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Amendment to Senate Bill #70-71-42. (Proposal for the Establishment of a University Ombudsman) (Proposed Legislation)

University of Rhode Island Faculty Senate

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FACULTY SENATE

BILL

Adopted by the Faculty Senate

RECEIVED
UNIVERSITY OF R. I.
NOV 14 1971
OFFICE OF THE PRESIDENT

TO: President Werner A. Baum
FROM: Chairman of the Faculty Senate

1. The Attached BILL, titled Amendment to Senate Bill #70-71-42. (Proposal for the Establishment of a University Ombudsman) (Proposed legislation)

is forwarded for your consideration.

2. The original and two copies for your use are included.
3. This BILL was adopted by vote of the Faculty Senate on 71-11-11 (date).
4. After considering this bill, will you please indicate your approval or disapproval. Return the original or forward it to the Board of Regents, completing the appropriate endorsement below.
5. In accordance with Section 8, paragraph 2 of the Senate's By-Laws, this bill will become effective on 71-12-2 (date), three weeks after Senate approval, unless: (1) specific dates for implementation are written into the bill; (2) you return it disapproved; (3) you forward it to the Board of Trustees for their approval; or (4) the University Faculty petitions for a referendum. If the bill is forwarded to the Board of Trustees, it will not become effective until approved by the Board.

71-11-12
(date)

Stephen D. Schwarz /s/
Chairman of the Faculty Senate
STEPHEN D. SCHWARZ

ENDORSEMENT 1.

TO: Chairman of the Faculty Senate
FROM: President of the University

RECEIVED
NOV 15 1971

UNIVERSITY OF RHODE ISLAND
FACULTY SENATE

1. Returned.
2. Approved Disapproved

3. (If approved) In my opinion, transmittal to the Board of Regents is not necessary.

11/13/71
(date)

Werner A. Baum /s/
President

(OVER)

ALTERNATE ENDORSEMENT 1.

TO: Chairman of the Board of Regents.

FROM: The University President

1. Forwarded.

2. Approved.

_____/s/
(date) President

ENDORSEMENT 2.

TO: Chairman of the Faculty Senate

FROM: Chairman of the Board of Regents, via the University President.

1. Forwarded.

_____/s/
(date) _____
(Office)

ENDORSEMENT 3.

TO: Chairman of the Faculty Senate

FROM: The University President

1. Forwarded from the Chairman of the Board of Regents.

_____/s/
(date) President

Original received and forwarded to the Secretary of the Senate and Registrar for filing in the Archives of the University.

_____/s/
(date) Chairman of the Faculty Senate

Proposal for the Establishment of a University Ombudsman

I. The Charge from the Senate and Committee Activities

The Faculty Welfare Committee undertook the study of the Ombudsman office in response to the following paragraphs in a letter of September 28, 1970 from the Chairman of the Faculty Senate:

"The Executive Committee has also considered the question of a University Ombudsman and has moved to refer the matter jointly to the Welfare Committee and the Teaching Effectiveness and the Facilities Committee. The Teaching Effectiveness Committee has already recommended last spring a program of a college ombudsman for teaching that would be administered by the Teaching Effectiveness Committee. The matter was referred by the Senate to the Executive Committee for consideration of the relationship of the teaching ombudsman to a general University ombudsman. The Executive Committee has considered the matter and concluded that much more study is needed. Specifically, what should be the function of a University ombudsman; is it necessary to have a separate ombudsman for teaching; what should the administrative position of the ombudsman be; and how should the program be administered? Perhaps the experience of other institutions that have initiated ombudsman programs would be of help in resolving these questions.

The Executive Committee believes the matter of a University ombudsman and/or teaching ombudsman is of prime importance. I trust that the two committees can make substantial progress in developing a program at URI."

In its deliberations, the Welfare Committee

1. Invited two members of the Student Senate to participate in the Committee's discussions.
2. Discussed its proposal with Professors Pauley, Haas and Schwarz of the Teaching Effectiveness Committee.
3. Reviewed a considerable amount of literature on the Ombudsman office.
4. Studied detailed Annual Reports on the operation of the office at the University of New York at Buffalo, the City University of New York, and Cornell University.
5. Met with Professor Julius A. Elias of the Philosophy Department of the City University of New York and currently the Ombudsman at the University. The conference with Professor Elias lasted four hours and we feel gave the Committee considerable insight into the nature and functioning of the Ombudsman office.

II. Background

The office of the Ombudsman has a long and continuous history. First established in 1713 by Charles XII of Sweden, the basic rationale for the office has changed little since that time. The primary purpose of the office is that of controlling bureaucracy. In Walter Gellhorn's concise phrase, the Ombudsman is a "citizens' protector." In the Scandinavian countries, the Ombudsman is an officer of Parliament "who investigates complaints from citizens that they have been unfairly dealt with by government departments and who, if he finds that a complaint is justified, seeks a remedy." The institution has been so successful in the Scandinavian countries that it has been adopted in countries as far apart as Britain and New Zealand and is actively being considered in Holland, India, Ireland, and the United States. Hawaii established an Ombudsman in 1968 and more recently Michigan and Colorado created Ombudsman plans. Similar plans have been filed in over half of the state legislatures.

Although the first Ombudsman on a university campus was not established until 1966, the office and the idea has spread rapidly since then. By mid-1969 about twenty colleges and universities had faculty members serving as Ombudsman and as many more were establishing the office. Included among those who have already established the office are such diverse institutions as the City College of New York, SUNY at Buffalo, Stanford University, San Diego State College, the University of Denver, the University of California at Irvine and at Berkeley, Cornell University and the Michigan State University.

III. The Rationale for a University Ombudsman

With the increased size and complexity of the modern university and the inevitable burgeoning of its bureaucratic structure, there has been a growing concern for the plight of the individual in American higher education. Despite the concern of universities for providing due process and their commitment to democratic processes and civility, there have been frequent complaints of neglect, abuse, arbitrariness in administration, and manipulation. Some of these complaints are imagined, others are very real. Real or imagined, to the extent they are not dealt with, these complaints generate feelings of frustration, are damaging to morale, create distrust, and can provide fertile ground for otherwise unnecessary confrontations involving students, faculty, and administrative officers. (The impersonal and bureaucratic structure of the university often make it difficult for grievances (real or imagined) to be settled expeditiously and amicably without resort to the kind of open conflict so damaging to all participants involved and to the university itself.

The primary function of the ombudsman is "to set up a known center for the handling of individual grievances and complaints and to publicize his availability." Availability is clearly the key element -- the individual, be he student, faculty member, or

administrative official, will know that there is one independent official always available to receive complaints, inquire into the matters involved, pass judgment, and make recommendations for suitable action. As Howard Ray Rowland so cogently stated (Educational Digest, February, 1970, p. 29), "The psychological value of the office rests in the individual's knowledge that he is not helpless before the large and impersonal administrative machinery of government. He can make appeals personally to an impartial officer with broad perspective who has ready access to those involved in his grievance."

IV. General Characteristics and Role of the Ombudsman Office

A. Range of Activities:

The Ombudsman has extraordinary authority to intervene in almost any situation. The kinds of cases arising under the Ombudsman program at Cornell University are indicative of the broad scope of the office (See tables - pages 4, 5, and 6).

B. Power of the Ombudsman:

Although he has extraordinary authority to intervene in almost any situation, it must be emphasized that the ombudsman has no power to compel. His primary power is recommendation. If his report is ignored he has the right to publicize his findings. The element of censure implicit in the publicizing of an ignored report can be a formidable weapon. His power should lie in his prestige, persuasiveness, impartiality, and persistence in presenting his views to the parties involved in a grievance and, if necessary, to their organizational superiors.

C. Personal Characteristics of the Ombudsman:

The Ombudsman should be a long-term faculty member, highly respected by students, colleagues, and administrators, and familiar with campus operations and regulations. He should also have a thorough acquaintance with and sympathy for the Ombudsman concept and should be capable of extreme tact and diplomacy in carrying out his duties. The Ombudsman cannot be the champion of the interests of any group or faction within the faculty, administration, or student body. He cannot be an advocate for any; he must be a defender of all.

Although the primary function of the Ombudsman is to handle grievances brought directly to his office, he also has the following important functions:

1. The power to conduct investigations on his own

III: THE KINDS OF COMPLAINTS

Few divisions of the University have escaped contact with the Ombudsman. Obviously offices which deal with many students or employees have been the object of a high number of complaints--the Board on Traffic Control, counseling offices, Housing and Dining, Buildings and Properties, Office of Financial Aids, the Clinic, the Personnel Office. Similarly matters of critical common experience such as grades, leaves, transfers, course requirements, employment and instruction have also been the subject of most complaints.

Table II which follows lists the subject matter of complaints in the Office.

TABLE II
Partial List of Subjects of Complaints
Academic Year 1969-1970

Office of Subject (Other Reference)	Cases		Inquires	
	1*	2*	1*	2*
Academic Affairs, Vice President for	1	5	-	1
Academic Personnel Policies (Professors, Salaries of)	1	6	-	-
Administration, University (officers by title)	2	1	-	-
Agriculture, College of				
a) General	-	7	-	-
b) Personnel Policies	1	1	-	-
c) Academic counseling, requirements, advising	10	3	-	1
Architecture, College of				
a) Administration	1	2	-	1
b) Academic counseling, requirements, advising	1	-	-	-

Note: 1* refers to the fact that the case was a complaint against the operations of the office, or that the office set the policy that resulted in the complaint, and therefore could be considered to be the place to go for redress.

2* indicates that the Ombudsman consulted the office or the office was in some other way related to the complaint, or the way in which the complaint was handled, while not being the cause of the complaint.
TABLE II, continued

Office or Subject (Other Reference)	Cases		Inquires	
	1*	2*	1*	2*
Arts and Sciences, College of				
a) Academics	1	4	-	2
b) Administration	-	9	-	-
c) Admissions	1	2	-	-
d) Counseling Office	13	4	4	-
e) Deans, Committee of	1	3	-	-
f) Employment by	2	-	-	-
g) Scheduling and Records	4	5	1	-
Athletic Office	16	3	13	-
Board on Traffic Control (Parking)	19	2	14	3
Buildings and Properties	15	4	10	2
B & P A	1	1	-	1
Bus Service, Campus	3	-	3	3
Campus Planning Committee	-	2	-	2
Campus Store	3	1	3	-
Carpenter Hall, Demonstrations at	1	-	-	-
Chimes	2	-	1	-
Commencement, 1970	1	1	3	-
Computer Sciences, Office of	-	3	1	1
Conservation, Department of	2	-	1	-
Conservation Club	-	1	-	-
Constituent Assembly	1	-	-	-
Construction Office, University	2	-	1	1
Controller, University	3	6	2	2
COSEP	1	1	-	-
Counsel, University	1	11	-	4
Courses, Student Run (Colleges by name)	1	-	-	-
Credit Union (Cornell)	1	-	-	-
CURW	2	1	-	-
Dining	11	3	3	-
Discrimination	1	5	2	2

TABLE II, continued

Office or Subject (Other Reference)	Cases		Inquiries	
	1*	2*	1*	2*
Economics, Department of	2	2	-	-
Electrical Engineering, School of	1	-	-	-
Employee Actions	4	-	1	-
Employment, Conditions of	1	2	-	-
Engineering, College of				
a) Academics	4	1	-	-
b) Administration of	3	2	-	-
Examinations, Scheduling of	-	1	2	1
Faculty, Dean of University	-	3	-	4
Finance and Business Office /Statutory Colleges/	4	4	-	1
Financial Aids, Office of	9	5	-	2
Floriculture and Ornamental Horticulture	1	1	-	-
Fringe Benefits	2	2	-	-
Gannett Clinic	8	4	5	2
Government Department	3	2	-	-
*Grades and Grading	7	1	1	-
Graduate School				
a) Admissions	2	-	1	-
b) Financial Support	3	5	1	-
c) Fellowships, administra- tion of	1	-	-	-
d) General	-	3	-	-
e) Research Assistants	-	1	-	-
f) Teaching Assistants	1	2	2	1
g) Other	1	1	-	1
History of Art, Department of	2	-	-	-
Housing, Department of (Off Campus Housing)	19	6	10	2
Human Ecology, College of				
a) Academics	1	-	-	-
b) Admissions	1	1	-	-

*See also: Page 6, Table I, Note 3, and "The Grading Legislation", pages 23 - 25.

TABLE II, continued

Office or Subject (Other Reference)	Cases		Inquiries	
	1*	2*	1*	2*
c) Counseling	3	-	-	-
d) General	-	1	-	-
Human Rights Committee	1	2	1	3
Industrial and Labor Relations, School of				
a) Academics	1	4	1	-
b) Administration	2	3	-	-
c) Extension Division	2	-	-	-
d) Resident Instruction, Office of & Counseling	1	3	2	1
Information, Release of	-	1	-	-
Insurance Office, University	5	-	2	-
Interfraternity Council	1	1	-	1
Judicial Administrator	2	9	2	4
Libraries, University	9	7	6	-
Mathematics, Department of	2	1	-	1
May, 1970 Strike Against The War	-	8	1	6
Modern Languages, Division of N.O.W.	3	2	-	-
-	-	2	-	-
Off Campus Housing	1	-	5	-
Ombudsman	-	-	1	-
Parking (Board on Traffic Control)	19	2	14	3
Payroll, University Office of	2	1	2	2
Personnel Department	15	16	5	5
Personnel Policies	4	2	1	1
Philosophy, Department of	1	1	-	-
Physics, Department of	1	-	-	-
Planning Office, University	1	2	2	1
President, University	2	3	-	1
Professors				
a) Attitude of	1	-	-	-
b) Charges against by students	4	-	2	1
c) Charges against by parents	2	-	-	-
d) Competence of	6	2	1	-
e) Ethics of	-	-	-	1

TABLE II, continued

Office or Subject (Other Reference)	Cases		Inquiries	
	1*	2*	1*	2*
f) Prerogatives of	2	1	4	-
g) Promotion of	-	2	-	-
h) Salaries of	-	1	-	-
Provost, University	3	5	2	2
Public Affairs, Vice President for	1	1	1	1
Real Estate, University Office of	2	2	-	-
Registrar, University	2	7	11	3
Regulations for the Maintenance of Public Order	-	2	1	-
Romance Studies, Department of	2	-	-	-
Rooms, Scheduling of	1	2	2	-
ROTC	2	6	1	2
Rural Sociology, Department of	1	2	-	-
Safety and Security, Division of	7	16	11	2
Secretary, University	1	3	1	2
Senate, University				
a) Referendum on	2	-	2	-
b) Constituencies of	-	1	-	-
c) Elections for, 1970	-	2	4	-
d) Secretariat of	-	1	-	-
Small Animal Clinic	1	-	-	-
Student Affairs, Vice President for	-	8	1	3
Students, Dean of	12	11	5	8
Students, Conduct of	12	1	6	4
Summer Session and Extramural Studies, Office of	1	3	-	-
Teaching Assistants	3	5	2	1
Telephone Office, University	-	1	5	-
Theatre Arts, Department of	2	1	-	-
Transfer Policies	3	4	-	-
Treasurer's Office	11	9	3	1
Trustees, Board of	-	2	-	-
University Cinema	3	-	-	-
University Publications Office	2	-	-	-
Veterinary Medicine, College of	1	2	-	-

TABLE II, continued

Office of Subject (Other Reference)	Cases		Inquiries	
	1*	2*	1*	2*
Vice Presidents /listed by title of office/ WHCU	-	-	1	-

initiative on the basis of information secured from student or university publications or other sources, including his own observations.

2. On detecting patterns of complaints he can make recommendations to improve administrative and academic procedures aimed at reducing those problems.

V. Proposed Legislation

On the basis of its study of the office, the Faculty Welfare Committee is proposing the adoption of an Ombudsman for the University of Rhode Island campus on a two-year experimental basis. The services of the proposed office will be available to students, faculty, and administrative personnel. At the end of the two-year period, the Ombudsman will present a detailed report of the operation of the office to the Faculty Senate and the Senate will then determine whether the office shall be established on a permanent basis.

PROPOSED LEGISLATION

The Office of the Ombudsman

The basic function of the office of the Ombudsman is to investigate complaints from members of the University community -- students, faculty, and administrative personnel -- that they have been unfairly dealt with in the normal channels of administrative process. The Ombudsman office is not intended to replace those normal channels. The services of the Ombudsman are an exceptional administrative procedure to be used only when the normal channels do not adequately respond.

I. The Method of Selecting the Ombudsman:

The Executive Committee of the Faculty Senate shall nominate at least two tenured faculty for the post of Ombudsman. Additional nominations of tenured faculty may be made by members of the Faculty Senate during one of its meetings. The list of nominees will be distributed to the general faculty and an election by secret ballot will be conducted. If no candidate receives a majority of the votes of those voting, a run-off election will be held between the two candidates receiving the most votes.

II. The Term of Office:

The Ombudsman will serve for a period of two years. There shall be no limitation on the number of times a faculty member is elected to the office.

III. The Areas of Responsibility of the Ombudsman are Equity, Critical Review, and Recommendations and Report.

A. Equity: to help individuals or groups in specific cases to get just and equitable treatment. In securing equity, the Ombudsman will:

1. Afford full opportunity for the presentation in confidence of any complaint or grievance from any student, faculty member, or member of the administrative staff alleging unfairness, discourtesy, undue delay, or other malfunctioning in the processes at the University of Rhode Island;
2. Investigate, in confidence, to determine the degree of validity of the complaint;
3. Mediate or otherwise resolve the problem, arriving in confidence at what appears to him to be a just resolution (in the dismissal of the complaint, or in recommended action based on the verified complaint).

(The Ombudsman will not be expected to concern himself with the normal operations of established grievance processes or disciplinary procedures contained in The University Manual, except that he may, on the basis solely of his own judgment, inquire into possible bias or malfunction in any of those proceedings, and make a confidential report thereon to the office of the President and to the Chairman of the Faculty Senate.)

B. Critical Review: to help administrative functionaries (whether connected with Student Government or with faculty or administrative offices) to improve their processes, not only to correct a particular inequity or injustice but also to prevent its recurrence. In carrying out this function the Ombudsman will:

1. Be receptive to all suggestions, comments and criticisms regarding the general functioning of university processes and procedures (as distinguished from individual grievances or complaints of inequity);
2. Make appropriate inquiries;
3. Make recommendations in confidence to the administrative officer who heads the particular unit involved; and
4. Report to the office of the President and to the Chairman of the Faculty Senate as to the disposition of the recommendations.

C. Recommendation and Report: on the basis of inquiry and experience to recommend such changes in procedure and practice as may seem to him to be appropriate, and to make final public report on his actions. In fulfilling this function, the Ombudsman will

1. In addition to any recommendations submitted in connection with the foregoing functions, from time to time, make such reports and recommendations as he deems wise, directly to the office of the President and to the Chairman of the Faculty Senate, with such substantiation as may be appropriate.
2. Prepare an annual report reviewing and evaluating the activities of his office during the year, the report to be distributed to the general faculty, the members of the Student Senate, and administrative personnel.

IV. Nature of Investigative Procedures, Disposition of Cases, and Powers of the Ombudsman

A. Nature of Investigative Procedures: The primary task of the Ombudsman is to serve as a confidential investigator in any specific case of alleged inequity, unfairness or maladminis-

tration. In carrying out this task, he will be an impartial spokesman, both to the person or persons making the complaint and to the person (s) against whose performance the allegation is brought. The Ombudsman can inquire at the office or other location where the offense is alleged to have been committed, is to have access to all relevant guidelines, principles, rules, regulations and similar data, and is to have access to all relevant facts in the case. He is to enjoy the complete cooperation of the faculty, administrators or students against whom complaints have been brought. He is to receive complete and courteous cooperation from any complainant. He is to carry out his work in privacy, and with full respect for the rights and immunities of all parties. All records, correspondence, and communications in the office of the Ombudsman shall be kept in a locked file under sole control of the Ombudsman.

- B. Disposition of Cases: Having completed his inquiries, he will make such disposition of each case as, in his sole judgement, is best. He may dismiss the charges as without foundation or merit. He may recommend corrective action to achieve justice or equity in the particular case. He will determine the question of equity and fairness not on the basis of opinion or bias or preference, but on the basis of whether or not the rules, guidelines, and other governing statutes have been followed honestly and fairly without undue delay. If he finds that a particular rule or regulation or statute is itself unfair or makes for inequity, he may convey that finding to the office of the President and to the Chairman of the Faculty Senate; but he may not at the same time make a finding against an individual who has faithfully adhered to the guidelines then governing the case.

Should the Ombudsman arrive at conclusions which are critical of the operations and practices of the office of the President, or of the presidential disposition of cases duly reported by the Ombudsman to the President, he will so inform the President; and if there is no resolution of the problem which is satisfactory to him, the Ombudsman may take the matter directly to the Chairman of the Board of Regents, informing the President as he does so.

- C. Powers of the Ombudsman include:

1. Access to all records pertinent to any allegation of inequity or injustice or other grievance coming under his jurisdiction.
2. The right to inquire of any officer of instruction or of administration, or of any member of the clerical and custodial staffs, or of any student, in connection with his proper inquiries and to receive full and complete answers.
3. The right to mediate or otherwise arrive at a compromise or to arrive at his own proposal for solution of the problem at hand.

4. The right to present his recommendations for solution to the parties involved and to report such recommendations to the supervisory officers of the person (s) involved and to the office of the President and to the Chairman of the Faculty Senate.
5. Having completed the foregoing processes in confidence, he has the right to make final public report on the matter.

V. The Student Assistant Ombudsman

The Ombudsman will be assisted by a student who shall be elected by the Student Senate for a one year term and shall be eligible to succeed himself in a subsequent election. ~~The student will be given three hours of academic credit as he performs his duties under the supervision as a mentor, the faculty Ombudsman.~~ The student Ombudsman will perform his duties in consultation with and under the direction of the faculty Ombudsman.

VI. Provisions for the Office

The Ombudsman will be provided with a private office, ~~a~~ secretary, and all the supplies necessary for the efficient operation of the office. The Ombudsman's ~~teaching load will be limited to a maximum of three hours per semester and he will be free of all committee assignments during his term of office.~~

Submitted by the Faculty Welfare Committee, April 6, 1971

Elton Rayack, Chairman

Professors

Joel A. Cohen
Else Levy
John O'Leary
Kenneth Simpson
Raymond Stockard
Paschal Viglionese
Maurice Zarchen

Students

Tony Robinson
Lance Dickinson

Faculty Senate Bill #71-72-5

Delete: Section V. The Student Assistant Ombudsman and substitute the following:

V. The Ombudsman's Student Assistant.

"The Ombudsman will be assisted by a student who shall be nominated by the Student Senate and appointed by the President of the University. The Ombudsman's Student Assistant will perform his duties in consultation with and under the direction of the Ombudsman, shall serve a one-year term, and shall be eligible to succeed himself. The Ombudsman's Student Assistant will receive a stipend of \$500 per semester, to be paid by the University."

Delete: Section VI. Provisions for the Office and substitute the following:

VI. Provisions of the Office.

[The Ombudsman will use the facilities of his regular departmental office. The question of his teaching load shall be decided in consultation with his departmental chairman, his Dean, and the Academic Vice-President. Every effort shall be made to reduce his teaching load appropriately. He shall be free of all committee assignments, student advising and other similar duties, during his term in office. Upon the completion of the initial two year term of the Ombudsman, the provisions of the office as described in this paragraph shall be reviewed by the Faculty Senate.]

How vote

Faculty Senate Bill #71-72-5

Delete: Section V. The Student Assistant Ombudsman and substitute the following:

V. The Ombudsman's Student Assistant.

"The Ombudsman will be assisted by a student who shall be nominated by the Student Senate and appointed by the President of the University. The Ombudsman's Student Assistant will perform his duties in consultation with and under the direction of the Ombudsman, shall serve a one-year term, and shall be eligible to succeed himself. The Ombudsman's Student Assistant will receive a stipend of \$500 per semester, to be paid by the University."

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