

IN THE CHANCERY COURT OF LAFAYETTE COUNTY, MISSISSIPPI

PAUL J. CAFFERA

VS.

THE UNIVERSITY OF MISSISSIPPI

FILED
STATE OF MISSISSIPPI
LAFAYETTE COUNTY
2021 JAN 19 PM 12:39
PLAINTIFF
CAUSE NO: 2020-573 W
DEFENDANT

**PLAINTIFF’S MOTION FOR
PRELIMINARY INJUNCTION AND DECLARATORY JUDGMENT**

COMES NOW, the plaintiff Paul J. Caffera (hereinafter “Caffera”) by and through counsel, and files this Motion for Preliminary Injunction and Declaratory Judgment, and would state unto the Court as follows:

I.

Caffera has been Ombuds at the University of Mississippi (hereinafter “the University”) since 2017. He is the second and longest serving Ombuds there. The Office of Ombuds was created by a Charter Agreement executed by the Chancellor of the University and University Counsel in 2015 – and establishes confidentiality of communications as the hallmark of the office. (Charter Agreement, Exhibit A). In reliance upon the terms of the Charter Agreement, Caffera has met with and obtained information from countless members of the University faculty, staff and graduate students regarding all sorts of concerns they may have about their jobs, their bosses, their co-workers and the University climate in general – all with an expectation that that information (and their identities) would be kept confidential.

II.

The University is currently trying to identify certain anonymous persons who have sent emails to faculty in the School of Journalism and New Media that the University contends is creating a hostile work environment, and has asked Caffera to disclose confidential information he has obtained by and through his position as Ombuds. Upon information and belief (because

the University has not provided them to Caffera), the e-mails in question generally pertain to issues of public concern, particularly whether University administrators have followed University and Mississippi Institutions of Higher Learning (hereinafter “IHL”) policies, and whether there may be improper use of public funds as to certain University employees’ compensation. The University has advised him that if he does not cooperate, it may take adverse employment action against him.

III.

In the University’s responsive pleading in this action, it contended that Caffera is “[c]reating non-existent concerns and raising false alarms.” If that be the case, then University’s response to this motion grants it the golden opportunity to publically reaffirm its commitment to the Charter Agreement and the countless faculty and staff who have visited the Office of Ombuds. It also gives the University the opportunity to state exactly what information it needs Caffera to provide in order to allay widespread concerns amongst the University community that it is seeking to unmask persons that have used the Ombuds Office and further to discover confidential information they provided.

IV.

The Court should immediately enforce the Charter Agreement as to any effort by the University to compel Caffera to disclose confidential information obtained by him in his capacity as Ombuds.

V.

The Court should immediately enforce the Charter Agreement as to an effort by the University to take adverse employment action against Caffera for refusal to disclose confidential information obtained by him in his capacity as Ombuds.

VI.

The Court should immediately grant declaratory judgment as to the University's obligation to provide counsel for Caffera so that he may fulfill the requirements of his position.

VIII.

Caffera incorporates the following exhibits herein:

- Exhibit A - Charter Agreement
- Exhibit B - December 18, 2020 Chancellor statement
- Exhibit C - Ombuds job description
- Exhibit D - IOA Code of Ethics
- Exhibit E - October 13, 2020 email string
- Exhibit F - October 23, 2020 Wilkin memorandum
- Exhibit G - Transcript of first EO/RC meeting
- Exhibit H - Transcript of second EO/RC meeting (in camera)
- Exhibit I - October 13 2020 email to Chancellor
- Exhibit J - University Whistleblower policy

WHEREFORE, PREMISES CONSIDERED, Caffera respectfully requests that the Court:

- A. immediately enjoin the University from compelling Caffera to disclose confidential information he has obtained by and through his position as Ombuds;
- B. immediately enjoin the University from compelling Caffera to disclose the names of persons who have used the Office of Ombuds;
- C. immediately enjoin the University from taking adverse employment action against Caffera for refusing to disclose the identity of such persons and the information they provide or

for bringing forth this action to defend the independence and confidentiality of the Ombuds Office (e.g. placing him on administrative leave);

D. immediately enjoin the University from accessing computers, electronic storage devices, physical files, email, electronic document exchange, and telephonic information of the Office of Ombuds; and

E. declare that the University is required to pay his attorney's fees associated with the instant action.

Caffera requests any further relief that the Court may find warranted in the premises.

RESPECTFULLY SUBMITTED,

PAUL J. CAFFERA

HICKMAN, GOZA & SPRAGINS, PLLC
Attorneys at Law
Post Office Drawer 668
Oxford, MS 38655-0668
(662) 234-4000 telephone
(662) 234-2000 facsimile
glewis@hickmanlaw.com

BY: _____


GOODLOE T. LEWIS, MSB # 9889

CERTIFICATE OF SERVICE

I, GOODLOE T. LEWIS, of Hickman, Goza & Spragins, PLLC, Attorneys at Law, Oxford, Mississippi, do hereby certify that I have this date mailed by United States Mail, postage prepaid, and/or electronically submitted via email, a true and correct copy of the above and foregoing to:

J. Cal Mayo, Jr.
J. Andrew Mauldin
Mayo Mallette, PLLC
P.O. Box 1456
Oxford, MS 38655
cmayo@mayomallette.com
dmauldin@mayomallette.com

THIS, the 19 day of January, 2021.



GOODLOE T. LEWIS



THE UNIVERSITY *of* MISSISSIPPI

OFFICE OF THE OMBUDSPERSON CHARTER AGREEMENT

I. Introduction

The University of Mississippi Office of the Ombudsperson was established in July 2015 to provide dispute resolution and prevention services at the University of Mississippi with the overarching goals of protecting fairness and promoting respect for all employees. In furtherance of these goals and principles, this Charter Agreement defines the responsibilities and privileges of the University of Mississippi Office of the Ombudsperson.

II. Mandate

The Office of the Ombudsperson serves as a confidential and independent resource available to University employees for University-related concerns. The Office offers a range of dispute resolution and prevention services, and additionally the Office serves to identify systemic concerns and provide feedback to the institution. Through these services, the Office promotes positive organizational change as well as fairness and respect in the workplace.

III. Scope of Services

The Office of the Ombudsperson is available for use by all faculty, staff, and graduate students at the University of Mississippi's Oxford campus, the UM-Tupelo campus, and the UM-Desoto campus. Additionally, faculty and staff employed directly by the University of Mississippi at the Grenada Center and Booneville Center may use the services of the Office. The Office does not serve the University of Mississippi Medical Center.

Use of the Office and participation in services is voluntary. The Office receives complaints, concerns, and inquiries regarding policies, formal and informal procedures, alleged acts or omissions, improprieties, and/or any alleged broader employment-related concerns. The Office does not participate in complaints involving grade appeals or academic decisions. The Office serves to listen, review matters, offer options and ideas for handling concerns, make referrals, make informal inquiries when authorized to do so by the visitor, and facilitate resolution



through mediation and other alternative dispute resolution methods. The Office also serves to identify broader systemic issues and provide upward feedback and informal recommendations for change while maintaining the confidentiality requirements of the office. The Office serves as a consultant for the University on dispute resolution topics and provides training and educational outreach on such topics.

The Office of the Ombudsperson supplements, but does not replace, formal grievance processes, investigative systems, and appeals processes available by the University. Use of the Office's services does not delay filing requirements of any other grievance or complaint procedure.

IV. Standards of Practice

The Office shall adhere to the International Ombuds Association (IOA) Code of Ethics and Standards of Practice. These standards require that the Office operate independently of the organization, maintain confidentiality, serve impartially without bias, and limit services to informal means of dispute resolution.

Confidentiality

The Office of the Ombudsperson is a confidential and "off-the-record" resource to the extent allowable by law. The Office of the Ombudsperson shall not keep any records on behalf of the University or accept notice for the University. All reporting shall be done in a manner that protects confidentiality.

The Ombudsperson shall not testify or provide records to be used in any other dispute resolution process, grievance process, or investigation, even if requested to do so by the visitor.

The Ombudsperson shall take reasonable steps to ensure confidentiality of the visitor's identity and communications, and will only make disclosures with the visitor's express permission unless the Ombudsperson believes that there is an imminent risk of serious harm or when disclosure is otherwise required by law.

Impartiality

The Ombudsperson shall at all times be neutral, impartial, and unbiased. He/she shall not take sides in any dispute or conflict. The Ombudsperson shall never serve as an advocate for a party but may advocate for fairness of process.

The Ombudsperson shall not serve in any additional role within the University that would compromise his/her impartiality. The Ombudsperson

shall not be aligned with other University groups or associations which would create actual or perceived conflicts of interest for the Ombudsperson.

Informality

The Office of the Ombudsperson shall operate only as an informal dispute resolution resource and shall not make binding decisions, issue any formal findings, or participate in any formal investigation or adjudication process. The Office shall make only informal recommendations. The Office shall not make, change, or overrule University policy or administrative decisions.

Independence

The Ombudsperson reports to the University's Chancellor and operates independently of ordinary structures. The Ombudsperson shall not be structurally affiliated with any compliance function and shall be independent from other University entities.

The Ombudsperson also operates independently in respect to case handling. The Ombudsperson may decline involvement if the Ombudsperson believes involvement would be improper for any reason, including matters not brought in good faith, conflicts of interest, or misuse of the Office's function.

In accordance with the IOA's Best Practices, the Office of the Ombudsperson shall have access to independent legal counsel when necessary in order to fulfill the functions of the position.

V. Protection from Retaliation

The University shall not tolerate retaliation against individuals for use of the Office of the Ombudsperson. Similarly, the Ombudsperson shall be protected from retaliation as a result of his/her role. The Ombudsperson shall serve a set and renewable term.

VI. References

1. "Standards of Practice." *The International Ombudsman Association*. <<http://www.ombudsassociation.org/about-us/mission-and-vision-and-values/ia-best-practices-standards-practices>>.
 2. "Code of Ethics." *The International Ombudsman Association*. <<http://www.ombudsassociation.org/about-us/code-ethics>>.
 3. "Best Practices." *The International Ombudsman Association*. <<http://www.ombudsassociation.org/about-us/mission-and-vision-and-values/ia-best-practices-standards-practices>>.
-

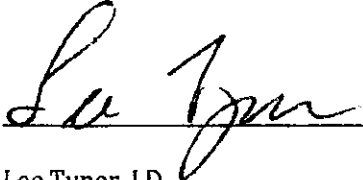
Accepted and Adopted by:



Dr. Morris Stocks
Interim Chancellor

12/16/15

Date



Lee Tyner, J.D.
General Counsel

12/16/15

Date

Appointment of Acting Ombuds

📅 DECEMBER 18, 2020 ↩️ [STATEMENTS \(HTTPS://CHANCELLOR.OLEMISS.EDU/CATEGORY/STATEMENTS/\)](https://chancellor.olemiss.edu/category/statements/)

Dear faculty, staff and graduate students,

I am pleased to announce that William W. Berry III, Montague Professor of Law in the University of Mississippi School of Law, has agreed to serve as Acting University Ombudsman while continuing in his role on the faculty.

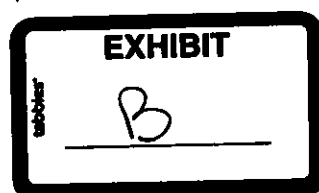
Dr. Berry served on the Faculty Senate subcommittee that proposed the creation of the Office of University Ombuds. More specifically, he is passionate about the need for an independent, confidential office where faculty, staff and graduate students can seek assistance with campus-related concerns, problems, and disputes.

Dr. Berry brings to this role extensive experience in dispute resolution. Prior to joining the university faculty, he practiced law in Washington, D.C. for the firm of Shea & Gardner (now Goodwin Procter). As a faculty member, he has served since 2016 as chair of the university's Academic Discipline Committee. One of his professional areas of expertise is labor and employment law, having taught a number of classes in those areas during his 13 years on the law school faculty.

I am grateful that we have a professional with the credentials, expertise and commitment to our community like Dr. Berry for this role at this time. His appointment is effective immediately.

As I mentioned in a letter earlier this week, the university values the Office of the University Ombuds, which provides faculty, staff and graduate students with a confidential, neutral, independent and informal place to seek assistance voluntarily in bringing forth and resolving campus-related concerns,

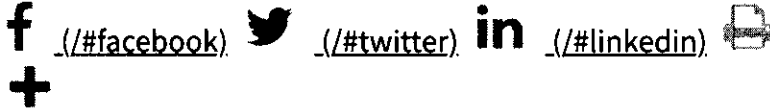
problems or disputes. This office helps ensure that every voice at the University of Mississippi can be heard, without fear of loss of privacy, retaliation or retribution. The University is committed to upholding these principles and maintaining this important function on our campus.



Sincerely,
THE UNIVERSITY OF MISSISSIPPI

Office of the Chancellor
(https://olemiss.edu/)

Office of the Chancellor



(https://www.addtoany.com/share?url=https%3A%2F%2Fchancellor.olemiss.edu%2Fappointment-of-acting-ombuds%2F&title=Appointment%20of%20Acting%20Ombuds)

UM Home	UMMC – Jackson	Administration and Finance	Student Affairs
Inauguration	UM – Desoto	Office of the Provost	Office of Global Engagement
Senior Leadership	UM – Tupelo	University Communications	Admissions
Vision, Mission, and Core Values	UM – Booneville	Diversity and Inclusion	Athletics



Enroll at the University of Mississippi and discover your future!
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UM Creed
THE UNIVERSITY OF MISSISSIPPI
(<https://www.olemiss.edu/info/creed.html>)

<http://www.outreach.olemiss.edu/grenada/>
neville/
UM - Grenada

Office of the Chancellor

<https://diversity.olemiss.edu/>
Research
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[Alumni](https://www.alumni.olemiss.edu/)
<https://www.alumni.olemiss.edu/>

University Ombudsperson

Position Information

Position Information

Position Title University Ombudsperson
Department Chancellor
Job Location Oxford
Job Type Full-Time

Job Description This professional position serves as a designated neutral or impartial dispute resolution practitioner providing confidential and informal assistance to constituents of the University community, to include graduate assistants, staff, and faculty. This position is neither an advocate for any individual, nor the organization, but rather, an advocate for fairness who acts as a source of information and referral, and aids in answering individual's questions, and assists in the resolution of concerns and critical situations. The function of this position is independent of existing administrative structures and reports to the Office of the Chancellor.

Job Responsibilities

Provides impartial and confidential consultation to members of the college/university community who are aggrieved or concerned about an issue. Remains independent, neutral and impartial, and exercise good judgment.

Assists inquirers in interpreting college/university policies and procedures, clarifying issues, generating options for resolution, and facilitating assessment of the pros and cons of possible options. Conducts appropriate informal fact-finding in order to better understand an issue from all perspectives.

Consults with managers/faculty to develop cooperative strategies for complaint resolution. With the inquirer's permission, consults with all parties to clarify and analyze problems, focus discussions, and develop a mutually satisfactory process for resolution. Provides referrals to other resources, whenever possible and appropriate.

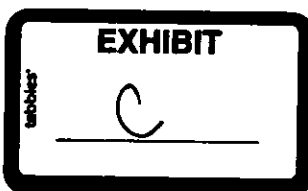
Facilitates group meetings, uses shuttle diplomacy, or negotiation skills to facilitate communication among parties in conflict. Encourages flexible administrative practices to maximize the institution's ability to meet the needs of all members of the campus community equitably.

Serves as a campus resource for officials in formulating or modifying policy and procedures, raising issues that may surface as a result of a gap between the stated goals of the institution and actual practice. Reviews periodically the patterns of grievances and makes appropriate recommendations for policies or practices that would reduce or eliminate recurring grievances.

Acts as a liaison between individuals or groups and the campus administrative structure, serving as a communicator or informal facilitator, as appropriate.

Functions as a sensor within the campus community to identify problems or trends that affect the entire campus or significant parts of the community; if appropriate, recommend creative ways to address concerns. Provides early warning of new areas of organizational concern, upward feedback, critical analysis of systemic need for improvement, and make systems change recommendations.

Develops communication mechanisms to provide education about the office's role to all potential inquirers as well as to university/college leadership. Designs and conducts training



programs for the campus community pertaining to topics of dispute/conflict resolution, negotiation skills and theory, civility, and related subjects.

Supervises office staff, as necessary. Ensures integrity is maintained through independence, fair process, neutrality, impartiality, confidentiality and timely attention to the resolution of issues while treating people with dignity and respect.

Formulates, manages and monitors the overall goals, direction, programs, and budget of the University Ombuds Office.

Participates in relevant professional associations, such as The International Ombudsman Association, the Society of Professionals in Dispute Resolution.

Performs similar or related duties as assigned or required.

Essential Functions

These essential functions include, but are not limited to, the following. Additional essential functions may be identified and included by the hiring Department.

1. Provides dispute resolution, consultation and referral, whenever possible and appropriate.
2. Coordinates policy analysis and feedback.
3. Facilitates community outreach and education.
4. Establishes and maintains the University Ombuds Office.

Minimum Qualifications

Education:

At least a master's Degree from an accredited college or university a related field, or a Juris Doctorate Degree from a law school accredited by the American Bar Association.

AND

Experience:

Five (5) years of experience related to the above described duties.

Substitution Statement:

Related experience may be substituted on a basis set forth by the Department of Human Resources.

Special instructions to applicants

Please check to see which documents (i.e., resume, CV, cover letter, list of references) are associated with this posting. Prior to applying for the position, prepare the electronic versions of these documents to upload or to "copy and paste" when prompted. You will not have the opportunity to attach them after you apply.

Applicants must meet the posted minimum qualifications for the position at the time of completing and submitting an application.

All positions will be open until an adequate applicant pool has been reached.

An official copy of your transcript is required upon hire for this position.

EEO Statement

The University of Mississippi provides equal opportunity in any employment practice, education program, or education activity to all qualified persons. The University complies with all applicable laws regarding equal opportunity and affirmative action and does not unlawfully discriminate against any employee or applicant for employment based upon race, color, gender, sex, sexual orientation, gender identity or expression, religion, national origin, age, disability, veteran status, or genetic information.

Background Check Statement

The University of Mississippi is committed to providing a safe campus community. UM conducts background investigations for applicants being considered for employment. Background investigations include a criminal history record check, and when appropriate, a financial (credit) report or driving history check.

Work Schedule

If part-time, specific number of hours per week

Published Salary \$76,669 - \$98,384 (Salary dependent upon department budget and candidate's qualifications.)

Exceptional Employment Benefits

Job Open Date 08/26/2016

Employee Category Executive

Employee Designation Regular Full-time (Benefits Eligible)

Posting Specific Questions

Required fields are indicated with an asterisk (*).

1. * How did you learn about this particular job opening?
 - o University of Mississippi website
 - o Print ad/newspaper
 - o Chronicle of Higher Education
 - o WIN Job Center/MDES Jobs Website
 - o Professional meeting or conference
 - o Professional journal and through a professional organization
 - o Professional list service
 - o Listed at historically black or predominately minority college or university
 - o Predominately minority-targeted publication
 - o Other institution/laboratory/program
 - o Referred by a friend who is an employee of the University
 - o I am a current employee
2. * Do you have at least five years of related experience and at least a Master's Degree from an accredited college or university a related field, or a Juris Doctorate Degree from a law school accredited by the American Bar Association?
 - o Yes
 - o No
3. * After reviewing the examples of work and the essential functions of this position, please describe the related experience (a minimum of five years) that you possess.

(Open Ended Question)

Optional & Required Documents

Required Documents

None

Optional Documents

1. Resume / Vitae
2. Cover Letter



INTERNATIONAL
OMBUDSMAN
ASSOCIATION

IOA CODE OF ETHICS

PREAMBLE

The IOA is dedicated to excellence in the practice of Ombudsman work. The IOA Code of Ethics provides a common set of professional ethical principles to which members adhere in their organizational Ombudsman practice.

Based on the traditions and values of Ombudsman practice, the Code of Ethics reflects a commitment to promote ethical conduct in the performance of the Ombudsman role and to maintain the integrity of the Ombudsman profession.

The Ombudsman shall be truthful and act with integrity, shall foster respect for all members of the organization he or she serves, and shall promote procedural fairness in the content and administration of those organizations' practices, processes, and policies.

ETHICAL PRINCIPLES

INDEPENDENCE

The Ombudsman is independent in structure, function, and appearance to the highest degree possible within the organization.

NEUTRALITY AND IMPARTIALITY

The Ombudsman, as a designated neutral, remains unaligned and impartial. The Ombudsman does not engage in any situation which could create a conflict of interest.

CONFIDENTIALITY

The Ombudsman holds all communications with those seeking assistance in strict confidence, and does not disclose confidential communications unless given permission to do so. The only exception to this privilege of confidentiality is where there appears to be imminent risk of serious harm.

INFORMALITY

The Ombudsman, as an informal resource, does not participate in any formal adjudicative or administrative procedure related to concerns brought to his/her attention.

Fw: EORC investigation

pcaffera@olemiss.edu <pcaffera@olemiss.edu>

Thu 10/15/2020 11:56 AM

To: pcaffera@ksu.edu <pcaffera@ksu.edu>

Paul J. Caffera

University Ombuds

University of Mississippi

P.O. Box 1848

318 Trent Lott Leadership Institute

25 Galtney Lott Plaza

University, MS 38677-1848 U.S.A.

+1-662-915-1537

pcaffera@olemiss.edu | www.olemiss.edu

The University Ombuds serves all faculty, staff, and graduate students at the University of Mississippi.

The University Ombuds' Office values the confidentiality of its communications with those who contact the Ombuds. Please do not use e-mail to send confidential information to the Ombuds' Office, as e-mail can create a permanent record and thereby undermine confidentiality. If you would like to speak with the Ombuds, please call (662) 915-1537 to schedule an appointment. To protect your confidentiality, please do not leave any confidential information in voicemail.

PLEASE NOTE THAT, due to the confidential, impartial, informal, and independent function of the University Ombuds, communication with either the University Ombuds or the University Ombuds' Office does not constitute legal notice to the University of Mississippi.

From: gwrowzee <gwrowzee@olemiss.edu>
Sent: Tuesday, October 13, 2020 4:45 PM
To: pcaffera@olemiss.edu <pcaffera@olemiss.edu>
Cc: Glenn Boyce <gboyce@olemiss.edu>
Subject: RE: EORC investigation



Paul, our office conducts meetings to discuss allegations, we don't share them over email and rarely over the phone. Then, a person with whom an allegations is shared might decide whether to continue the meeting, or postpone, or seek counsel, whatever, and that's fine. We give people multiple opportunities to share information with us, it's not just the one bite at the apple. But we don't share it over email and it would be unfair to make an exception for you.

If you would like to meet so we can discuss the allegations, it is entirely up to you, just let me know. Then you can decide to continue, postpone, seek counsel, whatever you'd like. If you don't wish to meet for me to share the allegations, we will continue our investigation without your involvement.

Paul, please take a day to consider the above, then let me know.

Dr. Boyce, I apologize for continuing to include you in this email string, but Mr. Caffera cc'd you and I did not feel right excluding you if it was his wish that you be included.

Gene W. Rowzee, Jr.
Equal Opportunity/Regulatory Compliance
The University of Mississippi
P.O. Box 1848
120 Lester Hall
University, MS 38677-1848
1-662-915-7735
1-662-915-1229 (fax)
gwwrowzee@olemiss.edu

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From: pcaffera@olemiss.edu
Sent: Tuesday, October 13, 2020 3:44 PM
To: gwwrowzee <gwwrowzee@olemiss.edu>
Cc: Glenn Boyce <gboyce@olemiss.edu>
Subject: Re: EORC investigation

Gene,

If I am facing anything remotely resembling an adverse action against me, fairness demands that you not reach any "findings" about me or the Ombuds Office or issue any "recommendations" concerning me or the Ombuds Office without me, as an individual, and the Ombuds Office, as a Department, having an opportunity to know what is alleged and to rebut, what I have every confidence is, an unfounded allegation. I reiterate, the Ombuds Office Charter envisions situations when the Ombuds and the Ombuds Office might face situations requiring independent legal counsel. Given your reluctance, thus far, to share with me the nature of the allegation(s), it seems reasonable to conclude that this might well be one of those situations.

All the best,

Paul

From: gwwrowzee <gwwrowzee@olemiss.edu>
Sent: Tuesday, October 13, 2020 2:46 PM
To: pcaffera@olemiss.edu <pcaffera@olemiss.edu>
Cc: Glenn Boyce <gboyce@olemiss.edu>
Subject: RE: EORC investigation

Paul,

Again, thank you for your response. I will consider your comments and contact you again if necessary.

Gene W. Rowzee, Jr.
Equal Opportunity/Regulatory Compliance
The University of Mississippi
P.O. Box 1848
120 Lester Hall
University, MS 38677-1848
1-662-915-7735
1-662-915-1229 (fax)
gwrowzee@olemiss.edu

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From: pcaffera@olemiss.edu
Sent: Tuesday, October 13, 2020 2:32 PM
To: gwrowzee <gwrowzee@olemiss.edu>
Cc: Glenn Boyce <gboyce@olemiss.edu>
Subject: Re: EORC investigation

Gene,

I will be happy to meet at the appropriate time once I have had an opportunity to discuss the situation with the appropriate leadership. Also, fairness dictates that I have notice, with a reasonable degree of specificity, of the scope and detail of the allegation(s) prior to being placed in a position of responding to what, I have no doubt whatsoever, is a baseless allegation.

Inasmuch as the Office of the Ombuds and the University Ombuds are one and the same, I have reason to believe any spurious complaint against me is as much an attack against the Ombuds Office. I have no intention to be at all difficult; however, I am aware that there are people on campus who have had wrongdoing exposed via the intervention of the Ombuds Office. It is not hard to envision someone attempting to neutralize the Ombuds Office effectiveness by lodging a baseless complaint against me. The Ombuds Office Charter has a provision for obtaining independent legal counsel for the purpose of fulfilling the functions of the University Ombuds. Working through the process of identifying independent legal counsel in support of the Ombuds Office and then engaging them will take time. As such, meeting before the end of this week seems unlikely.

I observe that the investigation into the Biology Chair has been going on for over a month. As such, there seems no reasonable basis for a rush to meet this week. I also note that, in that case, the Biology Chair was also appraised of the allegations against him. I have yet to be afforded anything similar. We

receive agendas in advance of going into a meeting of a Chancellor's Standing Committee; what you sprung on me today is of significantly greater import than a routine committee meeting. Asking to receive the information necessary to be able to be prepared for a meeting of such importance is not unreasonable.

In order that I may understand the allegations, and prepare for any upcoming meeting, I believe it is appropriate for you to reveal to me what I have been accused of doing or failing to do. Fairness requires this.

All the best,

Paul

From: gwrowzee <gwrowzee@olemiss.edu>
Sent: Tuesday, October 13, 2020 2:01 PM
To: pcaffera@olemiss.edu <pcaffera@olemiss.edu>
Cc: Glenn Boyce <gboyce@olemiss.edu>
Subject: RE: EORC investigation

Paul, thank you for your response. I will consider your comments and contact you again if necessary. For now I will understand your below response to be a "no," that you will not be available to meet Thursday or Friday of this week.

Good luck and have a great day!

Gene W. Rowzee, Jr.
Equal Opportunity/Regulatory Compliance
The University of Mississippi
P.O. Box 1848
120 Lester Hall
University, MS 38677-1848
1-662-915-7735
1-662-915-1229 (fax)
gwrowzee@olemiss.edu

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From: pcaffera@olemiss.edu
Sent: Tuesday, October 13, 2020 12:49 PM

To: gwrowzee <gwrowzee@olemiss.edu>
Cc: Glenn Boyce <gboyce@olemiss.edu>
Subject: Re: EORC investigation

Gene,

Gene, while I understand that you must conduct investigations concerning allegations that come to your office, I am, quite frankly shocked to learn that anyone has lodged a complaint against me. Ombuds always face the danger that someone, especially ones who might be displeased with issues an ombuds brings forward, might make baseless claims against them.

I am going to need to know the specifics of the allegations, and then consult with counsel for myself as well as for the Office of the Ombuds, as the Ombuds Office Charter specifies that, "[i]n accordance with the IOA's Best Practices, the Office of the Ombudsperson shall have access to independent legal counsel when necessary in order to fulfill the functions of the position." This will take time.

Inasmuch as I have never comported myself in anything other than a manner consistent with my role as Ombuds, if there are allegations that have been leveled against me it smacks of retaliation for performing my duties. Any such retaliation would also violate the Ombuds Office Charter, which states that, "The University shall not tolerate retaliation against individuals for use of the Office of the Ombudsperson. Similarly, the Ombudsperson shall be protected from retaliation as a result of his/her role."

If there are allegations against me, fairness dictates that I receive those allegations in detail, that I know who is accusing me of what, and that I have an opportunity to consult with counsel before participating in any investigatory interview. With all due respect, failure on the part of the University of Mississippi to allow me an opportunity to review the allegations, any alleged evidence, and to respond to same with advice of counsel prior to reaching any "findings or recommendations" will not be a legitimate investigatory process.

Again, with all due respect, I feel like, had I not raised the issue of the inappropriateness of the Ombuds Office participating in a formal investigatory interview, it was your intention to ambush me with allegations at our meeting. Having served as an arbitrator for many years, I know what fair investigatory processes are, and that is not remotely fair.

All the best,

Paul

Paul J. Caffera
University Ombuds
University of Mississippi
P.O. Box 1848
318 Trent Lott Leadership Institute
25 Galtney Lott Plaza
University, MS 38677-1848 U.S.A.
+1-662-915-1537
pcaffera@olemiss.edu | www.olemiss.edu

The University Ombuds serves all faculty, staff, and graduate students at the University of Mississippi.

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From: gwrowzee <gwrowzee@olemiss.edu>
Sent: Tuesday, October 13, 2020 11:55 AM
To: pcaffera@olemiss.edu <pcaffera@olemiss.edu>
Subject: RE: EORC investigation

Paul, I certainly understand your position. However, in all fairness, I need to tell you that part of what I am investigating are allegations against you, personally. The meeting would be your opportunity to present your side, as well as point me toward any witnesses or information you need me to explore before I complete my investigation.

At the end of the investigation I will be promulgating a personnel report that will include findings and recommendations which might affect you as a University employee. I understand the role of the Ombuds, but when allegations are directed at you personally as a University employee I need to make sure you have the opportunity to present your side before I make any findings or recommendations.

I understand the dual position you occupy (both Ombuds and University employee) might create some difficulty for you in determining whether you will participate in this investigation, but I needed to offer you the opportunity.

Thanks again for your help!

Gene W. Rowzee, Jr.
Equal Opportunity/Regulatory Compliance
The University of Mississippi
P.O. Box 1848
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From: pcaffer@olemiss.edu
Sent: Tuesday, October 13, 2020 10:47 AM
To: [gwrowzee <gwrowzee@olemiss.edu>](mailto:gwrowzee@olemiss.edu)
Subject: Re: EORC investigation

Good morning, Gene.

It is always good to hear from you. Although, as you know, I am sometimes able to offer informal observations about issues that affect the campus, the Ombuds Office Charter agreement prohibits me from participating in any formal investigatory processes (<https://ombuds.wp2.olemiss.edu/wp-content/uploads/sites/33/2019/08/UM-Ombudsperson-Charter-Accessible.pdf>):

The Office of the Ombudsperson shall operate only as an informal dispute resolution resource and shall not...participate in any formal investigation or adjudication process.

The Ombuds Office Charter also mandates that, "The Office shall adhere to the International Ombuds Association (IOA) Code of Ethics and Standards of Practice." Inasmuch as I sit on the IOA's Government and Policy Committee; I know these documents well and I adhere to their requirements. The IOA's Standards of Practice (https://www.ombudsassociation.org/assets/docs/IOA_Standards_of_Practice_Oct09.pdf) require that the Office operate independently of the organization..." The Standards of Practice also includes the following provisions:

3.1 The Ombudsman holds all communications with those seeking assistance in strict confidence and takes all reasonable steps to safeguard confidentiality, including the following:

The Ombudsman does not reveal, and must not be required to reveal, the identity of any individual contacting the Ombudsman Office, nor does the Ombudsman reveal information provided in confidence that could lead to the identification of any individual contacting the Ombudsman Office, without that individual's express permission, given in the course of informal discussions with the Ombudsman

4.5 The Ombudsman does not participate in any formal investigative or adjudicative procedures

Consequently, although I would otherwise be pleased to meet with you, I am constrained from doing so as part of any formal investigatory process. Since the purpose of your invitation to meet involves EORC "conducting a personnel investigation," I am foreclosed from meeting with you. I trust you will understand.

Additionally, you may recall that, the Ombuds Office does not maintain any records of who contacts or meets with me, and, as a matter of practice, I do not even ask the

names of those who contact or meet with me (case in point the e-mail I sent to you earlier this morning). Therefore, even were it possible to meet with you as part of a formal investigation, I would not be confident in my having the clarity of recollection that would be of assistance to you in your investigation.

All the best,

Paul

Paul J. Caffera

University Ombuds
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From: gwrowzee <gwrowzee@olemiss.edu>
Sent: Tuesday, October 13, 2020 8:43 AM
To: pcaffera@olemiss.edu <pcaffera@olemiss.edu>
Subject: EORC investigation

Paul, my office is conducting a personnel investigation and I need to meet with you via Zoom on Thursday or Friday of this week. What is your availability on those two days?

Thank you for your assistance!

Gene W. Rowzee, Jr.
Equal Opportunity/Regulatory Compliance
The University of Mississippi
P.O. Box 1848
120 Lester Hall
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1-662-915-7735
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THE UNIVERSITY OF
MISSISSIPPI


Interoffice Memorandum

OFFICE OF THE PROVOST

University, MS 38677

Phone: (662) 915-5974 Fax: (662) 915-5280

TO: School of Journalism and New Media Faculty and Staff

FROM: Dr. Noel Wilkin, Provost and Executive Vice
Chancellor for Academic Affairs 

DATE: October 23, 2020

SUBJECT: Ongoing Anonymous Email

Dear Faculty and Staff,

These are truly difficult times. As we adjust everything that we do to be responsive to our missions of teaching, service, research, and scholarship due to the pandemic, we are all facing personal challenges and hardships that the pandemic and its restrictions impose.

For you, this has been further aggravated by ongoing, persistent, and accusatory emails from an anonymous source. The nature of the anonymous allegations and the questions asked seem to indicate that those behind the emails do not understand our policies, our practices, or the definitions of terminal degrees. They ignore, or fail to understand, the role that you, the faculty, play, in addition to the administrative offices, to ensure compliance with those policies, practices, and standards. They also have failed to notice relevant external facts that support our policies and practices, like the fact that the credentials of our faculty mirror those found at other public, flagship research universities in the appropriate disciplines. I am sure all of us would be happy to explain our processes and practices. After all they are public, and we all have a responsibility to embrace, adhere, and explain them. Yet, the emails persist.

At an educational institution, our work is based on the free exchange of ideas in a civil and open environment to advance truth and knowledge, which are core to our mission. This anonymous approach violates the very core of academic discourse and transparency.

A hostile work environment allegation was filed by members of the faculty against the



individuals responsible for the anonymous communications. It is my understanding that the Office of Equal Opportunity and Regulatory Compliance is conducting an investigation in response to your request. Additionally, the tenured faculty (with 2 absent and 1 abstaining) within the school filed a grievance claiming hostile working conditions that resulted from these behaviors as it “has increasingly created a chilling effect on faculty speech, dampened faculty collegiality, interfered with teaching and scholarship, and caused several to express they feel they work in a hostile environment.” While the EORC investigation takes place, I am exploring mechanisms to give faculty some relief from this barrage of anonymous allegations in the workplace. These efforts take time, and we appreciate the faculty’s patience and resolve while we do this work.

Caffera Meeting with Gene Rowzee

Rowzee: Say something real quick

Goodloe: Goodloe

Rowzee: Yea, it, it's, it's lagging a little bit. Do you want to, uh, do you want to try to sign back in, or

Goodloe: No, it's probably going to end up being this way. I hope that's not a major problem, I do Zoom stuff all the time, and you know, the audio on my computer is, is not great, and it just works better when I use the phone and that's what causes the lag sometimes.

Rowzee: Well, all this technology is going to make our lives so much easier, and it hadn't really happened yet.

Goodloe: Oh, I know, yea

Rowzee: Okay, so let me give ya'll the spill I have been telling everybody, and, uh, and then I'll, I'll deviate from that when uh, when we get, when I get towards the end. Uh, and, and I am going to record this, do you want me to share it so that you are able to record it as well?

Goodloe: You mean on Zoom?

Rowzee: Yes

Goodloe: Um, can you just provide me a copy of your recording, is that, can you do that?

Rowzee: Yes

Goodloe: Why don't you just do that?

Rowzee: I think I can just email it.

Goodloe: Sure, let's just do it that way

Rowzee: Okay. Alright I am recording it now. Okay, so what has happened is, uh, earlier in the semester I, uh, I received some complaints and concerns from, uh, folks in the School of Journalism and they were saying that, that there was a hostile work environment being created on the basis of race and



national origin and just in general, and so when they made that complaint, I began an investigation, and it's a personnel investigation. It is protected under 25-1-100, so these notes I am not going to be giving out to people, uh, you know under Freedom of Information Act requests, and when I get done with this investigation, I will draft a report.

Goodloe: I am sorry to interrupt you, did you just cite a statute there or I, uh, you threw out some numbers.

Rowzee: Yes, 25-1-100, uh, which is the personnel records exception to the Open Records Act.

Goodloe: Okay, got you, go ahead.

Rowzee: So, uh, so when I get done with this investigation, I'll be drafting a report, and that report will have findings and recommendations if I am able to make any findings or recommendations, and that report will go to the Dean and Provost and will go to the complainants and will go to the people I identify as respondents. So, uh, and those recommendations could be anything from no recommendations to, uh, you know some kind of personnel action, to, it could be anything, it's, it's really just whatever I come up with, so it's, uh, at this stage, this is kind of an informal process, I am just trying to find out what's going on based on the complaints I have received, and uh, so let me give you, usually at this point I, I ask a witness or I ask even complainant, so tell me what's going on, but I wanted to provide you, since I have talked to about thirty people, what I understand the complaint is with regard to Mr. Caffera. So, there is a belief among some of the folks over there that he may be causing or contributing to this hostile work environment, uh, in the School of Journalism and it has to do with anonymous emails and online trolls. There is also a belief among some over there that, uh, he may be using his public office to pursue a personal grudge for a friend or an intimate, and that has to do with Dr. Swain and Dr. Beoni and, and those kind of related things. So, where I am in this right now is, uh, I am finishing up, you know, I, I'm doing some IT stuff, and, uh, looking at some computers, and, I, and, and really, , I, I just, I just want to know what's going on. I, I just want to try to find out what the story is, uh, so I can complete my investigation. And this is not, as far as my investigation goes, this is not an investigation that has anything to do with the Mississippi Free Press Article or, or Dean Norton, or any of that stuff, this is, except tangentially, if that helps me identify the folks that, uh, that I need to talk to, so that's where I am, and, uh, and, and if ya'll would like to talk about it today, we can. If we want to come up with a, a time

next week to reconvene if Paul wants to talk to me, that's fine to. It's, uh, you know, it's, it's really up to ya'll.

Goodloe: O....

Rowzee: if ya'll want to provide me any witnesses I need to talk to, uh or any, any documents or, or any kind of evidence I need to look at, uh, you know, just let me know.

Goodloe: Okay, well, and I was just going to ask you a couple of things just so I, you know, we are kind of on the same page here. Um, what, is anybody else present with you in the room now?

Rowzee: Nope

Goodloe: Okay

Rowzee: Just me

Goodloe: Um, now I have talked to an investigator with UPD about this situation, so I understand there is also a criminal investigation, are, are you acting in conjunction with that?

Rowzee: Uh, I, I don't know what conjunction means, if I have somebody that comes in and, and says I am mad because of a stalking statute, then I forward them over to them, because I am not doing that, I'm, if, if I have some piece of evidence that I think is, is beneficial to them, then I have forwarded that to them, but I am not, I am not in there, we're not, we're, we're kind of, I, I don't want to call it siloed, but I'm doing my thing, and they're doing their thing.

Goodloe: Okay, but I mean, if you obtain information through your investigation that you think they might need or want to look at, you would forward it over to them, is that correct?

Rowzee: Probably so, yea.

Goodloe: Okay

Rowzee: If, if it had, but at this point, I don't know what, what they are even investigating.

Goodloe: Okay, I

Rowzee: I, I don't know if there, if there is some kind of cyber stalking thing, I don't know.

Goodloe: Well, yea, I mean, I had a good conversation with the officer, I think Kendall Brown, I think is his name, is that correct?

Rowzee: Yes

Goodloe: Okay, and, and I mean, I will be honest with you, basically what you just told me, is almost point for point what he told me that he was investigating, so

Rowzee: "laughs"

Goodloe: I, I just you know, for what it's worth, I throw that out. Um, okay, so

Rowzee: He and I, he and I, he and I have not coordinated on what I just told you, because I just wrote it down about five minutes ago.

Goodloe: Okay

Rowzee: Before we got on the call.

Goodloe: Alright, so, is, is Paul being compelled by the University to answer questions, or provide information?

Rowzee: Uh, no, I, I'm just asking him to cooperate, I don't know if there will be any ramifications or if there will be, you know, if somebody will take that as a, uh, uh, you know a bad inference from that, I don't know. Uh, that's, that's something that occurs outside my office.

Goodloe: Yea, okay, so that was going to be my next question.

Rowzee: "Inaudible"

Goodloe:

Rowzee: I was going to say if he was being compelled, then actually that would, that would help on the criminal side because if he feels like he has to do this, if he's, uh, if he's being coerced into doing this, or, or there is going to be some job action, then, uh, then none of that can be used on the criminal side, so.

Goodloe: Okay

Rowzee: I, I kind of wish I could coerce him, but I can't.

Goodloe: Alright, and, and so what you were saying I think is that you do not know but there may be some adverse employment action taken if he does not answer questions.

Rowzee: Correct

Goodloe: Okay

Rowzee: I don't know if they'll take a negative inference for that.

Goodloe: Alright, and then, are, are you able to provide any documents that support these allegations that support these allegations?

Rowzee: I am not.

Goodloe: Okay

Rowzee: I am not, I'm, I'm in the investigation right now

Goodloe: So,

Rowzee: "inaudible" over, I don't know, yea.

Goodloe: I mean, can you identify what documents would be relevant to your investigation?

Rowzee: Uh, I could, I could identify, uh the online posts, that I think we are all familiar with on Facebook and, uh, and Twitter, and, uh, there's a couple of websites I think in WordPress and Myspace, uh, there's uh, so, so, somethings like that, I, there might be an Instagram "inaudible"... I haven't' looked on Instagram, uh, but I have just been looking at the things that have been provided to me, and uh, then there's some emails, but uh, but the emails, you know Paul's going to know which ones, if any, he was involved in, and which ones, if any, he wasn't, so, uh

Goodloe: So, so if, if I sent a written request for documents you would not be able to provide me anything correct?

Rowzee: Not, not at this time.

Goodloe: Okay, um, now you mentioned that you were waiting for some information from IT, which I guess leads me to believe that the University is accessing emails or email accounts, is that correct?

Rowzee: No, I've, I've got some, I've got some, I am not accessing the email accounts.

Goodloe: Okay, would

Rowzee: But, I am not, but that's

Goodloe: Would you

Goodloe: I'm sorry?

Rowzee: I might (inaudible)

Goodloe: Okay, so, so you, you have not ruled out that for example, just to make it specific, the University would, would access Mr. Caffera's email account, that, that may happen, is what you are saying?

Rowzee: That is what I am saying, I may do that, and I want to tell you why I am not doing that yet. I wanted to speak to Paul and I wanted to speak to a couple other people first, so that maybe I would not have to do that because once you start looking at people's emails and start looking at their computers, you are going to see a lot of personal stuff that, even if, that you don't want to see, that what might not be relevant to what I am looking at, and I don't want to see that stuff, but if I get into a situation where nobody is talking to me, then I have to go where the investigation leads me.

Goodloe: Yea, and of course,

Rowzee: (inaudible).. that is why I have not.

Goodloe: Yea, and, this is another level, but of course Paul in his official email account has certain protections by virtue of his position as the Ombud that, you know, I mean, I, I think you will probably agree but maybe you don't, that's a big can of worms, is getting into Paul's email account.

Rowzee: Yea

Goodloe: Um, okay, I'll just keep moving, um, I may have asked you this earlier, but I'll, I will just ask again in case I missed something, you know, are there, are there particular standards, rules, contract provisions, anything like that, that the University contends Paul may have violated, and can you identify those for me?

Rowzee: I right now, I am looking to see if there has been a hostile work environment created under (inaudible)... origin or just in general, just from normal old employee standards of conduct.

Goodloe: Okay, okay

Rowzee: and, as far, as far as a specific rule or anything like that, that, I don't know, that's why I am looking. That's, I am just, I'm just following where the complaints have led me.

Goodloe: Okay, alright, and then, timing, is there a, um, is there a deadline, is there some, you know, end date that, that you

Rowzee: inaudible

Goodloe: are required to comply with, or that we are required to comply with?

Rowzee: Not required, uh, I'm, I'm, I'm working on my report, you know

Goodloe: I'm sorry, I didn't understand, you are what?

Rowzee: I am working on my report, starting to work on my final report, and uh, and I still have some more information I need to, to tie down, and uh, I plan on, on promulgating it, uh, by the end of the semester, so if we are able to visit next week, that would be great, uh, and if not, and I get done and the report is sent out and there is supplementary information ya'll want considered, then that would have to just come in later either as an addendum to my report, or at some other level above me.

Goodloe: Alright, and are you able to provide the name of the complainants?

Rowzee: Not yet.

Goodloe: Okay, alright, I tell you what, let's

Rowzee: That would be

Goodloe: Sorry, say that again

Rowzee: The name of the complainants would be in the report.

Goodloe: Okay, alright, I tell you what, let, let me step outside just for a minute with Paul and, uh, we'll, uh, I, I'll be right back.

(walking out)

(walking back in)

Goodloe: Oh, okay we're back

Goodloe: Can you hear me?

Rowzee: Yea

Goodloe: Okay, there you go. Um, okay, um, I appreciate your time, I think that you've answered all of the questions that I have at this time. I need to spend a little bit more time with, with, um, Mr. Caffera, so, I, I think the only thing at this point is, you know, we'll just get back with you first of next week and, and discuss how to proceed from there.

Rowzee: Okay, alright, thank you much, ya'll have a good weekend.

Goodloe: Thanks so much, see you later, alright bye.

END OF CONVERSATION

Goodloe Lewis

From: Paul Caffera <pcaffera@ksu.edu>
Sent: Wednesday, December 30, 2020 10:38 AM
To: Goodloe Lewis
Cc: pcaffera; Paul Caffera
Subject: Fw: Ombuds Office Request for Independent Legal Counsel, pursuant to the Ombuds Office Charter.

From: pcaffera@olemiss.edu <pcaffera@olemiss.edu>
Sent: Tuesday, October 13, 2020 3:05 PM
To: Glenn Boyce <gboyce@olemiss.edu>
Subject: Ombuds Office Request for Independent Legal Counsel, pursuant to the Ombuds Office Charter.

Chancellor Boyce,

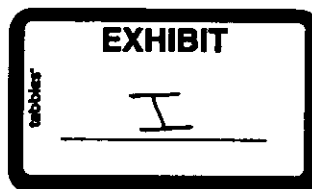
The Ombuds Office Charter (<https://ombuds.wp2.olemiss.edu/wp-content/uploads/sites/33/2019/08/UM-Ombudsperson-Charter-Accessible.pdf>) specifies that, "In accordance with the IOA's Best Practices, the Office of the Ombudsperson shall have access to independent legal counsel when necessary in order to fulfill the functions of the position."

Given certain information that came to light today, which I believe may constitute an attack on the ability of the Ombuds Office to fulfil its function, I am seeking a supplementary budget allocation of \$25,000.00 to allow the Ombuds Office to obtain independent legal counsel in order to obtain competent advice for how to proceed. I also seek guidance as to the proper methods of doing so, which comply with any State laws or regulations, while excluding both the University of Mississippi's General Counsel and the Office of the General Counsel from any interaction with or oversight of this independent counsel; this being necessary to allow for true independence of the Ombuds Office's independent legal counsel.

Respectfully submitted,

Paul J. Caffera

Paul J. Caffera
University Ombuds
University of Mississippi
P.O. Box 1848
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Whistleblowing and Whistleblower Protection

Summary/Purpose: Defines “whistleblower,” explains how to report misconduct by an individual or organization within the University, and describes the protection given to whistleblowers.

The University of Mississippi is committed to maintaining a culture where ethics and integrity are not only valued, but practiced. A part of that culture is the ability of employees and other individuals to speak up without fear of retaliation when they have a reasonable belief that improper governmental action is taking place. Examples of improper governmental action include, but are not limited to, suspected fraud, waste, or abuse of University funds.

Administrators at all levels of management are responsible for setting the appropriate tone of intolerance for misconduct. Administrators are further responsible for detecting and preventing misconduct. Regardless, if misconduct does occur, employees should feel comfortable in reporting it.

How to report misconduct: Employees who have a reasonable belief that misconduct may be occurring, or has occurred, have a duty to report their concerns. Suspected misconduct may be reported to an employee’s immediate supervisor, department chair or dean (or to another individual in the employee’s chain of command), the Office of Internal Audit, the Department of Human Resources, the Office of the Provost, the Office of Equal Opportunity and Regulatory Compliance, or the Office of General Counsel. Employees who wish to report anonymously may do so at the EthicsPoint Hotline at <https://secure.ethicspoint.com/domain/media/en/gui/31500/index.html>.

Protection for whistleblowers: A “whistleblower” is an employee or student who reports in good faith alleged improper action by an individual or an organization within the University. The University abides by the state Whistleblower Protection Act, found at Miss. Code Ann. § 25-9-171 *et seq.* The Whistleblower Protection Act prohibits retaliation against individuals who provide information to a state investigative body. In addition to state law, the University complies with federal laws that prohibit retaliation against individuals who report improper conduct.

How to report retaliation: If you believe that you have been retaliated against for any protected lawful conduct including whistleblowing, contact the Department of Human Resources, the Office of the Provost, the Office of Equal Opportunity and Regulatory Compliance, or the Office of General Counsel.

Note: Employees who knowingly make a false report may be subject to discipline. Furthermore, the Mississippi Whistleblower Protection Act does not prevent the University from disciplining an employee for misconduct or poor performance.

