

**RESOLUTION FROM THE FACULTY AFFAIRS COMMITTEE OF THE
UTK FACULTY SENATE
PROPOSED FOR ADOPTION AT THE MEETING OF THE
UTK FACULTY SENATE TO BE HELD ON
February 25, 2008**

[Editor's Note: Bracketed information relates to items that are, as yet, unfinished. These will be finalized after the faculty Senate meeting, and the brackets will be removed.]

WHEREAS, under Section 3.E. of the Bylaws of the Faculty Senate, the Faculty Senate Faculty Affairs Committee of the Faculty Senate "is responsible for reviewing proposed revisions and recommending changes to the *Faculty Handbook* following review provisions as set forth in the *Faculty Handbook*;" and

WHEREAS, the Faculty Senate Executive Committee recommended that the Faculty Senate Faculty Affairs Committee review and recommend proposed revisions to Section 5.2 of the *Faculty Handbook* (relating to ombudspersons for the resolution of UTK faculty grievances); and

WHEREAS, under Section 8.3 of the *Faculty Handbook*, the Faculty Senate Faculty Affairs Committee "is responsible for recommending changes, which should have input from the chancellor, the vice president, and their administrative staff including deans for consideration by the Faculty Senate Executive Committee and final consideration by the full Faculty Senate;" and

WHEREAS, the Faculty Senate Faculty Affairs Committee has reviewed—and sought [and received] (a) input from the Interim Chancellor and the Vice President of Agriculture [and (b) consideration by the Faculty Senate Executive Committee] on—recommended changes to the *Faculty Handbook* relating to ombudspersons for the resolution of UTK faculty grievances; now, therefore, it is

RESOLVED, that the Faculty Senate Faculty Affairs Committee recommends the following changes to the *Faculty Handbook* for final consideration and approval by the Faculty Senate:

- (a) In paragraph 1 of Section 5.1, the word "ombudspersons" is changed to "ombudsperson."
- (b) Section 5.2 is amended and restated to read in its entirety as set forth below.

"5.2 Ombudsperson

The chancellor and a committee that includes representation from the Faculty Senate shall select an ombudsperson. It is expected that the ombudsperson will be experienced in both alternative dispute resolution and university faculty affairs (including tenure, promotion, evaluation, dispute resolution, and governance), and he or she shall be

responsible for facilitating informal conflict resolution at the request of faculty members. Specifically, the ombudsperson serves as a consultant for faculty members needing advice to resolve problems and may serve as an informal mediator if the faculty member has not started an appeal through the administrative or Faculty Senate channels described in sections 5.3 and 5.4.

The ombudsperson is an advocate for neither the faculty nor the university, but rather a supporter of fair practices and mutual respect, fostering probity and timeliness in the administration of campus policies and practices. The ombudsperson's responsibilities as set forth in this *Faculty Handbook* do not include grievances initiated by administrators, students, or staff.¹ The ombudsperson is appointed under the university's human resources policies and procedures and is compensated as described in his or her appointment letter. The term of the ombudsperson shall be renewed by the chancellor with the advice and consent of the Faculty Senate.

As a consultant, the ombudsperson acts as a resource for information on university policies, the faculty member's rights and responsibilities, and procedures of appeal and due process. He or she helps faculty members decide how best to solve problems early and generally at the lowest levels. If the faculty member has initiated an appeal through the administrative or Faculty Senate channels under section 5.3 or 5.4, he or she may continue to consult the ombudsperson for a neutral opinion and advice, but the ombudsperson is not permitted to participate actively in those appeals. Except as required by law, consultations with the ombudsperson shall not be communicated to a third party unless the faculty member gives his or her permission or the faculty member brings an administrative complaint or legal action against the university or another university employee

As an informal mediator, the ombudsperson serves as a communication channel and dispute resolution facilitator. As used in this context, informal mediation is a flexible concept that may involve investigation by the ombudsperson and direct participation in the conflict resolution as well as the more traditional role of facilitating communication and conflict resolution. The ombudsperson's services do not supersede or replace appeals through administrative channels, the Faculty Senate Appeals Committee, or other university grievance or appeals procedures, but they may be used before (and, to the limited extent permitted in this section, after) those processes are initiated. The ombudsperson is independent of both the faculty member and the administration. If a faculty member requests informal mediation by the ombudsperson, the ombudsperson has sole discretion as to whether a complaint warrants mediation and as to the manner in which any investigation and mediation is to be conducted. Mediation by the ombudsperson should involve only those employees or others with a need to be involved in either providing information or reaching a resolution. Except as required by law, the ombudsperson will not communicate with individuals not involved in the mediation process unless the faculty member gives his or her permission or the faculty member

¹ While the ombudsperson's university responsibilities may include grievances initiated by staff, those aspects of the ombudsperson's role are outside the purview of this *Faculty Handbook*.

brings an administrative complaint or legal action against the university or another university employee.

The ombudsperson is not permitted to: address matters subject to the special appeals processes described in section 5.1.2; provide legal advice; assist in problems that are unrelated to the university; or represent the faculty member in administrative appeals or Faculty Senate Appeals Committee hearings or appeals. The ombudsperson's roles as a consultant and informal mediator are separate from the administrative appeals and Faculty Senate appeals processes. The ombudsperson does not make binding decisions for the university or overrule administrative decisions. Rather, the ombudsperson makes recommendations based upon his or her understanding of the situation, university policies and procedures, experience, and sense of fairness.

The Faculty Senate shall provide ongoing advice and assistance for the ombudsperson on the rules and policies applicable to university faculty. The ombudsperson shall issue a report to the Faculty Senate once each year on (a) the number of faculty members served, (b) the types of matters handled, (c) any recommended change to university or faculty rules or policies and the basis for the recommended change, and (d) any other matters that the ombudsperson or the Faculty Senate shall deem necessary or advisable in connection with their respective roles in faculty support and governance. The annual report of the ombudsperson shall not disclose any information that the ombudsperson is required to keep confidential in accordance with this section or ombudsperson best practices.”

- (c) In paragraph 4 of Section 5.4.1, the words “faculty ombudsperson” are changed to “ombudsperson.”
- (d) In paragraph 4 of Section 5.4.1, the last clause in item 1 is deleted, so that the item reads in its entirety: “recommend mediation between the faculty member and the administrator whose action is the source of the faculty member’s complaint by trained mediators.”

And it is further

RESOLVED, that the foregoing changes to the *Faculty Handbook* be presented to the Interim Chancellor and the Vice President of Agriculture (who then will submit their recommendations concerning the proposed revision to the chief academic officer for the system, who then will submit his or her recommendation to other appropriate vice presidents, the general counsel, and the president).