the EEO office to the President’s office. They felt that, in their view, the EEO could not possibly be unbiased given the close tie to (reporting line) and proximity of the EEO office to the President’s office.

As to HR, Visitors and others reported that, as a department, they could not be trusted because: (1) confidences broken, (2) sensitive information being openly discussed, (3) that it was a gossip mill and (4) the profound lack of customer service in that only the University’s position would be considered and complaints were dismissed. In addition, it was widely known that bullying behaviors were utilized by management therefore people considering going to HR were having second thoughts in utilizing this option.

Perception is often one's reality. The UOO spoke to the Director of EEO and suggested that one way to ease some of these perceptions might be to do presentations about EEO, its processes, guidelines and generally, its role within MSU Denver.

Regarding HR, some of these issues have been, or are being addressed by management but again, the perception continues. Still, it is important to acknowledge that some of the issues have been, or are being addressed.

CONCLUSION

Like any organization that is changing and growing, there are problems. Here, they relate to communication, trust, respect and organizational environment. Issues have been presented generally speaking, in the form of malignant allegations of rampant incivility, bullying and mobbing, that lead to allegations of harassment and retaliation.

In reality, this is not only a trend, but also has a history that seems to have support within certain quarters of the University. It may well be cultural, and therefore a way of life for many faculty and staff. Yet it ought not be tolerated. It is said that supervisors and managers spend upwards of 60% of their time dealing with conflict. This is a drain on any institution in money and time. The physical and emotional issues that are given life because of these behaviors are costly to any organization in turnovers, workers' compensation claims, litigation and more importantly, reputation.

There is good news! Everywhere the UOO goes in the Denver area presents a chance encounter with a member of MSU Denver community. There have only been positive, good and enthusiastic comments from these people about MSU Denver. When the UOO meets with faculty and staff, they always speak proudly of MSU Denver. The mission of the University has great support both within and outside the institution. Overall, the faculty and staff of MSU Denver clearly do good work in both customer service and education. There is no doubt from the UOO's perspective, that there is great pride in the University's educational objectives and its service to the community.

Respectfully submitted,

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