

AMERICAN BAR ASSOCIATION

ADOPTED BY THE HOUSE OF DELEGATES

FEBRUARY 9, 2026

RESOLUTION

RESOLVED, That the American Bar Association urges all states to adopt the
“*Organizational Ombuds Practices Act.*”

AN ACT

RELATING TO ORGANIZATIONAL OMBUDS; PRESCRIBING THE STANDARDS OF PRACTICE, DUTIES, POWERS, AND LIMITATIONS OF ORGANIZATIONAL OMBUDS PROGRAMS; ESTABLISHING CONFIDENTIALITY FOR CONFIDENTIAL OMBUDS INFORMATION; AND PROVIDING EXCEPTIONS FOR DISCLOSURE OF CONFIDENTIAL OMBUDS INFORMATION.

SECTION 1. SHORT TITLE. –

This Act may be cited as the “Organizational Ombuds Practices Act.”

SECTION 2. DEFINITIONS. –

As used in the Organizational Ombuds Practices Act:

- A. “ORGANIZATIONAL OMBUDS,” referred to in this act as ‘ombuds,’ means any person, regardless of precise title, performing ombuds services in an organization that complies with the provisions of this Act.
- B. “OMBUDS PROGRAM STAFF” includes staff who functionally support the ombuds program.
- C. “ORGANIZATION” means any private or public institution, university, business, or non-profit entity.
- D. “PARTICIPANT” means any person who engages with an ombuds program in the provision of services outlined in Section 3.
- E. “CONFIDENTIAL OMBUDS INFORMATION” means any information obtained within the scope of providing ombuds services, including Confidential Ombuds Communication and Confidential Ombuds Documentation.
 - 1. Confidential Ombuds Communication includes but is not limited to:
 - a. In-person, virtual, or phone communication;
 - b. Communication with participants or other persons (including representatives of such employees) consulting with the ombuds program;
 - c. Communication with others in the organization concerning matters brought to the attention of the ombuds office; and
 - d. Communication with the ombuds program or among ombuds program staff.
 - 2. Confidential Ombuds Documentation includes but is not limited to:
 - a. Personally identifiable participant information or information related to the identity of those seeking or receiving assistance from the ombuds or the ombuds program;

- b. Calendaring or scheduling records;
- c. Attendance logs;
- d. Phone logs;
- e. Email, instant messages, texts, and facsimiles;
- f. Digital records or indicators available now or in the future;
- g. Video or audio files or transcription;
- h. Notes;
- i. Files;
- j. Internal ombuds program documents or forms; and
- k. Memoranda.

SECTION 3. ESTABLISHMENT OF AN ORGANIZATIONAL OMBUDS PROGRAM.

- A. An organization may establish an ombuds program to provide the following ombuds services:
 - 1. Work with individuals and groups at all levels of the organization;
 - 2. Facilitate communication and approaches to conflict resolution;
 - 3. Assist the participants and the organization by surfacing issues and identifying procedural irregularities;
 - 4. Identify and refer to appropriate resources; and
 - 5. Provide feedback to the organization on emerging or systemic concerns.
- B. An ombuds program seeking the benefits of this Act shall have a charter, policy, terms of reference, or a detailed program description, acknowledged by organizational leadership, which articulates the basis on which the ombuds operates, including that the program shall:
 - 1. Be functionally independent from the organization as provided in Sections 4.A.-J;
 - 2. Be impartial as provided in Sections 5.A-E;
 - 3. Be informal as provided in Sections 6.A-G; and
 - 4. Be confidential as provided in Sections 7.A-J.
 - 5. The ombuds program shall publicize these principles and the program's compliance with them to those served by the program.
- C. Nothing in this Act shall be construed to require any organization or individual to establish or utilize an organizational ombuds program.

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- D. The benefits of this Act apply to an ombuds program that provides services within the State of _____ and adheres to the tenets of Section 3.B.

SECTION 4. INDEPENDENCE.

- A. The ombuds is independent in appearance, purpose, practice, and decision-making.
- B. The ombuds program shall report to the highest level of senior leadership within the organization needed to ensure the program's independence and to safeguard the program from the influences or pressures of other organizational functions. This independence works interdependently with the standards of impartiality, confidentiality, and informality.
- C. In executing the ombuds' roles and responsibilities, the ombuds program does not report programmatically to any function that affects or could reasonably be perceived as affecting the ombuds' independence.
- D. The ombuds program operates independently from other organizational entities or functions. The ombuds holds no other position that compromises or could be reasonably perceived as compromising the ombuds' independence.
- E. The ombuds exercises sole professional discretion over whether or how to act regarding an individual's concern, a trend, or the concerns of multiple individuals.
- F. Ombuds and ombuds program staff shall be selected so as not to compromise the independence of the ombuds program.
- G. The ombuds program shall have the authority to manage its budget and operations without undue external influence or limitations.
- H. If the ombuds has non-ombuds duties, those duties must not interfere with their ombuds duties or the ability to adhere to the principle of independence and interdependent standards of impartiality, confidentiality, and informality enumerated in this Act. The ombuds must clearly communicate when they are or not acting as the ombuds.
- I. The organization shall take measures to ensure independence and avoid a conflict of interest, including providing separate, independent legal counsel to the ombuds program as appropriate. The use of organizational systems and resources by the ombuds does not compromise the ombuds program's independence.
- J. The ombuds has access to relevant individuals and information within the organization as necessary to fulfill their informal role except as may be limited by law.

SECTION 5. IMPARTIALITY.

- A. The ombuds program functions as an impartial, neutral, and unbiased resource.

- B. The ombuds fairly and objectively considers the implications of options and alternatives discussed with participants, including possible impacts on participants, others, and the organization. The ombuds promotes equitably administered processes but does not advocate on behalf of anyone.
- C. The ombuds shall not participate in any matter in which the ombuds cannot be impartial.
- D. The ombuds and ombuds program staff shall not be structurally affiliated with any part or function of the organization in a manner that could compromise impartiality or could be reasonably perceived as compromising impartiality.
- E. Except as necessary for the internal supervision of an ombuds program, the ombuds and ombuds program staff shall not serve in additional roles or functions within the organization that could compromise impartiality or could be reasonably perceived as compromising impartiality.

SECTION 6. INFORMALITY.

- A. The ombuds program shall be an informal and off-the-record resource for an organization and its members, affiliates, or constituents.
- B. Except as necessary for the internal supervision of an ombuds program, the ombuds shall not have the authority to make business or policy decisions, adjudicate issues or appeals, participate in disciplinary or formal grievance processes, or conduct formal investigations for the organization.
- C. The ombuds and the ombuds program shall not be considered an agent of the organization authorized to receive notice of claims, grievances, or complaints against the organization unless specifically and expressly required by law. The ombuds may refer individuals to the appropriate place where formal notice of claims can be made.
- D. The ombuds takes specific action related to an individual's issue only with the individual's express permission and at the sole discretion of the ombuds, unless such action can be taken while safeguarding the identity of those contacting the ombuds program or an exception to confidentiality applies.
- E. The ombuds or ombuds program staff may serve on committees, task forces, or other working groups, but only in an advisory or non-voting capacity, and may, at the sole discretion of the ombuds, decline participation.
- F. The ombuds program creates no permanent records containing Confidential Ombuds Information, as defined in Section 2.E.

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G. Use of the ombuds program is voluntary and shall not be a required step in any formal process such as an adjudicative, investigative, disciplinary, or grievance process.

SECTION 7. CONFIDENTIALITY.

A. The identity of participants and information specifically relating to them is Confidential Ombuds Information.

B. All written and oral communications with or about participants are Confidential Ombuds Information.

C. The ombuds and ombuds program staff shall neither voluntarily disclose nor be compelled to disclose Confidential Ombuds Information.

D. The ombuds and ombuds program staff shall protect Confidential Ombuds Information. Others cannot waive this requirement.

E. The ombuds and ombuds program staff do not disclose Confidential Ombuds Information and shall oppose disclosing Confidential Ombuds Information in any formal or informal, administrative, or legal matter within or external to the organization.

F. Confidential Ombuds Documentation is not a public record and is exempt from [insert state public records act].

G. In accordance with Section 6.F., the ombuds program shall only maintain Confidential Ombuds Documentation in a secure location. All Confidential Ombuds Documentation shall be kept in such a manner as to reasonably protect it from disclosure to or inspection by others, including from the organization. The ombuds program shall also implement a consistent and standard practice for the prompt destruction of Confidential Ombuds Documentation

H. Exceptions— An ombuds program, including all ombuds and ombuds program staff, may only disclose Confidential Ombuds Information to the most limited extent possible, when:

1. an ombuds determines that there appears to be an imminent risk of serious harm;
2. the ombuds, in their professional judgment, determines that disclosure of confidential information about a specific matter is required to defend the ombuds or ombuds program from an allegation of professional misconduct raised in a formal proceeding or investigation;
3. expressly required by law;
4. the participant has granted the ombuds or the ombuds program express permission to assist with informal resolution of a concern; whether or not to

disclose is at the sole discretion of the ombuds. Any such permitted disclosure does not constitute a waiver of confidentiality regarding other Confidential Ombuds Information.

- I. The ombuds program may, at its discretion, provide non-confidential information about the ombuds program in any appropriate forum. The ombuds shares data, trends, or reports in a manner that protects Confidential Ombuds Information.
- J. The ombuds program may disclose general information about the ombuds program and principles of the program for research, educational, or informational purposes.

SECTION 8. APPLICATION OF OTHER LAW.

This Act does not replace [Federal Ombudsman statutes], [state ombuds statutes], [LTC ombudsman statutes].

SECTION 9. EFFECTIVE DATE.

This Act takes effect [DATE].

Organizational Ombuds Practices Act

Comments Section

This comment section explains the intent of language resulting from a comprehensive, multi-year drafting process by a subcommittee of the American Bar Association Ombuds Committee, with input from members of the International Ombuds Association. This Act is intended to capture best practices for organizational ombuds offices. While the drafters understand this Act will be tailored to the needs of the adopting state, these comments inform future versions of the Act by providing examples and specific context for select provisions.

The term “ombuds” is derived from the term “ombudsman” (OM-budz-man). Historically, the term “ombudsman” (OM-budz-man) is Swedish and means “representative.” There are several legacy titles or names for this position: “ombudsman” and “ombudsperson” among others. “Ombuds” is the term used to communicate to the widest possible community.

Organizational ombuds work in all types of organizations, including colleges and universities, corporations, hospitals and other healthcare organizations, and not-for-profit organizations, foundations, and associations. Organizational ombuds have specific [standards of practice and code of ethics](#) that guide their work.¹ The four generally recognized standards of practice - independence, impartiality, confidentiality, and informality - are “deeply woven and highly interdependent” and, as recognized in this Act, create standards for Organizational Ombuds that are separate and distinct from other ombuds models.² Thus, the standards cannot be severed from each other, as each one interacts with and supports the other standards to establish the unique, beneficial role of the organizational ombuds, creating a “zero-barrier office (a safe, accessible, fair and credible place) for every organizational constituent to discuss good ideas and difficult or painful concerns.”

SECTION 1. SHORT TITLE.

In naming the Act the Organizational Ombuds Practices Act, the drafters intend to make it explicit that the provisions of the Act apply to organizational ombuds programs. Nothing in the Act is intended to supersede provisions that govern ombuds practicing to the legislative, classical, executive, or advocate Ombuds Model. For more information on different types of ombuds, see the ABA Standards for the

¹International Ombuds Association, *What is an Organizational Ombuds*, <https://www.ombudsassociation.org/what-is-an-ombuds->

² Rowe, M. and MacAllister, B., (2025). *The Unique-and Effective-Quartet of Standard of Practice of Organizational Ombuds: Each Standard is Necessary - and Requires the Other Three Standards*. *Journal of the International Ombuds Association*

Establishment and Operation of Ombuds Offices and the ABA Resolutions encouraging the greater use and development of ombuds programs [here](#).

SECTION 2. DEFINITIONS. – No additional comments.

SECTION 3. ESTABLISHMENT OF AN OMBUDS PROGRAM.

No additional comments. The International Ombuds Association website includes “Resources for Starting an Ombuds Office, ” <https://www.ombudsassociation.org/creating-an-ombuds-office>.

SECTION 4. INDEPENDENCE. –

An ombuds should be perceived as being functionally independent within an organization. Best practices for organizational ombuds programs dictate that the ombuds report to the highest appropriate level of senior leadership, as outlined in Section 4.B. However, should an ombuds program report to a compliance office, human resources, legal office, or other entities that make business or policy decisions, adjudicate issues or appeals, participate in disciplinary or formal grievance processes, or conduct formal investigations for the organization, additional attention should be paid to emphasizing the independence of the ombuds program and ensuring the perception of independence is not compromised.

Certain roles clearly interfere with the ability of an ombuds to adhere to the principle of independence, for example, serving as the Title IX Officer or as a Compliance Officer. These roles receive notice, have reporting responsibilities, make business or policy decisions, adjudicate issues or appeals, participate in disciplinary or formal grievance processes, and/or conduct formal investigations for the organization. These duties require such a high level of stringent compliance with and response to legal issues and other formal requirements that it would be nearly impossible to maintain adequate independence. Therefore, ombuds program staff should not be structurally affiliated with any part or function of the organization in a manner that could compromise independence or could be reasonably perceived as compromising independence. Other roles, such as being a faculty member, require that the ombuds clearly communicate when they are or are not acting as ombuds. For example, if an ombuds serves on a committee, they should serve in an ad hoc, non-voting capacity.

Best practices also dictate that ombuds exercise sole discretion over whether or how to act regarding information received through their work. While individuals can give input about when and how information they share with the ombuds is used, other factors must be considered when an ombuds is handling a particular issue. By virtue of their role, they hold multiple perspectives and information from a variety of sources. They are also charged with discerning trends and themes from the information shared with them in their confidential role. Strategizing when and how to raise issues, while

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still protecting independence, is an important aspect of ombuds work. Additional aspects of confidentiality are discussed below.

It is also important that ombuds program staff be selected in a manner that does not compromise the independence of the ombuds program. Program staff should hold no other position within the organization that could be perceived as compromising independence. For example, an ombuds office assistant should not also provide support to another department or leader.

On occasion, the ombuds may require legal advice or representation to fulfill certain required functions (such as third-party requests for documents or testimony in situations in which the ombuds has been involved), and it is appropriate for the ombuds program to work with the organization's legal counsel for routine legal guidance. If there is an attempt to challenge the ombuds' confidentiality or to gain access to confidential information regarding a specific matter, to ensure that the program continues to demonstrate independence and the full protection of confidential information, the ombuds should have access to separate legal counsel, completely independent of the organization's in-house legal department. In such cases, the ombuds will consult with the Office of the General Counsel, and if the ombuds and the General Counsel agree that the interests of the ombuds diverge from and/or cannot be protected by the organization's internal or external counsel, the ombuds will be provided with legal counsel separate and independent from the organization.

Regarding separate legal counsel, and in keeping with model rules of professional responsibility, the organization would serve as payor if the ombuds office is dealing with a third party and would be addressed in the retainer agreement with outside counsel. However, it creates an inherent conflict of interest if the ombuds and the organization are the litigants. In this case, the ombuds must have access to their own funds, either as a budget line or as specified in their Charter (or the applicable policy governing the ombuds program), to pay for legal fees. While it is expected that ombuds would consult with the General Counsel when legal issues arise, the ombuds must also retain unilateral discretion on whether or not to seek outside counsel.

Ombuds may use systems and resources within an organization, for example, data analysis resources, purchasing, or travel assistance, without compromising independence.

To fulfill their role, ombuds may request information from various departments or individuals, for example, turnover data or data related to compensation ranges. This information should be provided expeditiously in an appropriate form to allow ombuds to discharge their duties.

SECTION 5. IMPARTIALITY.

The considerations outlined above related to issues of independence for program staff and additional roles and functions within the organization also apply to the impartiality section. Best practices dictate that no ombuds or ombuds program staff be structurally affiliated with any part of the organization that could compromise impartiality or could be reasonably perceived as compromising impartiality.

SECTION 6. INFORMALITY.

The informal nature of the organizational ombuds office is one of the factors that sets an ombuds office apart from other departments in any given institution. Protecting both the fact and appearance of informality is of utmost importance. As with independence, it is also important that ombuds program staff be selected in a manner that does not compromise the informal nature of the ombuds program. Program staff should hold no other position within the organization that could be perceived as compromising informality, for example, an ombuds office assistant should not also provide support to another department or leader that receives notice, has reporting responsibilities, adjudicates issues or appeals, participates in disciplinary or formal grievance processes, and/or conducts formal investigations for the organization.

Best practices dictate that an organizational ombuds office is not an agent of notice for an organization and is not authorized to receive notice of claims, grievances, or formal complaints. This fact should be included in any charter, policy, terms of reference, or a detailed program description.

SECTION 7. CONFIDENTIALITY. –

The confidential nature of the organizational ombuds office is a cornerstone of its effectiveness. An ombuds program created in keeping with the provisions of this Act should emphasize the fundamental element of confidentiality in all promotional materials, the program website, and in all communications with program participants. Four pillars support the concept of confidentiality for organizational ombuds programs: 1) common law privilege; 2) the Administrative Dispute Resolution Act of 1996 ([ADRA]; 3) various state shield laws; and 4) express or implied contract.

A common law privilege has been used to prevent ombuds from being compelled to testify about matters within the scope of their official duties. Known as the Wigmore test, the factors to be considered in recognizing such a privilege under Federal Rule of Evidence 501 are as follows:

1. the communication must be one made in the belief that it will not be disclosed;
2. confidentiality must be essential to the maintenance of the relationship between the parties;
3. the relationship is one that society considers worthy of being fostered; and

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4. the injury to the relationship incurred by disclosure must be greater than the benefit gained in the correct disposal of the litigation.³

The assertion of an ombuds privilege can be challenging. Not all jurisdictions have Federal Rule of Evidence 501 equivalents recognizing common law privilege. In addition, asserting privilege requires providing appropriate evidence and convincing a court that recognizing the privilege is appropriate given the specific facts of a case. It is important to note that, when an assertion of privilege is successful, the ombuds holds the privilege, unlike many other recognized privileges, therefore a participant cannot waive such privilege, as stated in Section 7.B and 7.H.

Given the potential challenges with asserting a claim of privilege as of the writing of this Act, one purpose of this Act is to codify the protected status of Confidential Ombuds Information, both Confidential Ombuds Communications and Confidential Ombuds Documentation. The rationale for codifying the concept of confidentiality as related to ombuds programs stems from the ADRA, the Model Standards of Conduct for Mediators, the constitutional right to privacy, and the implied contract entered into when a participant uses the services of an ombuds program.⁴

ADRA defines “neutrals” broadly, and provides sweeping confidentiality to “neutrals.”⁵ *The Model Standards of Conduct for Mediators* focuses on “ a process in which an impartial third party facilitates communication and negotiation and promotes voluntary decision-making by the parties,” an accurate description of the work of an ombuds in an organization.⁶ When evaluating the privacy expectations inherent in the relationship between an ombuds and a participant, the best practice of an opening statement in organizational ombuds practice creates the conditions by which both parties know, understand, and accept the conditions and limitations of Confidential Ombuds Communications and Confidential Ombuds Documentation, creating an implied contract.⁷

As stated in section 3.B above, the confidentiality protections provided under this Act should be enshrined in a charter, policy, terms of reference, or a detailed program description.

Should an ombuds determine that disclosure is necessary to defend the ombuds or an ombuds program from an allegation of professional misconduct raised in a formal

³ See Howard, C. L. (2022). *A Practical Guide to Organizational Ombuds: How They Help People and Organizations*. American Bar Association at 75 citing *In re Doe v. United States*, 711 F2nd 1187 (2d Cir.1983) (citing 8 WIGMORE EVIDENCE §2285, at 527 (McNaughton rev. 1961).

⁴ International Ombuds Association. (2023). *An Overview of Ombuds Confidentiality*. Retrieved from [here](#).

⁵ *Id.* at 4.

⁶ *Id.*

⁷ “As a best practice, an ombuds should verbally review the program’s confidentiality and limitations and ensure that each user of the program fully understands them. Such documentation will help form a basis for protecting confidentiality through the concept of an implied contract.” *Id.* at 6.

proceeding or investigation, any disclosure should be conducted in the most limited manner possible. Only those defending the ombuds against any claim or those with direct decision-making authority regarding the misconduct claim should be allowed access to Confidential Ombuds Information. If a matter is under court review, any review of Confidential Ombuds Information should be undertaken through in-camera review in chambers or a hearing room and limited only to those with a direct need to access such information.

For example, in a situation where the ombuds is one of the last people to speak with someone who then became violent, the ombuds may share, to a limited extent, the information that the person gave them no indication of violent intent to defend the ombuds or the ombuds program against a formal proceeding or investigation.

A mere inquiry does not constitute a formal proceeding or investigation. A typical response to an inquiry about the content of an ombuds consultation would neither confirm nor deny a visit and would include a statement that the ombuds cannot confirm or deny the communication or reveal Confidential Ombuds Information. The ombuds may also confirm what might be usual practice in a case and remind the person seeking information that the ombuds and the ombuds program practice to the standards codified in this Act.

SECTION 8. APPLICATION OF OTHER LAW.

Nothing in the Act is intended to apply to ombuds practicing to the classical or advocate ombuds models, or any other practice modality, or to overrule or supersede the prior ABA Standards that are applicable to all ombuds practice models.

SECTION 9. EFFECTIVE DATE – No additional comments.

REPORT

I. INTRODUCTION

The goal of the Resolution is to encourage states to enact the Organizational Ombuds Practices Act (hereinafter the Act), thereby prescribing the standards of practice, duties, powers, and limitations of organizational ombuds programs, establishing codified protections for confidential ombuds information, and delineating limited exceptions for disclosure of confidential ombuds information. A subcommittee of the ABA Section of Dispute Resolution, the Ombuds Committee Legislative Action Subcommittee drafted the Act in collaboration with the International Ombuds Association.

The International Ombuds Association defines organizational ombuds as “an individual who serves as a designated neutral within a specific organization and provides conflict resolution and problem-solving services to members of the organization (internal ombuds) and/or for clients or customers of the organization (external ombuds). There are organizational ombuds in all sectors (corporate, academic, governmental, non-governmental, non-profit, etc.). Some may serve both internal and external constituencies. An organizational ombuds provides confidential, informal, independent, and impartial assistance to individuals through dispute resolution and problem-solving methods such as conflict coaching, mediation, facilitation, and shuttle diplomacy. The organizational ombuds responds to concerns and disputes brought forward by visitors to the office and may convey trends, systemic problems, and organizational issues to high-level leaders and executives in a confidential manner. Ombuds do not advocate for individuals, groups or entities, but rather for the principles of fairness and equity. The organizational ombuds does not play a role in formal processes, investigate problems brought to the office’s attention, or represent any side in a dispute.”⁸

Organizational Ombuds are a powerful channel for early, constructive conflict management, enhancing trust and workplace culture. An impartial, confidential, informal resource, ombuds programs are a valuable resource for organizations offering a comprehensive alternative dispute management system. The American Bar Association has historically supported the greater use of ombuds in the public and private sector

⁸ *What is an Organizational Ombuds, International Ombuds Association*, <https://www.ombudsassociation.org/what-is-an-ombuds->

through resolutions dating as far back 1969.⁹ With the ABA's encouragement, states will be more likely to adopt the Act and provide these protections to organizational ombuds and their constituencies.

A. THE NEED FOR LEGAL PROTECTIONS FOR ORGANIZATIONAL OMBUDS PROGRAMS AND THEIR CONSTITUENTS

Legal standards for organizational ombuds provide critical protections and structure for all involved—ombuds professionals, participants, and the organizations they serve. Codifying professional standards in law enhances trust, accountability, and ethical practice, ensuring that all parties have shared expectations and understand the function, scope, and standards of ombuds practice. Adoption of this Resolution is likely to result in increased use of ombuds programs following the recognized standards outlined in the most recent ombuds resolution, 17A103.¹⁰ Adopted in 2017, this Resolution encourages the use of ombuds programs that adhere to recognized best practices for ombuds offices.

For the ombuds professional, codified standards would provide a consistent framework for managing high-risk cases. Legalizing the standards legitimizes the practice and helps build credibility with participants, organizations, and the legal system. Codified standards would provide ombuds with legal protection, provided the ombuds operate within the scope of the standards. Such standards would protect ombuds from retaliation from employers seeking information, from liability when participants are unhappy with outcomes, and from potential contempt of court sanctions for refusing to share information. Currently, ombuds potentially face both legal and ethical dilemmas: should they 1) choose to follow their professional standards, charters, and the pledges made to the individuals they serve, or 2) break with the core tenets of organizational ombuds standards to respond to subpoenas.

Ombuds often work with participants who are vulnerable if practitioners fail to abide by appropriate standards of practice. Through urging adoption of the Act, the ABA helps prevent harm by denying the protections afforded by the Act to unqualified or unethical practitioners, or practitioners who do not practice to the standards set out in the Act. Legal standards benefit participants by ensuring they are informed about their rights, the

⁹ ABA Sec. Admin. Law Rep on Establishment of Ombudsman, in ABA 94 ABA Rep. 265 (1969). See also Charles L. Howard, *The Organizational Ombudsman: Origins, Roles, and Operations – A Legal Guide*, Appendix 1, pp. 442-446 (2010). (Full text of 1969 ABA Resolution and Report).

¹⁰ ABA Resolution 17A103. <https://abaombudsday.wordpress.com/wp-content/uploads/2018/09/2017-aba-resolution-103.pdf>

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voluntary nature of ombuds services, and any limitations, including the fact that organizational ombuds are not representatives or advocates. With codified confidentiality protections, much like the attorney-client or mediator privilege, participants are more likely to feel safe sharing sensitive concerns owing to less fear of reprisal, enhancing the utility of organizational ombuds programs. Legal standards also promote consistent practice across institutions, helping to clear up misunderstandings that could be created by those who use the “ombuds” title but who fail to meet generally accepted professional standards.

Organizations and executive leadership also benefit from a codified affirmation of the confidentiality of the ombuds process within organizations. In states where the Organizational Ombuds Practices Act is enacted, organizations and leaders can act with confidence that they would not be liable for communications with the ombuds. In addition, the provisions of the Act provide clarity and avoid confusion over the roles and responsibilities of the human resources, legal, and compliance departments. The Act also ensures that organizational ombuds can be held to high standards and provides guidance for formal processes should allegations of misconduct occur.

Codifying ombuds standards in law protects all key stakeholders—the organizational ombuds, participants, and the organization. It rewards and encourages ethical, competent practice, fosters trust and safety, and integrates and aligns the ombuds role within a coherent legal and organizational structure.

II. BACKGROUND

For more than five decades, the organizational ombuds role has steadily expanded across the United States, adopted by institutions of all kinds seeking neutral and confidential ways to resolve problems and manage conflict. Ombuds, also known as ombudspersons or ombudsmen, provide significant value to organizations and constituencies at all levels. The word “ombudsman” comes from the Scandinavian “ombudsmannen” and means “representative.”¹¹ As the term is generally used, an ombuds is a person who may make an inquiry into a complaint and who tries to help the inquirer have the problem addressed fairly by the organization. The term is used to describe roles in many different contexts, which results in variation from program to

¹¹ Burton, Shannon Lynn, and Smith, Ryan, "History of Organizational Ombuds Practice," In *The Organizational Ombuds: Foundations, Fundamentals & The Future*, 41, 41-42 (Shannon Lynn Burton and Loreleigh Keashly eds., Int'l Ombuds Ass'n, 2025).

program. Ombuds can be found in a wide variety of organizations worldwide, including universities and colleges, governments at all levels, international and nongovernmental organizations, health-care institutions, corporations, financial institutions, as well as for-profit and not-for-profit organizations.¹²

The ombuds concept was first introduced in the United States in the early 1960s as a means of improving public administration and serving as a check and balance on administrative processes.¹³ Ombuds programs were established in numerous governmental organizations, including states and municipalities. The American Bar Association adopted a resolution in 1969,¹⁴ which was revised in another resolution adopted in 1971,¹⁵ recommending that “state and local governments should give consideration to the establishment of an Ombudsman authorized to inquire into administrative action and to make public criticism.”¹⁶ The 1969 Resolution also identified the twelve essential characteristics of a statute creating an ombuds program.

During the 1970s and 1980s, ombuds programs continued to develop beyond state and local governments and evolved based on the contexts in which they operated. This included programs that were independent but advocated on behalf of a constituency (for example, corrections ombuds and long-term care ombudsman), those that followed the classical model of ombuds practice made popular by state and municipal ombudsman offices (which handle complaints made by members of the public against government officials and departments) operating with an investigative function, and those within private organizations that often operated according to an organizational charter and standards of practice, rather than a legislative or government mandate, aptly known as “organizational ombuds.”¹⁷

The number of “ombuds” or “ombudsman” programs continues to grow in both the public sector and in private organizations. While one of the most valuable aspects of the ombuds concept is the ability to adapt it to a wide variety of contexts, experience has shown that with this growth in usage, many ombuds programs have been proposed or

¹² International Ombuds Association, *What is an Organizational Ombuds*, <https://www.ombudsassociation.org/what-is-an-ombuds-> (last accessed August 20, 2025).

¹³ Burton *supra* note 11.

¹⁴ ABA *supra* note 9.

¹⁵ ABA Sec. Admin. Law Rep on Establishment of Ombudsman, in ABA 96 ABA Rep. 749 (1971). See also Charles L. Howard, *The Organizational Ombudsman: Origins, Roles, and Operations – A Legal Guide*, Appendix 2, pp. 447-424(2010). (Full text of 1971 ABA Resolution and Report).

¹⁶ Howard at 1-27.

¹⁷ *Id.*

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created without incorporating the key principles generally viewed as essential to all types of ombuds programs.¹⁸ Moreover, programs have been created that are not compliant with any of the generally recognized professional standards of practice for the principal types of ombuds programs.¹⁹ Even more troubling is the fact that some programs labeled as "ombuds" incorporate functions that are completely incompatible with what would be expected of an ombuds.²⁰

In previous resolutions, the ABA recognized that there are different types of ombuds and identified their essential characteristics. Previous resolutions adopted by the ABA in 2001, 2004, and 2017 recommended standards for creating and operating ombuds programs and described three main categories of ombuds: classical (executive and legislative), organizational, and advocate. The most recent resolution on ombuds adopted by the ABA in 2017 (17M103)²¹ encourages the expanded use of ombuds programs as an effective means of preventing, managing, and resolving individual and systemic conflicts and disputes, and urges that ombuds programs comply with generally accepted principles and standards of practice. These previous resolutions were a key step in articulating the principles of independence, impartiality, and confidentiality that are fundamental to successful ombuds programs.

Generally recognized standards have emerged for various modalities of ombuds, including: the "ABA Standards," as articulated in previous ABA resolutions;²² the United States Ombudsman Association (USOA) Governmental Ombudsman Standards ("USOA Standards");²³ the International Ombuds Association (IOA) Code of Ethics and Standards of Practice ("IOA Standards");²⁴ and a supplement to the ABA Standards created by the Coalition of Federal Ombuds (COFO) ("COFO Guide").²⁵

¹⁸ ABA Resolution 17M103 *supra* note 10 at 1.

¹⁹ *Id.*

²⁰ Burton, S & Mershon, C. (2021). Assessing the Establishment of Ombuds Offices in Professional Academic Research Associations. *Journal of the International Ombudsman Association*, Vol. 14, Issue 1, p.22. https://www.ombudsassociation.org/assets/docs/JIOA_Articles/2021_JIOA_K.pdf

²¹ ABA *supra* note 10.

²² *Id.*

²³ United States Ombudsman Association (USOA). (2003). <https://www.usombudsman.org/usoa-governmental-ombudsman-standards/> (last accessed August 20, 2025).

²⁴ International Ombuds Association Standards of Practice & Code of Ethics (2025), <https://www.ombudsassociation.org/standards-of-practice-code-of-ethics>, (last accessed August 20, 2025).

²⁵ Coalition of Fed. Ombudsmen & Fed. Interagency ADR Working Grp. Steering Comm., *A Guide for Federal Employee Ombuds* (May 9, 2006), https://archive.epa.gov/publicinvolvement/web/pdf/adr_ombuds.pdf (last accessed Aug. 18, 2025).

In naming the Act the Organizational Ombuds Practices Act, the drafters intend to make it explicit that the provisions of the Act apply to organizational ombuds programs. Nothing in the Act is intended to apply to ombuds practicing to the classical or advocate ombuds models, or any other practice modality, or to overrule or supersede the prior ABA Standards that are applicable to all ombuds practice models.²⁶

While the above-referenced standards are not the only canons that have achieved wide acceptance, they reflect adherence to the key principles of independence, confidentiality, and impartiality. Classical (executive and legislative) and advocate ombuds programs are created through statute or policy and therefore have legal protections not currently available to organizational ombuds programs.²⁷ The goal of the proposed Resolution is, therefore, to provide equity for organizational ombuds. The Organizational Ombuds Practices Act prescribes the standards of practice, duties, powers, and limitations of organizational ombuds programs, establishes codified confidentiality protections for confidential ombuds information, and delineates limited exceptions for disclosure of confidential ombuds information, all necessary elements of an organizational ombuds practice.²⁸

III. OMBUDS AND ALTERNATIVE DISPUTE RESOLUTION (ADR)

The ombuds function has also emerged as a valuable form of alternative dispute resolution (ADR) given that ombuds act as third parties and address disputes outside of formal channels, such as litigation, grievances, and equal employment opportunity (“EEO”) complaints. In the United States, most ombuds operate as third-party neutrals, except for advocate ombudsmen, who are often authorized to advocate on behalf of vulnerable populations.²⁹ Ombuds utilize ADR skills and processes, as well as other creative techniques, to address disputes and concerns early through informal means. Ombuds stand for procedural fairness, accountability, effective problem-solving and proactive dispute management, thereby allowing inquirers, visitors, complainants, customers, or stakeholders to voice concerns that might not otherwise be heard by an organization or entity.

²⁶ See the Organizational Ombuds Practices Act, *above* at page 7.

²⁷ International Ombuds Association, Frequently Asked Questions about Ombuds, <https://www.ombudsassociation.org/ombuds-faq#:~:text=An%20advocate%20ombuds%20may%20be,Executive%20Ombudshttps://www.ombudsassociation.org/ombuds-faq#:~:text=An%20advocate%20ombuds%20may%20be,Executive%20Ombuds>

²⁸ See the Organizational Ombuds Practices Act, *above* at page 2.

²⁹ *Supra* note 27.

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By offering informal conflict management services (like conflict coaching, shuttle diplomacy, group facilitation, mediation, etc.), organizational ombuds have the ability to help people with a wide range of issues that might not otherwise be addressed due to the limitations of litigation or fear of retaliation. Ombuds also possess the unique power to confidentially inform senior leadership about systemic issues and trends, which affords leadership the awareness it needs to implement institutional change. Together, these functions make ombuds a key component of a comprehensive conflict management system.

IV. EXISTING ABA POLICIES

The Resolution is consistent with and builds upon existing ABA policies. The Organizational Ombuds Practices Act captures best practices for organizational ombuds by prescribing the standards of practice, duties, powers, and limitations of organizational ombuds programs, establishing confidentiality for confidential ombuds information, and providing exceptions for disclosure of confidential ombuds information.

While it does not supersede provisions that govern ombuds practicing under the legislative, classical, executive, or advocate ombuds models, the Act affords similar protections to organizational ombuds. This Resolution is intended to provide model language for states to ensure legal protections, consistency, and codified standards across different jurisdictions, or organizational ombuds performing ombuds services complying with the provisions of the Act and to provide decision-making guidance as new ombuds programs are created.

The ABA has adopted five prior resolutions related to the ombuds function.

Resolution Adopted by the ABA in January 1969

As noted above, the ABA adopted a resolution in 1969 encouraging state and local governments to “give consideration to the establishment of an ombudsman authorized to inquire into all administrative actions and to make public criticism.”³⁰ The resolution further sets out 12 suggested characteristics or parameters for a statute or ordinance establishing such an ombudsman, including independence, freedom “to investigate any act or failure to act by any agency, official, or public employee,” authority, discretion, and immunity from civil liability.³¹

³⁰ ABA *supra* note 9.

³¹ *Id.*

Resolution Adopted by the ABA in July 1971

In 1971, the ABA adopted a resolution that amended the 1969 resolution and recommended the creation of a pilot ombudsman program "for limited geographical area or areas, for a specific agency or agencies or for a limited phase or limited phases of Federal activity."³² It was suggested that such experimentation take place before the establishment of a government-wide program.

Resolution Adopted by the ABA in August 2001

In 2001, the ABA adopted a resolution supporting the greater use of ombuds to "receive, review, and resolve complaints involving public and private entities."³³ The ABA also endorsed the Standards for the Establishment and Operation of Ombuds Offices dated August 2001.³⁴ The report accompanying the 2001 resolution sets out the ABA's support of classical, organizational, and advocate ombuds models.³⁵

Resolution Adopted by the ABA in February 2004

The ABA adopted its fourth ombuds resolution, 04M 115, in 2004, revising the Standards from 2001.³⁶ The 2004 ABA Standards refer to the ombuds categories of legislative, executive, organizational, or advocate.³⁷

Resolution Adopted by the ABA in August 2017

The most recent ombuds resolution, 17A 103, adopted in 2017, encourages the use of ombuds programs that adhere to recognized best practices for ombuds offices.³⁸

³² ABA *supra* note 14.

³³ ABA Resolution 01A 107D. <https://abaombudsday.wordpress.com/wp-content/uploads/2018/09/2001-aba-resolution.pdf>

³⁴ Id. See also Charles L. Howard, *The Organizational Ombudsman: Origins, Roles, and Operations – A Legal Guide*, Appendix 6, pp. 468-477 (2010). (Full text of 2001 ABA Resolution, Policy and Report).

³⁵ Howard *supra* note 28 at 475-477.

³⁶ ABA Resolution 04M115. ³⁶ 04M 115 <https://abaombudsday.wordpress.com/wp-content/uploads/2018/09/2004-aba-resolution.pdf>. See also Charles L. Howard, *The Organizational Ombudsman: Origins, Roles, and Operations – A Legal Guide*, Appendix 7, pp. 494-524 (2010). (Full text of 2004 ABA Resolution, Policy and Report).

³⁷ Howard *supra* note 30 at 502-503.

³⁸ ABA *supra* note 10.

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This Resolution outlines best practices for ombuds offices based on the category of ombuds and includes a description of organizational ombuds and their role.³⁹

Related ABA Policy: Resolution 100 (2016) and Resolution 500 (2024)

The ABA adopted a resolution encouraging the greater use of ADR mechanisms to help resolve healthcare disputes in 2016, and the report accompanying the resolution references conflict management, a key skill ombuds deploy, as such a mechanism.⁴⁰ Resolution 500, adopted in 2024 to encourage the use of Early Dispute Resolution approaches, specifically references ombuds as an early dispute resolution mechanism.⁴¹

Related Model Standards of Conduct for Mediators

The Model Standards of Conduct for Mediators was drafted in 1994 by the American Arbitration Association, the American Bar Association's Section of Dispute Resolution, and the Association for Conflict Resolution. It was revised in 2005 by representatives of those same organizations, and the 2005 revision was approved by all the participating organizations.⁴²

The Uniform Mediation Act (UMA) was drafted in 2001 to standardize the process of mediation and to establish confidentiality protections for mediation communications, the same goals of the Organizational Ombuds Practices Act. Endorsed by the American Arbitration Association, the Judicial Arbitration and Mediation Service, the CPR Institute for Dispute Resolution, and the National Arbitration Forum, and approved by the American Bar Association, the UMA has been adopted in 14 states.^{43,44}

³⁹ *Id.*

⁴⁰ ABA Resolution 16M100 at 3.

<https://www.americanbar.org/content/dam/aba/directories/policy/midyear-2016/2016-midyear-100.pdf>

⁴¹ ABA Resolution 24M500 at 1. <https://www.americanbar.org/content/dam/aba/directories/policy/midyear-2024/500-midyear-2024.pdf>

⁴² *Model Standards of Conduct for Mediators*, Sept. 2002, https://www.americanbar.org/content/dam/aba/administrative/dispute_resolution/dispute_resolution/model_standards_conduct_april2007.pdf, (last accessed Aug. 18, 2025).

⁴³ Uniform Law Commission, *Mediation Act*, <https://www.uniformlaws.org/viewdocument/enactment-kit-30?CommunityKey=45565a5f-0c57-4bba-bbab-fc7de9a59110>, (last accessed Aug. 18, 2025).

⁴⁴ Uniform Law Commission, *Mediation Act Legislative Bill Tracking* <https://www.uniformlaws.org/committees/community-home?communitykey=45565a5f-0c57-4bba-bbab-fc7de9a59110#LegBillTrackingAnchor>, (last accessed Aug. 18, 2025).

V. EXISTING STANDARDS OF PRACTICE

The ABA's *Standards for the Establishment and Operations of Ombuds Offices*⁴⁵ created guidelines for organizational ombuds. These Standards can and have been used to establish ombuds offices; however, not all offices function in accordance with the Standards. Urging organizational ombuds offices to adhere to recognized standards is an important objective of the proposed Resolution, with the further goal of codifying the existing standards in a statutory framework to provide consistent, binding regulation.

In addition to the ABA Standards, federal and state legislation provide both rights and responsibilities, guidelines, and protections for certain ombuds and their constituents. Organizational ombuds practicing to the recognized standards who operate in sectors without legislative support, such as those working in the corporate sector or higher education, lack these legal guidelines and the protections and benefits for themselves and their constituents.

A. Standards for Organizational Ombuds

As discussed above, organizational ombuds programs in the US were created in response to particular societal needs. In the college and university context, the rise of organizational ombuds programs coincided with student riots and campus unrest in the 1970s. In the corporate setting, many programs were created as a result of concerns over improving corporate responsibility and governance, and to encourage employees and others to report misconduct without fear of retaliation.⁴⁶ An organizational ombuds program serves as an informal line of communication, a resource for interpersonal and systemic challenges, and a champion of organizational best practices for corporate governance.

The International Ombuds Association Standards of Practice

The formation of the International Ombudsman Association (IOA) in 2005 was a major milestone for organizational ombuds. The IOA rose from the merger of the University and College Ombuds Association (UCOA) and The Ombudsman Association

⁴⁵*ABA Revised Standards for the Establishment and Operations of Ombuds Offices*, (February 2004), <https://abaombudsdays.wordpress.com/wp-content/uploads/2018/09/2004-aba-resolution.pdf> (last accessed Aug. 18, 2025).

⁴⁶ See e.g., Charles L. Howard, *The Organizational Ombudsman: Origins, Roles, and Operations – A Legal Guide*, (2010) at 25.

(TOA), which primarily served corporate and other organizational ombuds programs.⁴⁷ IOA, the largest international association of professional organizational ombuds practitioners in the world, currently represents almost 900 members from the United States and across the globe. The IOA has established recognized Standards of Practice for organizational ombuds, which are consistent with the ABA standards, and include independence, impartiality, informality, and confidentiality.⁴⁸ However, these standards do not include a specific enforcement mechanism and do not function as a regulatory system, risking the possibility of improper practices which negatively impact organizations and those utilizing ombuds services.

Organizational Ombuds Certification

In 2009, IOA established the division of the Board of Certification that runs the Ombuds Certification Program (OCP) (formerly Certified Organizational Ombudsman Practitioner (CO-OP)); this program provides certification to ombuds who have a Bachelor's degree or equivalent, have practiced as an organizational ombuds for at least one year, have 80 hours of training, and passed a written and oral examination on application of the IOA Code of Ethics and Standards of Practice. Recently, the IOA announced that they will also be providing a separate certification for programs and offices that meet IOA Standards of Practice. OCP re-certification is required every four years and has continuing education requirements.⁴⁹

A "Professional Practices Committee" is charged with investigating and adjudicating any formal complaints of alleged violations of the Code of Ethics and Standards of Practice, or other unprofessional acts by certified ombuds. OCP has the authority to discipline certified ombuds who engage in professional misconduct by censure or suspending or revoking their certification. Neither IOA nor any governmental body requires that ombuds be certified to use the title "ombuds" or to practice as an ombuds.⁵⁰ Therefore, there is no true enforcement mechanism to require compliance with recognized standards or prevent continued violations by certified ombuds. Furthermore, there is no consistent requirement to become a certified ombuds; each organization chooses whether or not to require certification.

⁴⁷ *About the International Ombuds Association*, available at: <https://www.ombudsassociation.org/learn-about-our-organization> (last accessed August 20, 2025).

⁴⁸ *IOA Standards of Practice*, available at: https://ioa.memberclicks.net/assets/docs/SOP-COE/IOA_Standards_of_Practice_English.pdf (last accessed August 18, 2025).

⁴⁹ *Certification for Individuals* available at: <https://ioa.memberclicks.net/certification-for-individuals>

⁵⁰ *Ethics Complaint Procedure* available at: <https://ioa.memberclicks.net/ethics-complaint-procedure>

Mediation Statutes

Mediation statutes apply only to certain types of ombuds work in certain jurisdictions. Ombuds who conduct mediations may be able to avail themselves of confidentiality provisions if communications are made during, in preparation for, or in expectation of a mediation. Not all jurisdictions have adopted the Uniform Mediation Act or other rules for mediation confidentiality, however. In addition, many ombuds communications do not qualify as related to mediation, creating significant inconsistency in the enforceability of confidentiality provisions.

Charters

Many organizational ombuds offices have charters or enabling policies which establish the parameters for standards of practice. These charters or policies generally ensure that the organization's leadership will respect the impartiality, informality, confidentiality, and independence of the ombuds and also specify that the ombuds is not an agent of the organization. However, a charter or policy is not necessarily legally binding on the individual participants who use the program.

Since an ombuds is often considered a senior employee of the organization, without the legal protections afforded by the Organizational Ombuds Practices Act, a court could determine that an ombuds is an agent of the institution and subject to the same disclosure requirements as the rest of the organization. This would negate the confidentiality protections that are central to the value and effectiveness of organizational ombuds programs.

In summary, the existing ABA and IOA Standards, and the patchwork of mediation statutes and charters do not provide the consistent, binding regulation of ombuds practice necessary to protect ombuds, their constituents, and the organizations they serve. The Organizational Ombuds Practices Act remedies this situation.

VI. CONCLUSION

The ever-increasing need for mechanisms to resolve individual and systemic conflicts is recognized by multiple entities, including the media, universities, government, leading non-profit agencies and Fortune 500 companies. An effective organizational ombuds office serves as an alternative channel to assist people in resolving conflicts and in surfacing their concerns without fear of retaliation. This Resolution, urging the adoption

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of the Organizational Ombuds Practices Act, provides model language that will enable states to codify protections and practices that strengthen the ability of organizational ombuds to provide indispensable services that conform to recognized best practices.

Respectfully submitted,

Elizabeth Hill, Chair
Section of Dispute Resolution

February 2026

GENERAL INFORMATION FORM

Submitting Entity: Section of Dispute Resolution

Submitted By: Elizabeth Hill

1. Summary of the Resolution(s).

The Resolution encourages adoption of the Organizational Ombuds Practices Act. This Act prescribes the standards of practice, duties, powers, and limitations of organizational ombuds programs, establishes codified protections for confidential ombuds information, and delineates limited exceptions for disclosure of confidential ombuds information.

2. Indicate which of the ABA's Four goals the resolution seeks to advance.

The Resolution supports ABA Goals IV, II and I.

Most salient is the Resolution's alignment with **Goal IV: Advance the Rule of Law**. The Resolution preserves legal protections and a consistent framework for organizational ombuds programs. Comparable protections and frameworks are enshrined in statutes available to classical and advocate ombuds, the two other major models of practice. By clarifying and embedding similar standards for organizational ombuds, so are processes and roles clarified.

The organizational ombuds is a valuable resource helping to amplify the voice of individuals who have concerns, which may be legal in nature, while protecting them from retaliation. The ombuds provides organizational leadership with anonymized early warning information that assists them with accountability, ensuring just and fair policies and practices prevail. Organizational ombuds programs promote institutional compliance with internal policies and external legal requirements, foster ethical practices, and mitigate risk. While ombuds do not provide legal advice, they assist their constituents by identifying and engaging with applicable policy, resources, and stakeholders, which may include referrals to legal representation. The Resolution supports necessary legal protection for organizational ombuds and their constituents, which will provide parity with the other ombuds models of practice.

The ABA has previously endorsed the use of ombuds as an early dispute resolution mechanism. This Resolution directly addresses **Goal II, Improve Our Profession**, by elevating the quality and ethical standards of the organizational ombuds. By establishing codified standards, the Act ensures that organizational ombuds programs can be "held to high standards", to which classical and advocate ombuds programs

already are held. The Act's legal standards provide a "consistent framework for managing high-risk cases" and help distinguish ethical practitioners from those who "fail to meet generally accepted professional standards". The organizational ombuds programs function as impartial, independent, and informal resources with "zero-barriers" to access. These principles ensure that organizational ombuds promote "equitably administered processes" and fairly consider the implications of alternatives, functioning as a neutral party. Through codified confidentiality standards, the Act ensures that vulnerable participants can safely share sensitive concerns with the assurance that such standards are enforceable. The Resolution further improves the ABA-endorsed ombuds profession by securing the highest-level quality and ethical standards under which organizational ombuds should practice.

Goal I, Serve Our Members, is supported indirectly by this Resolution. ABA members who are organizational ombuds will benefit from the increased professionalism and legitimacy of their practice model, through the ABA's support of the Act and ultimate recognition of the profession by state governments. Members who interact with organizational ombuds in the course of their work will benefit from the accompanying consistent legal framework for organizational ombuds that provides certainty and clear rules for engagement. The Act "encourages ethical, competent practice" within this specialized field, which advances the status and reputation of all ABA members, through adoption of this Resolution.

3. Approval by Submitting Entity

Yes. The Resolution was approved by the Dispute Resolution Section Council on October 31, 2025.

4. Has this or a similar resolution been submitted to the House or Board previously?

No.

5. What existing Association policies are relevant to this Resolution and how would they be affected by its adoption?

The Resolution builds upon existing ABA resolutions adopted by the House of Delegates from 1969 to 2024 supporting the increased use of ombuds in a variety of sectors and functions. These include:

(1) a resolution adopted in February 1969 recommending that state and local governments consider establishing an ombudsman authorized to inquire into administrative action and to make public criticism, consistent with twelve essential characteristics;⁵¹

⁵¹ ABA Sec. Admin. Law Rep on Establishment of Ombudsman, in ABA 94 ABA Rep. 265 (1969).

(2) a related resolution adopted in August 1971 recommending several amendments to the 1969 resolution;⁵²

(3) ABA Resolution 21A107D, adopted in August 2001, supporting the greater use of ombuds to receive, review and resolve complaints involving public or private entities and endorsing the Standards for the Establishment and Operation of Ombuds Offices dated August 2001;⁵³

(4) ABA Resolution 04M115, adopted in February 2004, endorsing revised Standards for the Establishment and Operation of Ombuds Offices;⁵⁴

(5) ABA Resolution 17A103, adopted in 2017, encouraging the use of ombuds programs that adhere to recognized best practices for ombuds offices;⁵⁵

(6) ABA Resolution 16M100, adopted in 2016, listing ombuds as ADR mechanism for resolving healthcare disputes;⁵⁶ and

(7) ABA Resolution 24M500, adopted in 2024, encouraging the use of Early Dispute Resolution approaches and listing ombuds as an approach.⁵⁷

In naming the Act the Organizational Ombuds Practices Act, the drafters intend to make it explicit that the provisions of the Act apply to organizational ombuds programs. Nothing in the Act is intended to apply to ombuds practicing to the classical or advocate ombuds models, or any other practice modality, or to overrule or supersede the prior ABA Standards that are applicable to all ombuds practice models.

6. If this is a late report, what urgency exists which requires action at this meeting of the House? (if not a late report, enter "N/A")
N/A

7. Status of Legislation. (If not applicable, enter "N/A")
During the 118th Congress, at least thirteen separate bills have been introduced that would establish or reform ombudsman positions in different federal agencies. However, very few states have adopted legislation related to the work of organizational ombuds. The goal of the Resolution is to urge adoption of the Organizational Ombuds Practices Act, thereby prescribing the standards of practice,

⁵² ABA Sec. Admin. Law Rep on Establishment of Ombudsman, in ABA 96 ABA Rep. 749 (1971).

⁵³ 21A 107D <https://abaombudsday.wordpress.com/wp-content/uploads/2018/09/2001-aba-resolution.pdf>

⁵⁴ 04M 115 <https://abaombudsday.wordpress.com/wp-content/uploads/2018/09/2004-aba-resolution.pdf>

⁵⁵ 17A 103 <https://abaombudsday.wordpress.com/wp-content/uploads/2018/09/2017-aba-resolution-103.pdf>

⁵⁶ 16M 100 <https://www.americanbar.org/content/dam/aba/directories/policy/midyear-2016/2016-midyear-100.pdf>

⁵⁷ 24M 500 <https://www.americanbar.org/content/dam/aba/directories/policy/midyear-2024/500-midyear-2024.pdf>

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duties, powers and limitations of organizational ombuds programs, establishing codified protections for confidential ombuds information, and delineating limited exceptions for disclosure of confidential ombuds information, which will encourage states to adopt the Act.

8. Brief explanation regarding plans for implementation of the policy, if adopted by the House of Delegates.

On an ongoing basis, the Section of Dispute Resolution and the ABA Governmental Affairs Office will monitor state action related to the Organizational Ombuds Practices Act. The Ombuds Committee will work with the Section of Dispute Resolution to develop and deliver webinars and presentations to educate the public and promote these standards.

9. Cost to the Association. (Both direct and indirect costs)

None.

10. Disclosure of Interest. (If there are no interests to disclose, enter "None".)

None.

11. Referrals. Referred to all Section, Division, and Forum staff representatives including:

- Section of State and Local Government Law
- Section of Litigation
- Section of Tort Trial and Insurance Practice
- Government and Public Sector Lawyers Division
- Solo, Small Firm and General Practice Division, Young Lawyers Division
- Law Student Division
- Section of Administrative Law and Regulatory Practice
- Section of Labor and Employment Law.

1. Name and Contact Information (Prior to the Meeting)

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EXECUTIVE SUMMARY

1. Summary of the Resolution

The Resolution encourages adoption of the Organizational Ombuds Practices Act. This Act prescribes the standards of practice, duties, powers, and limitations of organizational ombuds programs, establishes codified protections for confidential ombuds information, and delineates limited exceptions for disclosure of confidential ombuds information.

2. Summary of the Issue that the Resolution Addresses

Classical (executive and legislative) and advocate ombuds programs are created through statute or policy and therefore have legal protections not currently available to organizational ombuds programs. The goal of the Resolution is, therefore, to endorse the language of the Organizational Ombuds Practices Act, thereby prescribing the standards of practice, duties, powers and limitations of organizational ombuds programs, establishing codified confidentiality protections for confidential ombuds information, and delineating limited exceptions for disclosure of confidential ombuds information. States will then be more likely to adopt the Act and provide equitable protections to organizational ombuds and their constituents.

3. Please Explain How the Proposed Policy Position will address the issue

Codifying ombuds standards in law protects all key stakeholders—the organizational ombuds, participants, and the organization. It rewards and encourages ethical, competent practice, fosters trust and safety, and integrates and aligns the organizational ombuds role within a coherent legal and organizational structure. Legal standards enhance trust, accountability, and ethical practices, ensuring that all parties have shared expectations and understand the function, scope, and standards of ombuds practice.

Codified standards would provide ombuds with legal protection, provided the ombuds operates within the scope of the standards. Such standards would protect ombuds from retaliation from employers seeking information, from liability when participants are unhappy with outcomes, and from potential contempt of court sanctions for refusing to share information. Currently, ombuds could be caught in both legal and ethical dilemmas: should they 1) choose to follow their professional standards, charters, and the pledges made to the individuals they serve, or 2) break with the core tenets of organizational ombuds standards to respond to subpoenas.

Adoption of this Resolution is likely to result in increased use of ombuds programs following the recognized standards outline in 17A 103. Legal standards for organizational ombuds provide critical protections and structure for all involved—ombuds professionals, participants, and the organizations they serve.

4. Summary of Minority Views or Opposition Internal and/or External to the ABA which have been identified.

None.