The Organizational Ombuds: Enhancing Government through Conflict Resolution

By Sarah Miller Espinosa

Community members have a shared interest in maximizing the effectiveness and quality of state and local government services, and taxpayer funded government services are most typically provided by public sector employees. Ensuring public sector workplaces where employees may seek assistance in raising and resolving workplace issues and concerns contributes to an atmosphere that fosters employee engagement and productivity. An organizational ombuds program is one tool which can assist in the resolution and mitigation of workplace conflict.

What is an Organizational Ombuds?

An organizational ombuds (also referred to as “ombudsman”) serves as an independent, impartial, and informal neutral resource, providing assistance to “visitors” (those seeking help from the ombuds) in identifying and analyzing options to resolve conflict. While there are different types of ombuds and various constituencies served, this article focuses on the benefits that may be derived through organizational ombuds in state and local governments. Specifically, organizational ombuds, as discussed here, provide public employees access to services to assist in the resolution and/or mitigation of workplace conflict, in accordance with the International Ombudsman Association’s (IOA) Code of Ethics.

The IOA is a professional organization “dedicated to excellence in the practice of Ombudsman work.” The IOA seeks to promote and maintain the ethical conduct and integrity in the practice of organizational ombuds. The IOA Code of Ethics reflects the following ethical principles:

- Independence: The Ombudsman is independent in structure, function, and appearance to the highest degree possible within the organization.
- Neutrality and Impartiality: The Ombudsman, as a designated neutral, remains unaligned and impartial. The Ombudsman does not engage in any situation which could create a conflict of interest.
- Confidentiality: The Ombudsman holds all communications with those seeking assistance in strict confidence, and does not disclose confidential communications unless given permission to do so. The only exception to this privilege of confidentiality is where there appears to be imminent risk of serious harm.
- Informality: The Ombudsman, as an informal resource, does not participate in any formal adjudicative or administrative procedure related to concerns brought to his/her attention.

These four ethical principles are further explicated in the IOA Standards of Practice.

Organizational ombuds in these settings may assist the government employer and employees by providing a safe and confidential forum where employees may discuss workplace issues. The
ombuds listens and helps clarify concerns as well as underlying interests. The ombuds also provides information about alternatives available to the employee visitor and assists the employee visitor in analyzing options. Ultimately, the employee visitor makes the determination as to which resolution option, if any, to pursue; this approach empowers the employee visitor to make their own decision. In certain circumstances, where the employee visitor and other involved parties voluntarily agree, the ombuds may assist in facilitating discussions and/or mediating disputes with the goal of resolving the workplace issue.

What benefits might public sector workplaces derive from an ombuds?

Providing a confidential forum for individuals to discuss and determine what steps, if any, to take in mitigating or resolving their workplace concerns potentially provides a number of benefits to the public sector employer. First, providing the resource of an ombuds to employees demonstrates the organization’s commitment to resolving issues and establishing respectful workplaces. Next, the mitigation and resolution of said concerns (as opposed to festering, unresolved workplace conflicts) may increase productivity in that employees will not continue to spend time and energy on the conflict and, rather, may focus on their primary work responsibilities. Additionally, employee engagement in the public sector, the extent to which an employee understands how the work they do contributes to fulfilling the mission of their department/organization, is important to the overall efficiency and effectiveness of the organization. Engaged employees may be “characterized as enthusiastic, energetic, motivated, and passionate about [their] work.”5 The more engaged an employee, the greater the potential for that employee to provide quality customer service, be productive, and contribute to a positive workplace climate.

Ombuds can also play a significant role in assisting employees who wish to report fraud, waste, or abuse. An ombuds may serve as a resource in helping employees to navigate reporting an issue where an employee fears, often for sound reasons, retaliation may result. Because an organizational ombuds does not serve as an agent of notice for an organization, the ombuds offers employees the chance to confidentially talk through their options and concerns. The ombuds may assist the employee in accessing one of the reporting mechanisms available and/or find other creative ways to surface the issue while mitigating the risk to the employee.6 In this way, the ombuds provides a benefit to public sector jurisdictions which may further the interests embodied in whistleblower protection statutes.

In addition to assisting individual employees and/or groups of employees resolve or mitigate workplace concerns, the ombuds also may collect and evaluate data concerning emerging trends and patterns within the organization. Ombuds may categorize issues brought by visitors utilizing the IOA Uniform Data Reporting Categories.7 The IOA Uniform Data Reporting Categories include the following nine categories:

- Compensation & Benefits: questions, concerns, issues or inquiries about the equity, appropriateness and competitiveness of employee compensation, benefits, and other benefit programs.
• Evaluative (Supervisory) Relationships: questions, concerns, issues or inquiries arising between people in evaluative relationships (i.e. supervisor-employee, faculty student).
• Peer & Colleague Relationships: questions, concerns, issues or inquiries involving peers or colleagues who do not have a supervisory-employee or student-professor relationship (e.g., two staff members within the same department or conflict involving members of a student organization).
• Career Progression & Development: questions, concerns, issues or inquiries about administrative processes and decisions regarding entering and leaving a job, what it entails (i.e., recruitment, nature and place of assignment, job security, and separation).
• Legal, Regulatory, Financial, & Compliance: questions, concerns, issues or inquiries that may create a legal risk (financial, sanction, etc.) for the organization or its members if not addressed, including issues related to waste, fraud, or abuse).
• Safety, Health, & Physical Environment: questions, concerns, issues or inquiries about Safety, Health and infrastructure-related issues.
• Services/Administrative Issues: questions, concerns, issues or inquiries about services or administrative offices including from external parties.
• Organizational, Strategic, & Mission Related: questions, concerns, issues or inquiries that relate to whole or some part of an organization.
• Values, Ethics, & Standards: questions, concerns, issues or inquiries about the fairness of organizational values, ethics, and/or standards, the application of related policies and/or procedures, or the need for creation or revision of policies, and/or standards.8

The ombuds may alert the leadership to troubling trends and/or alert all employees in the organization as to trends and patterns through the use of an annual report. The ombuds may also choose to make recommendations to address negative trends or patterns in an annual report. As such, the establishment of an ombuds and the utilization of the annual report may promote accountability for addressing problematic workplace trends.

**How can the Establishment of an Ombuds Enhance Public Sector Labor Relations?**

The establishment of an ombuds program in a unionized public sector jurisdiction is an opportunity to improve collective bargaining relationships by partnering with labor unions to offer employees the benefits of ombuds services. By working in partnership with labor unions, public sector employers involve the exclusive representative of its unionized employees, a major stakeholder in the positive outcomes that may be derived from an ombuds program, and a critical ingredient in establishing the credibility of the ombuds program. A charter establishing the ombuds program in such a jurisdiction should explicitly exclude any matters involving potential violations of the collective bargaining agreement (“CBA”). That is, the ombuds should make visitors who raise potential violations aware of the Union’s exclusive dominion over such matters.
As labor and management representatives are well aware, however, workplace conflict often occurs and impacts workplaces in ways that do not trigger violations of the CBA. For example, difficult interactions and poor communication with a supervisor or peer may make the workplace unpleasant and stressful for bargaining unit employees. Having access to a neutral ombuds could benefit both employer and union, by assisting employees in resolving this and similar issues, without straining the resources of either partner. Further, by partnering with the union in the creation and ongoing governance of the ombuds program, the public sector employer has an opportunity to demonstrate its commitment to collaborative labor relations practices.

Conclusion

State and local jurisdictions who invest in access to organizational ombuds services for their employees demonstrate a commitment to the productive resolution of workplace issues and employee engagement. Additionally, the ombuds in such jurisdictions may provide important information concerning the types of issues surfaced and make recommendations to promote organizational wellness, while protecting the anonymity of their visitors. Access to an impartial ombuds also provides a voluntary, confidential forum to assist whistleblowers in reporting allegations of serious wrongdoing. The benefits conferred to public sector employers and employees through the establishment of an organizational ombuds program benefit taxpayers of the jurisdiction as well. By raising awareness and helping to resolve workplace conflict, the ombuds is one tool to enhance the productivity, quality, and efficiency of government.

Sarah Miller Espinosa, J.D., CO-OP, is the owner of SME Dispute Resolution, LLC (www.smeresolution.com). Sarah is a Certified Organizational Ombudsman Practitioner, mediator, facilitator, and labor arbitrator. She also teaches courses on workplace conflict resolution, labor relations, and public personnel systems at the University of Maryland Baltimore County (UMBC) and Montgomery College.

2 See www.ombudsassociation.org
Some ombuds office have modified and/or developed new categories in order to better align reporting categories with the issues identified within the organizations they serve.

https://www.ombudsassociation.org/About-Us/IOA-Special-Initiatives/Uniform-Data-Reporting-Categories.aspx