

**Mediating for Citizens:
Ombudsmen in Arizona**

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The author bears responsibility for any factual errors. The views expressed in this report are those of the author and do not necessarily reflect the views of our funders or those who provided editorial review.

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Introduction

An *ombudsman* is a person who acts as a trusted intermediary between an organization and some internal or external constituency while representing the broad scope of constituent interests. 'Ombudsman', which is an indigenous Danish, Norwegian, and Swedish term, is etymologically rooted in the Old Norse word *umbuðsmann*, which essentially means 'representative'.¹ The role of an ombudsman is different from that of an advocate. An ombudsman is to be an impartial third-party who will consider all sides of a question in an objective way.

An ombudsman office plays an important role in government. It provides citizens with an outlet for resolving legitimate grievances with government agencies, which can bolster public confidence in government and promote accountability of public officials and state agencies.

In Arizona, ombudsman offices of several different types and sizes exist. The Arizona Ombudsman-Citizens' Aide Office, which handles complaints dealing with state agencies and public access matters, has the most extensive mediation role in the state. Many state agencies also have their own ombudsman, as do some of the universities; the roles of these ombudsmen offices are provided in the appendix. This report will focus on the Arizona Ombudsman-Citizens' Aide office and it will refer to the Arizona Ombudsman-Citizens' Aide as the Ombudsman.

Purview

In Arizona, the Ombudsman-Citizens' Aide Office has existed since 1996 and is an office of the legislative branch of government. The role of the Ombudsman is to help people who are having a problem with a state agency or have a public access dispute with a state or local governmental agency, as well as to offer referrals and information. The office is designed to be an independent, impartial resource that looks into citizen complaints and helps resolve legitimate grievances.

Arizona Ombudsman-Citizens' Aide Office Mission Statement²

The mission of the Arizona Ombudsman – Citizens' Aide is to improve the effectiveness, efficiency, and responsiveness of state government by receiving public complaints, investigating the administrative acts of state agencies and, when warranted, recommending fair and appropriate remedy. In addition, the Arizona Ombudsman – Citizens' Aide promotes open government throughout the state, by providing assistance and education to state and local government officials and members of the public, resolving disputes, and investigating complaints in matters relating to public access laws.

In addition to resolving complaints, the Ombudsman also educates public officials about open meeting and public records laws. They provide trainings, develop educational materials (many of which are available on their website), and distribute a quarterly newsletter.

The Ombudsman handles complaints dealing with administrative acts of state government agencies and public access matters. This is a free service for citizens and public officials. The Ombudsman can investigate matters and make recommendations, but does not have the authority to make or reverse a decision. They do not provide legal advice.

The Ombudsman cannot receive complaints for matters other than those dealing with public access or administrative acts of the State of Arizona. They cannot take up conflicts with: private individuals, companies or organizations; federal, county or local governments; the Board of Regents, universities, or community colleges; elected officials and their chief

¹ Wikipedia: <http://en.wikipedia.org/wiki/Ombudsman>

² Arizona Ombudsman – Citizens' Aide website: <http://www.azleg.gov/ombudsman/about.asp>

advisors; the legislature and its staff; or the judicial branch of government.³ The Ombudsman also can decline to look into a complaint when they feel that their intervention would be inappropriate. In instances where they cannot help directly, they will do their best to provide guidance to the complainant.

Process for Filing a Complaint

Citizens, the news media, and public bodies are allowed to make inquiries and complaints to the Ombudsman. The Ombudsman's office categorizes the complaint, completes impartial investigations, and in some cases will make recommendations to the agency to resolve both individual complaints, as well as systemic issues. Although most people feel comfortable with using their name when filing a complaint, the complaint can be made in confidence. Per state statute, identifying information cannot be released if the complainant has asked for confidentiality.

Complaints can be filed over the phone, in person, by mail, fax, or e-mail. An appointment can be made with an Ombudsman, but they also accept walk-ins or calls without an appointment. The Ombudsman has an office in central Phoenix, which is open Monday through Friday from 8:00 am to 5:00 pm and with prior notice, appointments can be set for other hours as well.

People usually know to file a complaint with the Ombudsman because they have heard about it through word-of-mouth or they have been referred to the office. The Governor's office, the Attorney General's office, the Legislature, state agencies, and advocacy groups have all referred people to the Ombudsman. The Ombudsman office is usually the place of last resort for complainants because every state agency has procedures in place to resolve matters within the agency.

Once a complaint has been filed, an ombudsman will discuss with a complainant his/her rights and options, as well as explain the programs/procedures that may already be in place to resolve the problem. If the ombudsman believes that the complaint is justified, they will decide the appropriate course of action, which can fall into one of three categories: coaching, assistance, or a formal investigation.

Coaching is the process by which the Ombudsman helps people solve problems they can handle themselves by giving them the tools they need to be their own advocate. When coaching isn't enough, the Ombudsman will provide informal assistance to the complainant, which can include: calling an agency on the citizen's behalf, facilitating a meeting between the parties, or coordinating an action between agencies. For the more serious complaints that cannot be resolved through coaching or assistance, the Ombudsman will conduct an investigation. If the Ombudsman finds the complaint to be justified, they will work with the parties to try to reach an appropriate solution. The Ombudsman cannot force an agency to follow its recommendations, but can write a public report of its findings and recommendations. The Ombudsman usually will issue a letter to the agency with the result of an investigation, whether or not a formal report was written.

Additionally, if the Ombudsman believes that the complaint is the result of a systemic problem and that it impacts more than one person, they can make more broad recommendations to the agency or suggest statutory changes.

Bringing a Complaint to Resolution

The Ombudsman has broad powers to investigate and make recommendations, but no authority to make or reverse a decision and no power to order changes in rules, regulations, policies or procedures. If the office is not able to work out a satisfactory solution, it can send a formal report of its findings and recommendations to the governor, local officials, and the public.

The average length of time for resolution depends on the type of complaint. Some complaints can be resolved in the length of a telephone call, while one complaint took a year and a half to resolve. It typically takes two to seven days to

³ Arizona Ombudsman – Citizens' Aide website: <http://www.azleg.gov/ombudsman/about.asp>

resolve most complaints. The Ombudsman office has a goal of completing 80% of complaints that require an investigation within three months, a goal that they exceeded last year. Investigations needing a formal report take longer than ones that do not, as it will take two to three months to write a report. The report process for an investigation is laid-out in rules. Formal reports are almost always public except in the rare instances when the complaint is of a sensitive nature.

There is not an appeals process once a complaint has been resolved. The complaint never results in a decision, but just recommendations for moving forward.

The Ombudsman office does not report on complaints other than the formal reports issued for some investigations and in the agency's annual report, which provides detailed statistics about the complaints filed with the office each year. The information given in the annual report includes:

- How many requests for investigation there were and if the request was declined, complaint withdrawn or resolved during investigation, investigation completed, investigation ongoing
- Details results of complaints that went to investigation (investigative findings)
- Lists every contact made to the Ombudsman and what agency it concerned
 - Also details if the contact resulting in coaching, assistance, or an investigation

During 2008 (the most recent year for which numbers were available) the Ombudsman office was contacted 4,293 times for matters related to state agencies. Of those complaints, the vast majority were resolved by coaching (2,518) and informal assistance (1,518). Only 257 complaints resulted in requests for investigation. Of the requests for investigation, 13 were declined, 8 had the complaint withdrawn or resolved during investigation, 230 resulted in a completed investigation, and 6 had ongoing investigations. That year the office also received 636 calls regarding matters related to public access. Of those calls, 468 were public record inquires (74 percent) and 168 (26 percent) were open meeting inquiries.⁴

Resources & Staffing

The Ombudsman's office has an annual budget of about \$600,000 and has experienced 15% budget cuts similar to those of other state agencies. The result of the budget cuts has been that the office cannot do as much for people as they once were able to do; it takes longer to resolve complaints and the office sometimes cannot do investigations when they would like and must resolve complaints through assistance instead.

The Ombudsman is appointed for a five-year term by the Legislature. The Ombudsman can be removed from that office during the course of that term by a two-thirds majority vote in both chambers of the legislature.

The Ombudsman's office has six ombudsmen on staff, which includes: Ombudsman-Citizen Aide, Deputy Ombudsman, and four assistant ombudsmen. The Ombudsman is responsible for hiring the other ombudsmen. One person exclusively deals with complaints about Child Protective Services and there is an attorney assigned to handle open government complaints.

Recommendations

The Arizona Auditor General should complete a performance audit on the Ombudsman's office.

Performance audits are designed to determine whether an agency is achieving the objectives established by the Legislature and managing its resources in an effective, economical, and efficient manner. These audits focus on

⁴ [2008 Annual Report](#) (PDF), the Arizona Ombudsman-Citizens' Aide Office; this is the most recent year for which an annual report was available

programs and issues that are of particular interest to legislators and the public and make recommendations to improve agency operations.⁵

Since its inception in 1996, the Arizona Ombudsman-Citizens' Aide office has not been subject to a performance audit by the Auditor General. We recommend a performance audit not because we suspect that there is anything wrong with the Ombudsman's office, but rather because the office plays such an important role and it has taken on increasing amounts of responsibility in recent years. A performance audit is a logical step to ensure that the office operates as effectively as possible and to see if there are any areas in which the office can improve. The Ombudsman office is subject to sunset reviews by the Arizona Legislature, but since the Ombudsman is part of the legislative branch, we believe it would be appropriate to have an independent third party review the office.

An ombudsman staff position should be created to handle questions or concerns regarding the new federal healthcare legislation and adequate funding should be provided for this position.

Based on our initial assessment, it appears the Arizona Ombudsman-Citizen Aide office has extensive experience working with citizen complainants and an impressive record of resolving complaints. It makes sense to create a new staff position dedicated exclusively to solving complaints regarding the new federal healthcare legislation. This ombudsman position also could be located in the Arizona Department of Insurance (which currently has an ombudsman) or in the Arizona Department of Health Services.

This would require additional funding from the legislature, though, as the budget of the Ombudsman office already has been cut significantly. It would not be prudent to decrease the office's capabilities by giving them additional responsibilities without commensurate funding. In 2007 when the legislature expanded the Ombudsman office to handle open government complaints, they provided the office with \$185,000 to fund two additional staff positions, employee related expenses, additional office space, and additional programmatic materials. We anticipate that similar funding levels would be necessary for an additional staff person(s).

The Patient Protection and Affordable Care Act (PPACA) provided states with optional grants to establish such an ombudsman position, but Arizona did not submit an application for the grant. At this point, it is unclear if further grants for the ombudsman position will become available under the PPACA. If more grants do become available, Arizona should apply for the grant.

⁵ State of Arizona Office of the Auditor General <http://www.azauditor.gov/PAD.htm>

Appendix

In addition to the Arizona Ombudsman-Citizens' Aide office, there are other resources in the state to help citizens resolve problems. This appendix will highlight a few of the other resources available, but is not intended to be an exhaustive list of every such resource in the state.

Open Meeting Law Enforcement Team

The Arizona Attorney General's office has established the Open Meeting Law Enforcement Team, or OMLET, to address open meeting concerns. Complaint forms can be downloaded on the Attorney General's website at <http://www.azag.gov/SGO/>. Once a complaint is filed, OMLET will conduct an investigation and work to resolve the problem.

State Agency Ombudsman

Virtually every state agency has some sort of problem resolution process. Many state agencies even have an internal ombudsman, which is usually an existing staff member appointed by the director of the agency, and in a couple of instances, there are specialized, more extensive ombudsman programs. Citizens are encouraged to use the process within the agency before going to the Ombudsman-Citizens' Aide office. However, if the problem cannot be resolved within the agency, the Ombudsman-Citizens' Aide office will step in to resolve the problem.

The Ombudsman Citizens' Aide office has compiled a directory of phone numbers for internal state agency ombudsman.

Agency	Phone Number
ADMINISTRATION, DEPARTMENT OF	(602) 542-1500
AGRICULTURE, DEPARTMENT OF	(602) 542-4373
ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM (AHCCCS)	(602) 417-4230
AUDITOR GENERAL	(602) 553-0333
COMMERCE, DEPARTMENT OF	(602) 771-1106
CORPORATION COMMISSION	(602) 542-4140
CORRECTIONS, DEPARTMENT OF	(602) 364-3945 (866) 333-2039
ECONOMIC SECURITY, DEPARTMENT OF Long Term Care Rehabilitation Services	(602) 542-4446
EDUCATION, DEPARTMENT OF Constituent Services	(602) 542-3710
ENVIRONMENTAL QUALITY, DEPARTMENT OF	(602) 771-4481
GAME & FISH , DEPARTMENT OF	(623) 236-7281
INDUSTRIAL COMMISSION	(602) 542-4538 (800) 544-6488

INSURANCE, DEPARTMENT OF	(602) 325-2548
LAND DEPARTMENT	(602) 542-4602
PARKS, ARIZONA STATE	(602) 542-4174
PUBLIC SAFETY, DEPARTMENT	(602) 223-2000
REAL ESTATE, DEPARTMENT OF	(602) 468-1414 ext. 130
REGISTRAR OF CONTRACTORS	(602) 542-1525
REVENUE, DEPARTMENT OF Problem Resolution Officer	(602) 716-6025
STATE COMPENSATION FUND	(602) 631-2050
TRANSPORTATION, DEPARTMENT OF Constituent Services	(602) 712-7355
VETERANS SERVICES, DEPARTMENT OF Directors Office	(602) 255-3373
WATER RESOURCES, DEPARTMENT OF	(602) 417-2408

Long-Term Care Ombudsman

The Arizona Department of Economic Security (DES) established a special program to investigate and resolve complaints made by, or on behalf of, residents of long-term care facilities. According to the DES website, the program “grew out of efforts by both federal and state governments to respond to widely reported concerns that our most frail and vulnerable citizens, those living in long-term care facilities, were subject to abuse, neglect, and substandard care.” Additional information on the program is available on the DES website:

<https://www.azdes.gov/common.aspx?menu=36&menuc=28&id=2464#>.

University of Arizona Ombuds Committee

The University of Arizona established an Ombuds Committee to help students, staff, and faculty resolve problems and disputes within the university. Ombuds Committee members are nominated by their peers and appointed by the university president for two-year terms (students may be appointed for a one-year term). The Ombuds Committee co-chairs are appointed by the university president and they serve three-year terms. Additional information on the program is available on the University of Arizona website: <http://ombuds.web.arizona.edu/>.