



COALITION OF FEDERAL OMBUDSMAN

MEETING MINUTES

Meeting Date and Time: May 12, 2021, 1:30-3:00 pm (ET)

Location: WebEx

Agenda:

1. Follow up on ACUS Project on ADR in Agency Adjudication
2. 2021 Annual Conference Update
3. Social Media Committee Update
4. Suggested COFO Initiative: Solo Practitioner Adjunct Group for Collaboration
5. Ombuds Day Update/Reminder – 10/14/2021
6. Announcements
7. Next Ombuds Supporting Ombuds (OSO) Meeting 5/26/2021
8. Discussion Topics

Highlights:

- 1. Follow-up on ACUS Project**
 - a. ACUS POC for ADR Project, Danielle (Dani) Schulkin – dschulkin@acus.gov
 - b. Link to project summary:
https://www.acus.gov/sites/default/files/documents/ADR_RFP_61920_0.pdf
 - c. At the March 2021 COFO meeting, we had the ACUS ADR Project Team, and this meeting we have the ACUS POC to answer some questions best addressed by ACUS
 - d. ACUS appreciated the feedback on the language “mission specific” and has changed that language in the project
 - e. The primary purpose of this ACUS ADR project is to determine how ADR is used by agencies during enforcement actions against external parties and not to exclusively determine how ombuds are used by agencies in the federal government
 - f. The ACUS ADR Project will review how agencies use all the methods listed in the ADR act to resolve a specific class of enforcement actions accurately and efficiently against external parties
 - g. Under statute ACUS as an agency is charged with studying specific design questions from different agencies to improve administrative procedures to include the equitable resolution of government adjunctions and hearings, and publishing reports that affect public and private interests

- h. ADR is often championed in resolving administrative disputes with government and external parties
- i. This ACUS ADR project will address the use of ADR specifically externally, and this project is a descriptive report.
- j. The ACUS ADR report issued will not be prescriptive recommendations; meaning it is an academic study not to be published with instructions for government agencies
- k. ACUS appreciates the help by COFO to refine the language of the report as this project is different from those of past recommendation type reports
- l. This specific project will include the use of ombuds in ADR but not exclusively how or if ombuds are used, and most government ombuds programs will not fit the model that will be studied in this project
- m. ACUS would appreciate if COFO ombuds would reach out to ACUS directly if their agency's program fits the external-facing enforcement dispute model that would be studied in this project
- n. The questions COFO had were:
 - i. How does ACUS plan to address concerns about the language in the project description?
 - ii. Can you further describe the intent behind the report? You mentioned that the report is not intended to be "prescriptive" – what does that mean?
 - iii. Are there accuracy checks in the process to ensure the ombuds role is described properly? Will there be a working group or something similar comprised of knowledgeable practitioners working in an advisory capacity to assist the contract team in accurately defining, characterizing, and framing the ombuds role (and other ADR roles) in the final report?
 - iv. The current project description mentions "the use of ombuds", in a fashion that mirrors the language in ADRA, as part of a list of ADR roles which will be covered. However, if ombuds is included in the study but mentioned only in passing in the final report, that would send an implied message about the ombuds role, suggesting to readers that it has minimal utility in the resolution of agency mission-focused disputes. If the research shows a need to include ombuds, how will the team ensure that the role is a fully represented player in the report? And if the focus is specifically on other types of ADR such as mediation and arbitration, will consideration be given to explicitly circumscribing the scope of the report to those specific fields and removing "ombuds" entirely?
- o. Most questions were addressed in opening comments and much of the information is to be determined based on the available options for agencies and if any ombuds program within agencies fits the model being studied
- p. Ombuds use is mentioned as an option in the ADR project and not as a defined role meaning the project poses the question of how ombuds are used, could ombuds be used, along with or in addition to other options

- q. If any questions are not addressed during the meeting Dani asked for others to contact her directly
- r. Question. What was meant by “ombuds enforcement procedure” and could more be discussed about experience of project managers with ombuds profession and practice?
- s. The study is looking at enforcement actions against external actors meaning the use of ADR used by an agency prior to going to court or a direct action
- t. Ombuds is an informal process and the used prior to action being taken by an agency on an external party
- u. Procedure was not the best word, the ACUS project would look at alleged activity prior to the formal action being pursued by the agency
- v. Question. Will the project look at how ombuds conducts reviews for systemic problems with agency procedures and how that affects dispute resolution, or would it only deal with specific case-by-case actions with an individual stakeholder?
- w. Dani asked if this question could be an offline discussion to be further considered by the project managers and to contact her directly with these concerns

2. 2021 Annual Conference Update

- a. Save the Date: October 15, 2021 tentative date for COFO Annual Conference
- b. This date is the Friday after Ombuds Day and has traditionally generated the greatest participation in conference
- c. Watch your email for an announcement requesting volunteers: conference committee chairs and members

3. Social Media Committee Update

- a. Thanks to everyone for the survey feedback: ~30 respondents
- b. Survey results will be shared in summary in proposal to COFO Executive Committee and then shared with the COFO membership
- c. Important note: Social Media initiative is for professional networking and not to discuss ombuds practice issues
- d. COFO currently has LinkedIn account, but it is not being used and could potentially benefit the community by providing a source of information and additional way to promote the ombuds profession
- e. Any social media account like LinkedIn would have membership criteria and be limited in scope relating to comments that could be made or seen by the public
- f. Proposal for social media would consider all comments made in the survey and provide mitigation strategies to address concerns

4. Suggested COFO Initiative: Solo Practitioner Adjunct Group

- a. The initiative for a Solo Practitioner group is proposed as a network of solo practitioners connected based on their models (so externals with other externals,

internals with other internals) who agree to meet on a regular basis to essentially do case review with each other

- b. This would be the same a case review that is done in programs where there are multiple ombuds who discuss cases
- c. One concern is confidentiality, and there would need to some rules to ensure that concern is addressed
- d. One question was how is this different from the mentoring program as this program provides the opportunity to discuss casework with a seasoned ombuds without naming names
- e. This would be a supplement to the mentoring program and would allow time for more in-depth discussion of case review on a more frequent basis such as bi-weekly
- f. Parameters and monitoring are needed to ensure standards are followed and to ensure misinformation is not given

5. Ombuds Day Update/Reminder

- a. Ombuds Day is October 14, 2021, and it is the 4th annual year for this event
- b. Ken Skodacek is leading this effort for ABA, and other volunteers from COFO are Mark Lewis, Sandi Moore, Jennifer Swann, and Jennifer Malony, who is the COFO liaison on the subcommittee for the Ombuds Day
- c. Theme for this year's Ombuds Day is "Ombuds: Exploring Options to Resolve Conflict Together"
- d. Speakers this year for Ombuds Day will be focused on people who support ombuds but do not work directly as ombuds, such as the CEO of Twitter who recently hired an ombuds or Elizabeth Warren who created a well-known ombuds program

6. Announcements

- a. National Reconnaissance Office (NRO) is seeking to fill a GS 15 Ombuds position as an ICA joint duty assignment for 2 years. Contact Sandi Moore
- b. FDIC Office of the Ombuds issued an annual report for 2019 and 2020
<https://www.fdic.gov/about/ombudsman/reportonactivities2019and2020.pdf>

7. Next OSO Meeting 05/26/2021

- a. Ombuds Supporting Ombuds (OSO) at 2 pm ET on 05/26/2021
- b. Meetings have been held for over a year and are a space for ombuds to share and support each other
- c. Any topics you want to talk about send to Heather Milner, Heather.Milner@cfpb.gov

8. Discussion Topics

- a. Employee Social Media Comments and their Intersection with Ombuds Practice– a COFO member reached out to us to indicate that they are a member of a private Facebook group for employees at their agency that routinely raises several topics, questions and concerns about the workplace
- b. The ombuds does not participate in the discussion or comment but wants to know if the community has thoughts on if/how to ethically use the topics, questions, and

- concerns raised on social media by employees or stakeholders to identify possible systemic issues within the ombuds purview
- c. One ombuds does not participate on online forums but visitors often raise issues found in those forums, and information was offered by the ombuds to post on that online forum that would direct others to resources to address the issues
 - d. One ombuds stated they would not be comfortable be on the online forum as a “sock puppet” (pseudonymous user) and would never do it
 - e. Question about if the groups were associated with the union or union member led group, and it was determined for this situation it was not a union supported or sponsored forum
 - f. Topics that impact internal and external ombuds work can be found on social media and how we interact with it is somewhat of an open question
 - g. These topics may need to be handled on a case-by-case basis
 - h. Union topics or union specific groups on social media sites should not be addressed by an ombuds
 - i. What is the difference between hearing something during your normal social media interactions and eavesdropping on a group to find issues to raise?
 - j. Another question would be that if negative are issues are being raised in a social media group when would your silence as an ombuds look like consent?
 - k. The issue with this topic was to discuss when participating in a private social media group relating to your agency or work topics within your agency how do you navigate the type of feedback you see... is the feedback you see public, private, borderline, or case-by-case?
 - l. Other topics tabled due to time constraints

Attendance 05/12/2021

Last	First	Agency	Call-In
Adams	Joanne	USDA	1
Anderson	Jeff	DOE	1
Arbid	Michelle	FEMA	1
Balick	Howard	FDA	1
Bedlivy	Dawn	NSA	1
Berg	Mollie	DOD / National Geospatial-Intelligence Agency (NGA)	1
Brown	Amy	FDIC	1
Brown	Andrea	United States Patent and Trademark Office (USPTO)	1
Cameron	Bob	CFPB	1

UNCLASSIFIED

Last	First	Agency	Call-In
Carmouche	Colette	TSA	1
Coffman	Cherina	NGA	1
Coleman	Jean	SBA	1
Dean	Karen	FMCS	1
DeBerry	Marcella	NSA	1
Footman	Aaron	USPTO	1
Gadlin	Howard	retired (former NIH)	1
Garmon	Felisa	CFPB	1
Gnatt	Sheldon	NSA	1
Gordon	Laurel	DOJ / U. S. Marshals Service (USMS)	1
Hopkins	Emilee	NGA	1
Hurley	Nathan	FDA / Center for Tobacco Products	1
Kamenshine	Wendy	CFPB	1
Katherine	Erica	FDA	1
Kinnavy	Noreen	Broadcasting Board of Governors	1
Lawrence	Steve	DHS Office of Intelligence & Analysis	1
Levine	Lisa	DOJ / Executive Office of Immigration Review (EOIR)	1
Lewis	Mark D.	FDA	1
Lloyd	Brenda	FLETC	1
Manderson	Katie	VA	1
Marcotte	Dan	FDIC	1
Maurer	Bill	Census	1
McNeil	Tracey	SEC	1
McGuire	Carrie	NARA / OGIS	1
Megee	Christine	DOD Education Activity	1
Miller	Carla	DOJ / ATF	1
Milner	Heather	CFPB	1
Moore	Sandi	NRO	1
Morey	Chauncenette	FBI	1
Patel	Bina	USPTO	1
Porch	Susanne	Commerce / National Institute of Standards and Technology (NIST)	1
Posner	Allison	DHS	1
Pritzker	David		1

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Last	First	Agency	Call-In
Robinson	Belinda	FBI	1
Rojas	Nick	DOD / DIA	1
Rowe	Mary	Massachusetts Institute of Technology (MIT)	1
Schulkin	Dani	ACUS	1
Semo	Alina	NARA	1
Simpson	Melissa	HHS	1
Skodacek	Ken	FDA	1
Smith	Julie	Census	1
Sotoudeh	Paul	USPTO	1
Voloshin	Victor	NIH	1
Vermillion	Chris	TSA	1
Villafane	Jacqueline	American Red Cross	1
Weber	Guy	DOD / NGA	1
Whittington	Fred (Whitt)	DOL OIG	1
Wolfe	Lexi	DOE	1
Yuille Banford	Deanna	DOD / Defense Human Resources Activity	1
		Total	58