

# STAFF OMBUDS OFFICE



2014-2016

BIENNIAL REPORT

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## Message from the Director

The Staff Ombuds Office is pleased to present its 2014-2016 Biennial Report. While it may have been easy to go unnoticed, 2016 marked a milestone for the Staff Ombuds Office. After 37 years at UC Berkeley, Assistant Ombudsperson Michele Bernal retired. Like many Berkeley employees, Michele was not only a loyal Cal alum, but a valued employee who cared deeply about the success of the University and worked on this report even in her last days with our office.



The following report provides an opportunity for the campus community to understand and learn from the hundreds of workplace problems, disputes or conflicts brought to our office. While it is easy to categorize conflicts as negative, the Staff Ombuds Office views them as opportunities to surface systemic issues that can be proactively addressed. It is in the spirit of collaborative problem-solving that the Staff Ombuds Office provides this report and hopes that it will increase understanding and lead to systemic change. This report is just a starting point and the Staff Ombuds Office looks forward to collaborating and discussing its data, systemic recommendations, and ways to enhance the work environment with the campus community and leadership.

With warm regards,

A handwritten signature in blue ink that reads "Sara Thacker". The signature is fluid and cursive, written over a light grey rectangular background.

Sara Thacker, J.D., LL.M.  
Director & Ombudsperson  
Staff Ombuds Office  
University of California, Berkeley

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# Executive Summary

During 2014 -2016, the Staff Ombuds Office had 871 confidential appointments, serving 556 employees. The Staff Ombuds Office worked with these employees to develop constructive conflict resolution strategies, engage in problem solving, and facilitate communication to address workplace concerns. Satisfaction with ombuds services remained high with 94% of survey respondents stating that they were better able to handle their issue following a discussion with an ombudsperson and 99% stating that they would use the Staff Ombuds Office again or refer others.

Based on data collected from the 556 individuals who used ombuds services, respect and civility continued to top the list of employee concerns. Work styles also remained a top concern, but decreased from the levels reported during the implementation phase of Operational Excellence. Employee concerns about job/role clarity and excessive stress were tied for the third concern most often reported. Analysis of these concerns can be found on page 13 of this report.

In addition to statistical information contained in this report, the Staff Ombuds Office identified systemic issues related to:

- Accountability – Employees were concerned about the University’s ability to hold managers accountable. This concern was exacerbated due to high-visibility cases involving sexual harassment by high-level administrators and faculty.
- Performance Management – Employee concerns related to performance management include: unclear expectations and metrics, lack of ongoing feedback, vague feedback, failure to adjust goals, performance evaluation errors, too much emphasis on performance during the last few months of the review period, and evaluations completed by new managers who were not fully aware of performance for the entire year.
- Professional Development – Employees were concerned about limited opportunities for professional development and were not aware of the wide range professional development opportunities provided by the University.

Possible solutions and recommendations for systemic change are detailed beginning on page 17 of this report. This report also provides updates on page 27 regarding action taken to address prior recommendations, including workplace bullying, the staff complaint process, and compensation.

While the data contained in this report reflects concerns brought by a small sample of Berkeley employees, the Staff Ombuds Office uses this data to help identify workplace trends and systemic issues so that campus administrators and leaders can proactively address them.

# Staff Ombuds Office Overview



The Staff Ombuds Office abides by the International Ombudsman Association Standards of Practice and Code of Ethics, including:

Established in 1984, the Staff Ombuds Office is an independent department that provides informal conflict resolution and problem-solving services for all staff, non-senate academics, and faculty who perform management functions. The Staff Ombuds Office is strictly confidential and is a safe place to voice and clarify concerns, understand conflict situations, and find effective ways to respond. Ombuds services include:

- Conflict analysis
- Strategies to resolve and prevent disputes
- Identification of options and information
- Effective conflict and communication coaching
- Mediation
- Group facilitation
- Tailored trainings in conflict resolution
- Resource referrals

As a designated neutral, the Staff Ombuds Office does not take sides or advocate on behalf of any individual. Based on general observations from its caseload, the Staff Ombuds Office provides regular feedback to University officials and the campus community. Since 1993, the Staff Ombuds Office has published reports regarding workplace conflict issues and recommendations for systemic change.

**Confidentiality:** The Staff Ombuds Office holds all communications with those seeking assistance in strict confidence unless the Ombudsperson determines there is an imminent risk of serious harm. Communications made to the Ombudsperson do not place the University on notice.

**Impartiality:** The Ombudsperson is neutral, impartial, and unaligned in the handling of staff conflicts, disputes, or issues.

**Independence:** The Staff Ombuds Office is independent from other University entities or authorities. The Ombuds Office reports to the Associate Chancellor for administrative purposes only and does not report on the substance of individual cases or concerns.

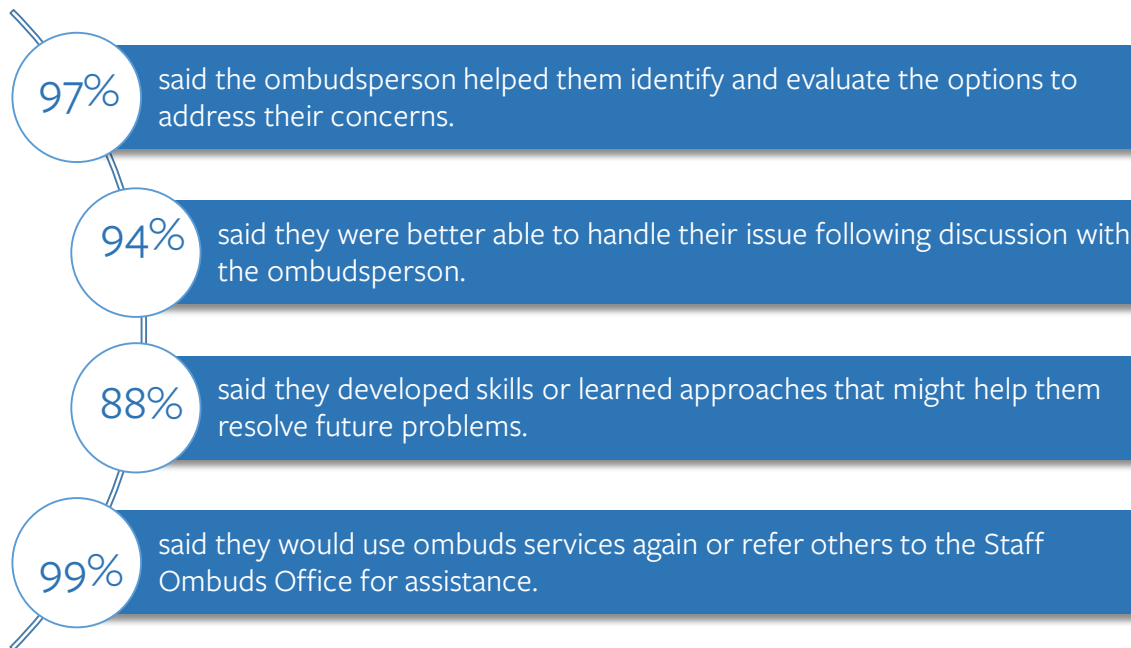
**Informality:** The Staff Ombuds Office assists individuals in resolving conflicts at informal levels. While the Ombuds Office may refer individuals to formal grievance resources, it does not participate in any internal or external investigative or adjudicative procedures.

# Accomplishments and Activities

The Staff Ombuds Office works diligently to support the problem-solving and conflict resolution capacities of Berkeley employees and the broader campus community. Outlined below is a summary of the Office's accomplishments during the 2014–2016 fiscal report period, covering July 1, 2014 – June 30, 2016.

## Satisfaction with Ombuds Services

The Staff Ombuds Office provided Assessment of Services surveys to 470 employees. Thirty-two percent or 150 employees responded to the survey.



Many employees expressed the sentiment that if they had not used the Office they would have handled their situation less positively, leading to escalating conflict and more personal frustration and stress.



*"[The Staff Ombuds Office] is a wonderful service for people like me that do not want to take formal action but want to know their options."*

*"I feel like I now have multiple tools to address my concerns. . . This is one of the offices on campus that really works."*

*"The quality of listening, the intuitive insight, the skill in naming my issues was extraordinary."*

*"After the meeting, I gained perspective and was focused on next steps rather than being [feeling] stuck in a bad situation."*

## Outreach



The Staff Ombuds Office conducted outreach to large departments and management teams including Campus Shared Services, International House, Undergraduate Education, Real Estate, Office of Laboratory Animal Care, Student Advisors, Astronomy, School of Law, Central HR, and Staff Organizations reaching 470 employees.



The Staff Ombuds Office made 12 presentations at New Employee Orientation throughout the two-year reporting period, reaching 561 participants.



The Office tabled at large venues such as the Annual Staff Summerfest and the Haas Business School Staff Professional Development Fair.



The Staff Ombuds Office consulted with numerous campus leaders to promote systemic change and a positive working environment for all UC Berkeley employees.

## Campus Training

During this reporting period the Staff Ombuds Office presented 34 classes with a total of 545 participants. Participant evaluations averaged 8.9 out of a perfect score of 10. Core classes offered included:

- Workplace Civility: Respect in Action
- Email Civility
- Identifying and Addressing Workplace Bullying
- Collaborating Effectively in the Workplace
- Culture and Conflict Resolution
- Conflict Competency for Teams
- Dealing with Disputes and Disagreements



*“The workshop helped me with ideas on how to be a better supervisor.”*

*“The training gave the opportunity to reflect on collaboration in my work, and having these three hours set aside to deal with this made sure I didn’t just push it to the side.”*

*“Understanding the definition of collaboration and the continuum that the term actually exists on. This is very useful in setting clear expectations and maintaining rapport & good/healthy professional relationships.”*

*“The Ombuds Office staff are highly trained professionals. I appreciate that it feels as comfortable and confidential as counseling, with the feedback and challenge of a developmental workshop.”*

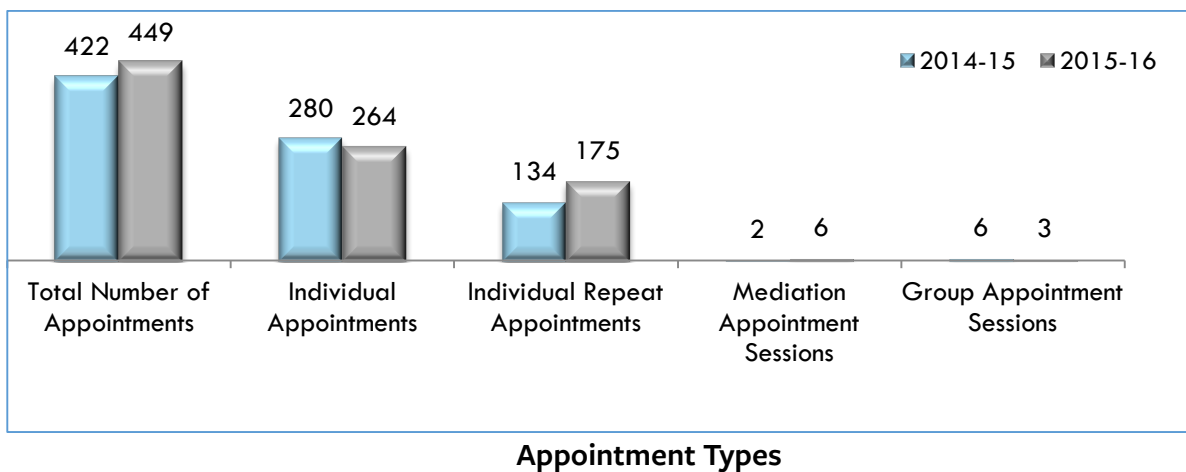
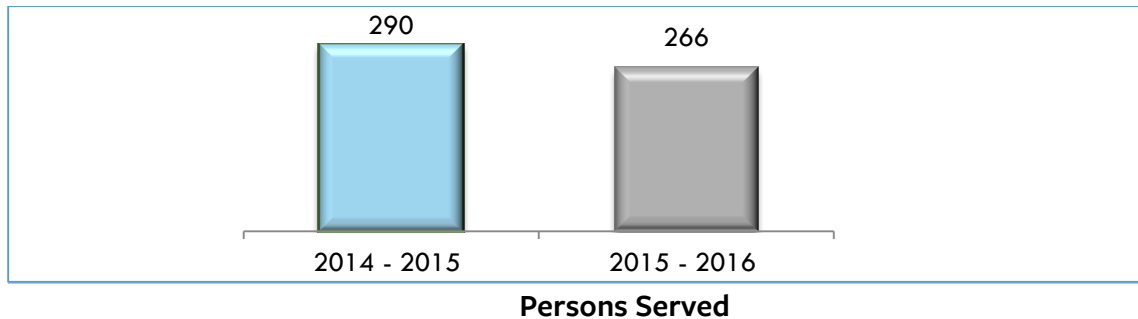


# Office Utilization

The Staff Ombuds Office tracks not only how many people utilize its service, but also the number and types of appointments made from year to year.

## Persons Served and Appointment Types

Following are some of the notable results from the 2014–2016 reporting period by fiscal year.

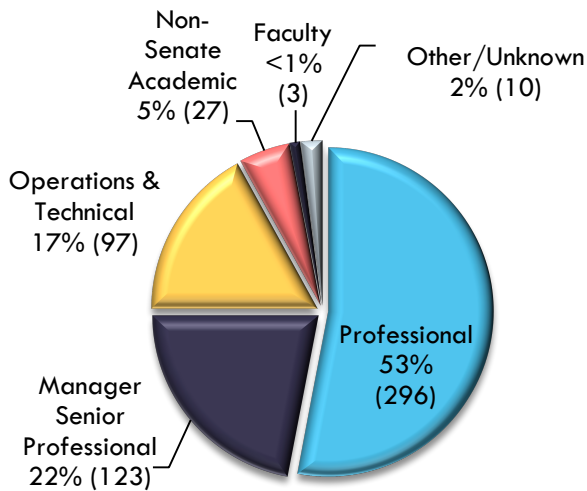


- During this reporting period, the Staff Ombuds Office served a total of 556 employees. Between 2014-2015 and 2015-2016, there was an 8% decrease in persons served; however, total appointments increased 6% from 422 to 449.
- Individual repeat appointments (309) constituted more than one-third of all appointments. The decrease in the total number of people served and corresponding increase in individual repeat appointments is an indicator of the complexity of the Office’s caseload. One in three individuals served had a repeat appointment.
- Mediations conducted remain low, with 10 employees participating in 5 mediations. Four of these mediations involved a second session.
- Of all employees served by the Staff Ombuds Office, 37% were referred by others. Of the 205 employees referred, 46% were referred by coworkers or other campus employees and 23% were referred by supervisors or managers.

## Demographics

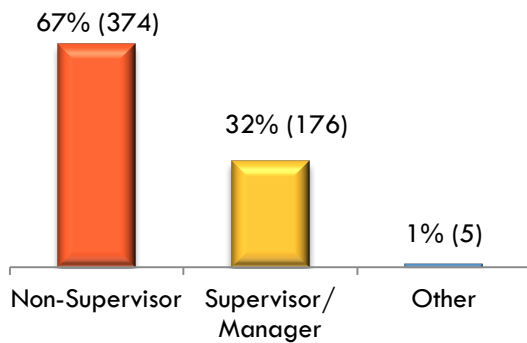
The Staff Ombuds Office collects demographics for employees who use ombuds services, including job group distribution, management status, union representation, gender distribution, ethnic distribution, age groups, and length of service.

### Job Group Distribution



- The Professional job group includes analysts, supervisors, administrators, specialists and mid-level professionals in human resources, advising, health care, information technology, research, finance, education, communication, and others.
- The Management and Senior Professionals (MSP) job group includes unit managers at all levels and high-level professionals with specialized expertise.
- The Operations job group includes various positions in clerical, security and public safety, library assistant services, equipment operation, and custodial grounds, food, building and other general services. The Technical job group includes positions in skilled crafts/trades, information, research and lab technology, and recreation.
- The Non-Senate Academic job group includes librarians, lecturers, and academic coordinators and administrators.

### Management Status

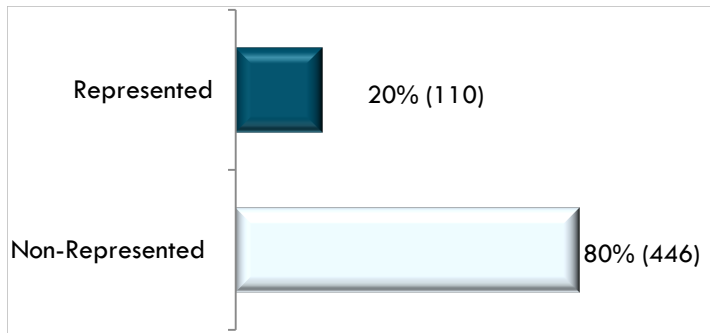


- The Staff Ombuds Office helps employees regardless of management status.
- Of the 32% (176) supervisors and managers served, 68% (120) were MSP and 23% (41) were in the Professional job group. Most of the other supervisors (13) were in the Non-Senate Academic and Faculty job groups.
- Cases involving either non-employee UCB affiliates, members of the public, or individuals who chose not to disclose their name or status were classified as “Other.”



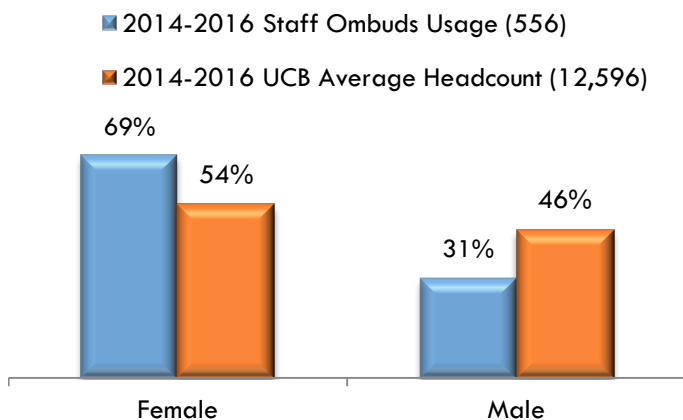
*“In having our conversation, the ombudsperson helped me to better identify and clarify the issue, which led to a whole different set of response options. I walked away feeling empowered to handle the situation and like I had multiple different options should one*

## Union Representation



- 34% of campus employees are covered by a union contract. The Staff Ombuds Office does not intervene in issues covered by union contract, which may account for lower utilization by represented employees.
- The Staff Ombuds Office made 38 referrals to union stewards in cases covered by contract or cases in which represented employees sought advocacy.
- The majority of represented employees served were members of Teamsters Local 2010 or AFSCME (American Federation of State, County and Municipal Employees).

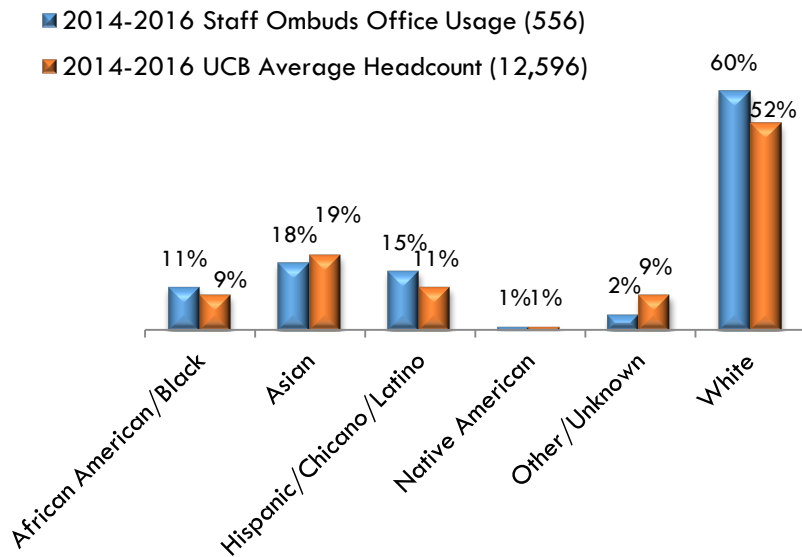
## Gender Distribution



Note: UCB Average Headcount is based on HCM-BAIRS data and represents the average number of staff and non-senate academics employed on April 30, 2014 and April 30, 2016.

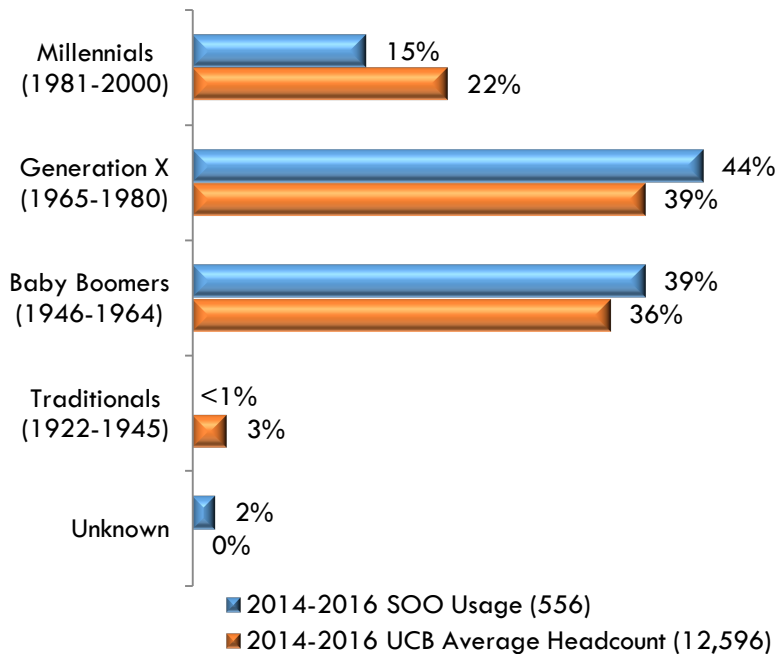
- The gender distribution of employees who use ombuds services has remained steady over many years.
- The gender disparity in utilization of ombuds services comports with well-documented trends that show consistent gender differences in initiating contact for assistance.
- The number one concern for women and men remained respect and civility. The second most common concern for female visitors was excessive stress (32%) versus work styles (30%) for male visitors. The third most common concern for women was work styles (31%) and for men job or role clarity (29%).
- The percentage of people who identify as transgender or other are too low to report without being identifiable.
- The biggest difference between the gender groups was the frequency of excessive stress and career development concerns. Almost one in three female visitors (32%) reported excessive stress as a concern, compared to only one in five male visitors (20%). One in six male visitors (16%) reported career development as a concern, compared to only one in ten female visitors (10%).

## Ethnic Distribution



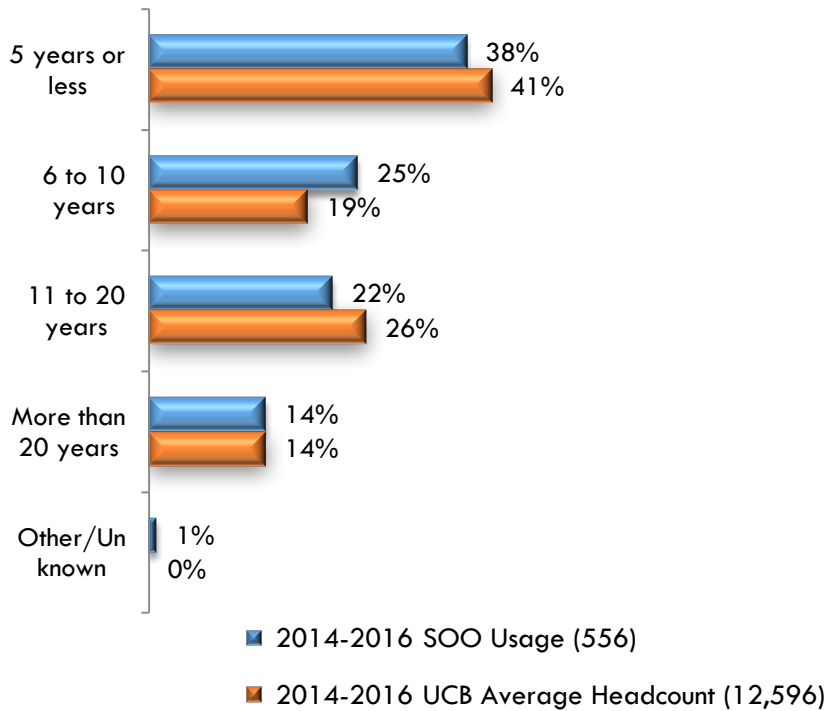
- 8% or 45 employees who used the Staff Ombuds Office marked more than one ethnicity.
- The Office meets periodically with each individual ethnic staff organization to discuss outreach efforts, hear concerns, and provide information about trends and systemic issues. The Office customizes reports that show the concerns reported by different ethnic groups.
- Informational flyers are available in Chinese and Spanish. Translation services are also available free of charge.

## Age Groups



- Employees in the Millennial generation reported experiencing proportionately fewer concerns related to performance issues (12%) than the average of the age groups (22%). Millennials were the only age group which had not reported recognition as a concern at all.
- One in three (34%) Generation Xers reported excessive stress as a concern, which is 6% higher than the reporting of this concern by all age groups.
- Concerns of the Baby Boomers generally mirrored those of the average user of ombuds services. Interestingly, almost half of Baby Boomers (49%) reported respect and civility as a concern, which is the highest among all age groups.

## Length of Service



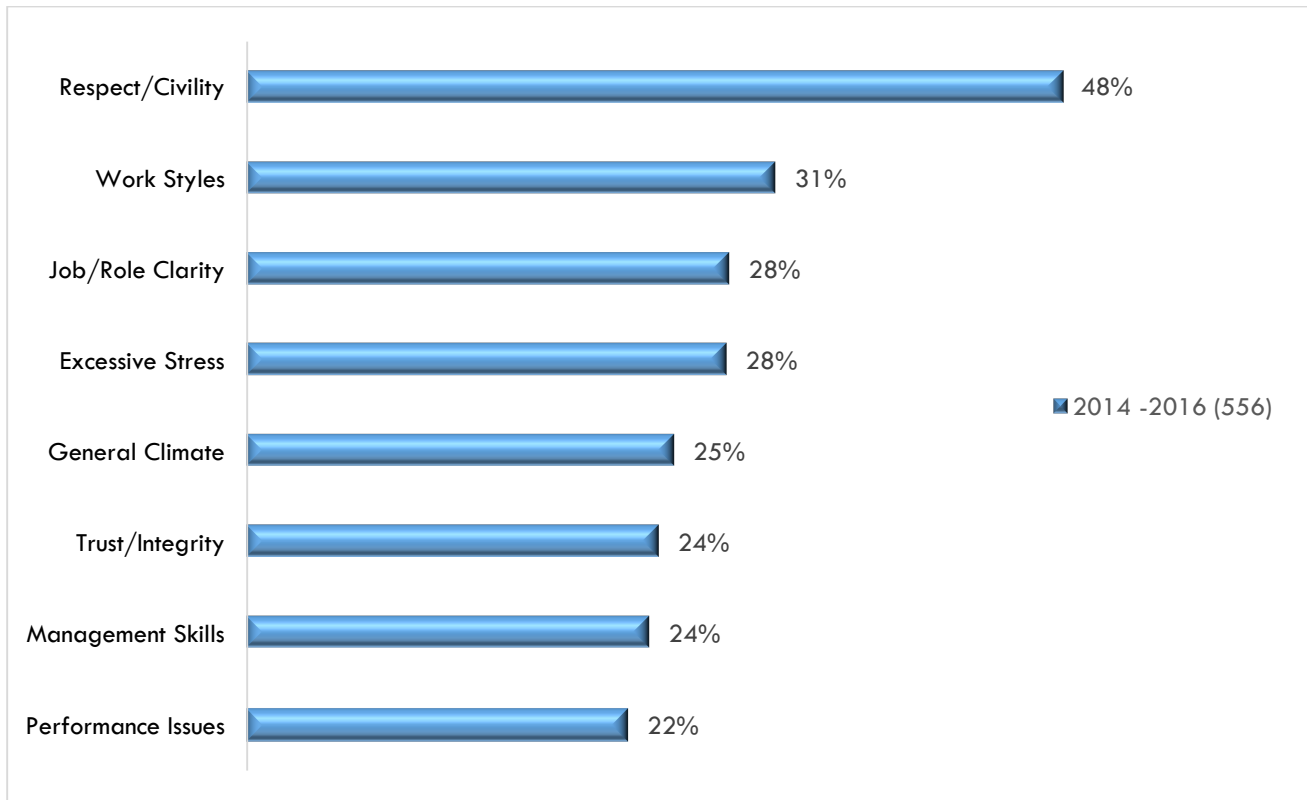
- Employees who worked **5 years or less** at UC Berkeley reported excessive stress more frequently (32%) than the average user of ombuds services; whereas employees who worked more than 20 years reported proportionately less excessive stress (19%).
- Employees who worked **6 to 10 years** at UC Berkeley reported retaliation as a concern 21% of the time. This is 7% higher than the average (14%) of other groups.
- Employees who worked **11 to 20 years** at UC Berkeley reported compensation as a concern twice as often as other groups.
- Employees who worked **more than 20 years** at UC Berkeley reported performance issues as a concern 28% of the time. This is 6% higher than the average user of ombuds services.



*“Without the support and encouragement of the Ombuds Office I would have left UC Berkeley feeling resentful and negative about the University. Now I’m reinvested and committed to Cal’s success.”*

# Primary Workplace Concerns

The following data is compiled from the 556 staff, non-senate academics, and faculty served during the 2014–2016 fiscal years. Since one employee can have multiple concerns percentage totals on the chart exceed 100%. The workplace concerns identified are those expressed by employees themselves in the course of an appointment with an ombudsperson.



## Relationships Between Parties

Employees reported concerns with individuals in the following categories. Because 1 in 5 employees had concerns with more than one individual, percentages below exceed 100%:



Individuals experiencing problems with evaluative relationships comprise 69% of cases. In 56% of those cases, an employee initiated contact about their manager and in 13% of the cases a manager initiated contact about an employee. Of employees who had concerns about their managers, 20% also happen to hold a management or supervisory position.



Concerns about peers who do not have supervisory authority over each other involved 19% of cases.



Employees who were exploring personal options or strategies involved 21% of cases. These individuals were not in conflict with anyone but were seeking guidance for themselves or others regarding how to handle workplace problems.



Concerns between staff and faculty involve 5% of cases. Staff-faculty relationships are recorded separately from other employee-manager or peer-peer concerns because of the power differential present between staff and faculty.



Fewer than 1% of cases involved concerns between faculty members and faculty in their roles as administrators (e.g., deans or chairs). This is not surprising since the Staff Ombuds Office does not typically handle disputes between faculty unless staff are impacted in some way and a faculty administrator is involved.



Other relationships, including staff members concerned about individuals with whom they do not have evaluative or peer-to-peer relationships (e.g., employees in other departments, vendors, outside contractors, former employees, and/or members of the public), made up 11% of all cases.

## Analysis of Workplace Concerns

Following is an analysis of the top workplace concerns reported by over 20% of visitors to the Staff Ombuds Office.

### Respect and Civility

Respect and Civility		
Percentage Reported	Frequency	# of Times Reported/ Total Cases
48%	Approximately 1 in 2	265/556

Each year respect and civility is the number one concern expressed by employees at the Staff Ombuds Office. It is the top issue for employees who have concerns with managers or peers and is the second most reported issue for managers who have concerns about employees. Reports of respect and civility usually involve other workplace

concerns. Respect and civility was reported along with intercultural style differences 73% of the time, recognition 68% of the time, new management 64% of the time, and retaliation 61% of the time.

Respect and civility in the workplace span a spectrum of behaviors from microaggressions<sup>1</sup> to open expressions of hostility, physical aggression, or interference with work.<sup>2</sup> Of the 265 employees who raised concerns about respect and civility in the workplace, 81 employees reported experiencing behaviors that rose to bullying. Bullying is a more severe form of incivility and is defined as “a pattern of repeated behavior that a reasonable person would find hostile, offensive, and unrelated to the University’s legitimate business interests.”

81 Reports of Workplace Bullying

Due in part to the new bullying prevention policy that took effect at UC-Berkeley on May 18, 2016, employees have begun to be able to differentiate between bullying and lower levels of incivility. This bullying prevention policy provides more defined ways to formally report and address bullying behaviors.

### Work Styles

Work Styles		
Percentage Reported	Frequency	# of Times Reported/ Total Cases
31%	Almost 1 in 3	172/556

During the previous biennial reporting period (2012-2014), the Staff Ombuds Office hypothesized that concerns over work style issues had increased because of an increase in organizational change and new management. In this biennial reporting period, cases involving differences in work style<sup>3</sup> returned to the same

percentages seen before Operational Excellence. Likewise, organizational change concerns decreased from 21% to 13% and concerns about new management decreased from 16% to 10%. This decrease makes sense given that the University has completed implementation of the most significant large-scale organizational change initiative to-date including centralization of services and focus on organizational excellence.

In 2015, the Staff Ombuds Office began tracking two subcategories of work styles: micromanagement and management avoidance. Micromanagement is a type of work style where a manager closely controls the work of employees. Whereas, management avoidance is a type of work style where a manager fails to manage or lead. Management avoidance often pertains to a manager/supervisor’s reluctance to become involved in problematic work issues. For example, employees may report that their managers will not weigh in on a conflict between peers or address someone else’s performance issues. These issues require, or would benefit greatly from, the active involvement of the higher-level individual.

<sup>1</sup> Microaggression is defined as “a comment or action that subtly and often unconsciously or unintentionally expresses a prejudiced attitude toward a member of a marginalized group”. See <https://www.merriam-webster.com/dictionary/microaggression>. Since 2015, all employees are required to complete the *UC Sexual Violence and Sexual Harassment Prevention Training for Staff* which covers the concept of microaggressions.

<sup>2</sup> The Staff Ombuds Office defines the category of respect and civility broadly and tracks when employees report experiencing the following behaviors or are accused of displaying these behaviors, including *open expressions of hostility*, such as rudeness, crudeness, public embarrassment/humiliation, passive aggressiveness, demands/threats, insults/put-downs/personal attacks, derogatory or belittling remarks/epithets, mockery/sarcasm/ridicule, spreading gossip or lies/defamation, unrelenting/persistent criticism, isolation/exclusion/ostracism, name-calling/swearing, severe/nasty tone of voice, yelling/shouting/screaming/angry outbursts, constantly interrupting, glaring eyes bulging/red-faced/fists clenched/other intimidating behaviors. This also includes shows of *physical aggression*, such as finger pointing, invading space/cornering, looming/hovering, slamming objects, and assault/violence. These behaviors also include *interference with work*, such as undermining someone’s work performance, withholding resources, access, or information needed to do a job, setting unreasonable expectations/“setting an employee up to fail,” removing responsibilities with no justification, false accusations, or workplace sabotage.

<sup>3</sup> Work styles refers to conflicts resulting from: (1) differing ways of approaching the job, organizing, prioritizing, planning, or delegating work; (2) challenges related to problem-solving or the decision-making process; (3) different ways of learning, presenting, or providing access to information (may include non-responsiveness of others, lack of communication, lack of meetings, etc.); (4) differing opinions about what constitutes effective collaboration or teamwork; or (5) perceptions of inefficient or improper supervisory / management style (micromanagement or management avoidance).



## Excessive Stress

Excessive Stress		
Percentage Reported	Frequency	# of Times Reported/ Total Cases
28%	More than 1 in 4	157/556

When stress levels are excessive, as reported by 28% of visitors to the Office, people are more likely to be reactive rather than thoughtful in their responses.<sup>4</sup> In addition, chronic stress may impact employees' physical and mental health.<sup>5</sup>

Excessive stress closely relates to other workplace concerns. When excessive stress was present, respect and civility was reported 57% of the time and work style differences were reported 42% of the time. In addition, almost half of the 31 employees who filed formal complaints after using ombuds services reported excessive stress as a concern. Toward the end of the biennial period, people reported high rates of stress related to fear of layoff and feelings of job insecurity.

## Job/Role Clarity

Job/ Role Clarity		
Percentage Reported	Frequency	# of Times Reported/ Total Cases
28%	More than 1 in 4	157/556

Tied for the third most reported issue is job/role clarity. Job/role clarity has historically been reported at similar levels. A common issue year after year is that numerous people note not having an updated job description.

Conflicts arose over the appropriateness of tasks assigned, not having clearly defined roles, or from lack of understanding of roles or duties. In this reporting period, more people specifically discussed changes in duties and disagreements over assigned tasks. Some reported feeling underutilized when they were given a series of tasks that didn't match well with their skill set and were outside the scope of their job description. Others reported having to come up to speed quickly with new systems and skills in order to meet the changing needs of their unit and were asked to perform tasks above their classification.

## General Climate

General Climate		
Percentage Reported	Frequency	# of Times Reported/ Total Cases
25%	1 in 4	139/556

General climate was the fifth most reported concern during this biennial period. If the work environment is characterized by an employee as having low morale, group dysfunction, and high levels of turnover, general climate is recorded as a workplace concern. When someone is treated in a way that feels disrespectful, it is

common to respond in kind. In other words, incivility breeds incivility. In fact, employees who expressed concerns about general climate also reported respect and civility 61% of the time. It is also not surprising that the more people involved in a workplace problem, dispute or conflict, the more likely general climate issues surfaced as a concern.

<sup>4</sup> Diane Musho Hamilton, "Calming Your Brain During Conflict," *Harvard Business Review*, December 22, 2015, <https://hbr.org/2015/12/calming-your-brain-during-conflict>.

<sup>5</sup> Robert Sanders, "New evidence that chronic stress predisposes brain to mental illness," *Berkeley News*, February 11, 2014, <http://vcresearch.berkeley.edu/news/new-evidence-chronic-stress-predisposes-brain-mental-illness>.

## Management Skills

Management Skills		
Percentage Reported	Frequency	# of Times Reported/ Total Cases
24%	Almost 1 in 4	131/556

In this biennial period, the Staff Ombuds Office created a new data category called management skills to capture employees’ concerns regarding management competencies.<sup>6</sup> Management skills includes knowledge of: (1) Concepts involving abstract thinking, high-level analysis, strategic planning, or change management. (2)

Policies or procedures, such as performance evaluations, probation, leave, hiring, worker’s compensation, union contracts, etc. (3) Technical skills needed to manage and make decisions about the substance of work. The Staff Ombuds Office created this new category to distinguish competencies related to management skills from work style differences. Interestingly, in the cases where management skills was a concern, 56% of the time respect and civility was a concern, and 48% of the time work styles was a concern.

## Trust and Integrity

Trust and Integrity		
Percentage Reported	Frequency	# of Times Reported/ Total Cases
24%	Almost 1 in 4	134/556

Trust and integrity is also a top workplace concern and is recorded when employees state they are distrustful of another employee or consider an employee to be dishonest or have ulterior motives. Of the 300 employees who came to the Staff Ombuds Office whose conflict involved a concern about their managers or supervisors,

32% described feelings of distrust. Trust is a foundational element to any working relationship and when it does not exist, employee stress levels may increase. In cases where employees described a lack of trust or integrity, excessive stress was also present 44% of the time.

<sup>6</sup> In 2014-2016, Performance (Non-Evaluative) was no longer tracked as a single issue, and two new categories were created Peer Performance and Management Skills. Performance Issues was noted when an employee was concerned about his own performance review, and Peer Performance when an employee was concerned about a peer’s skills or performance.

## Observations and Systemic Recommendations

While a high percentage increase in cases involving a particular conflict issue may be an indication of a systemic problem, the Staff Ombuds Office also identifies systemic issues by analyzing each individual case to determine whether the source of the conflict may be located at least in part in organizational policies, practices, structures, and/or culture.<sup>7</sup>

After analyzing the concerns that emerged over the last two years, the Staff Ombuds Office identified systemic issues related to (1) Accountability; (2) Performance Management; and (3) Professional Development. The following recommendations provide possible solutions that relevant units and stakeholders may use to generate new ideas.

### Cultivate a Culture of Organizational Trust and Accountability

During this reporting period, several sexual harassment cases involving high-level administrators and faculty raised concerns about how the University handles these situations and its commitment to ensuring a safe workplace and learning environment. In response, Chancellor Dirks appointed a Sexual Violence and Sexual Harassment (SVSH) Task Force to conduct an independent assessment of Berkeley's culture, process and sanctions.<sup>8</sup>

While Berkeley invested significant resources to improve education, prevention, and response to SVSH, many employees expressed concerns about the University's ability to hold managers, administrators and faculty accountable for abuse of power, regardless of whether these incidents involved sexual violence or sexual harassment. As a result of the lack of confidence created in part by these high-profile cases, the Staff Ombuds Office recommends that the University expand its efforts to address all forms of abuse of power that may not rise to the level of sexual violence or sexual assault. By expanding the scope to address abuse of power, the University will improve its ability to create a culture of organizational trust<sup>9</sup> and accountability.

In order for individuals to feel safe coming forward to report abuses of power, they need easy access to complaint processes and assurance that action will be taken where misconduct, unethical behavior, or policy violations are found.<sup>10</sup> Following are some possible recommendations for cultivating a culture of organizational trust and accountability:

### Clarify Resources, the Complaint Processes, and Management Expectations

Employees, both supervisors and non-supervisors alike, express confusion about how they should escalate a complaint, what the complaint process entails, and resources available to help. Specifically, employees who are considering using the formal complaint process often express confusion about who they should contact to initiate a complaint. Under the current structure, employees may contact Central Shared Services Human

<sup>7</sup> See Susan Sturm and Howard Gadlin, "Conflict Resolution and Systemic Change," *Journal of Dispute Resolution* 2007, no. 1 (2007).

<sup>8</sup> See "Chancellor's Senate/Administration Committee on Sexual Violence and Sexual Harassment Report of Findings and Recommendations," January 2017, [http://chancellor.berkeley.edu/sites/default/files/svsh\\_full\\_report\\_1-31-2017.pdf](http://chancellor.berkeley.edu/sites/default/files/svsh_full_report_1-31-2017.pdf).

<sup>9</sup> See Robert M. Galford and Anne Seibold Drapeau, "The Enemies of Trust," *Harvard Business Review*, February 2003, <https://hbr.org/2003/02/the-enemies-of-trust> (defining organizational trust as the trust people have not in any individual, but the company itself, including whether organizational process are well-designed, consistent and fair, and whether the organization makes good on its promises).

<sup>10</sup> See Lynn S. Paine, "Managing for Organizational Integrity," *Harvard Business Review*, March-April 1994, <https://hbr.org/1994/03/managing-for-organizational-integrity>.

Resources (CSS-HR), Central Human Resources (CHR), Academic Personnel Office (APO)<sup>11</sup>, their Departmental Human Resources Manager (DHRM) or other compliance resources such as Whistleblowing or the Office for the Prevention of Harassment and Discrimination (OPHD). They may also report complaints through the UCOP System-Wide Intolerance Reporting Form or the Gender Equity Resource Center report process.<sup>12</sup> Some employees have been so frustrated with the lack of clarity about the complaint process and access points that they felt as if the lack of clarity was intentional in order to decrease the number of complaints filed.

Recently, both the Equity & Inclusion Division<sup>13</sup> and Central Human Resources<sup>14</sup> updated their websites to include information on how to report complaints of harassment, discrimination, Title IX compliance, and whistleblowing. While these websites are a good first step, greater collaboration could occur to ensure consistency on these sites and that complaint processes are clearly described and inclusive of different types of complaints. Noticeably missing from these sites is information about how to report workplace bullying and information about the new Workplace Bullying Prevention Policy, passed May 18, 2016; how to file a complaint about performance evaluations; or how to file a complaint regarding lay-off or termination from employment.

Creating an escalation matrix and providing clear information about what to expect from the various complaint processes would help empower employees and create an environment that encourages individuals to come forward when misconduct is believed to have occurred. In addition to providing information on complaint processes and resources, providing clear information about expectations for how managers should handle the spectrum of complaints involving abuse of power and the steps they should take would help to cultivate a culture of organizational trust and accountability.

## **Increase Transparency**

A perception that may discourage employees from coming forward to report misconduct or abuse of power are concerns that “nothing is done” to wrongdoers. Because disciplinary action is considered confidential, complainants may not know that personnel action has been taken in response to findings substantiated in a complaint. Because they are not informed, complainants may not feel that the University has taken appropriate action.

In order to provide greater confidence in the complaint process, the Staff Ombuds Office recommends that Human Resources and other compliance offices, publish information that includes the type of complaint filed and whether the complaint is substantiated or unsubstantiated.

In addition, other offices that receive complaints should describe in general what types of corrective action takes place for those complaints that are substantiated and how long these investigations take to complete. This data should not identify individual employees, but would provide greater transparency about the types and number of complaints filed and information about outcomes that could lead to increased confidence in the complaint process.

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<sup>11</sup> CHR serves staff and APO serves faculty and academics. When the complainant is a staff member and the respondent is an academic or faculty member (or vice versa), it is unclear which office has jurisdiction. In certain cases, complainants have been instructed to file with both offices.

<sup>12</sup> See <http://ejce.berkeley.edu/report-incident>.

<sup>13</sup> See <http://diversity.berkeley.edu/campus-climate/report-incident>.

<sup>14</sup> See <http://hr.berkeley.edu/resolving-problems/where-go>.

## Ensure Consistent Outcomes

Because management action is decentralized, there is no mechanism to ensure that substantiated complaints are handled in a consistent manner. Therefore, the Staff Ombuds Office recommends that Central Human Resources and the Academic Personnel Office conduct a review of complaints and management action taken in substantiated cases to determine whether there is consistency in the types of action taken. Alternatively, an independent review panel could be established to ensure consistent outcomes.

When an investigation is completed and findings are substantiated, Human Resources advises managers on what type of action to take. Managers have discretion to follow this advice or impose more or less stringent corrective action. Because of this discretion, the Staff Ombuds Office also recommends that CHR and APO issue guidance for corrective action to better assist managers in determining what type of action is appropriate.

## Strengthen HR Resources and Recommendations

Some complaints made to Human Resources or other compliance offices may have findings that do not rise to the level of a policy violation, but include reports of unprofessional conduct, incivility, mismanagement, or poor workplace climate. The Staff Ombuds Office recommends that the University invest in staffing for CSS-HR Partners and Employee Relations Consultants so they have the capability to follow up with departments and provide support and recommendations for how to handle the underlying issues described in such complaints.

When complaints are substantiated, it is even more important that either CSS-HR Partners or Employee Relations Consultants follow up to determine whether the recommendations provided to management have been implemented. It is important to note that the recommendations provided by Human Resources are “advisory” and managers have discretion about whether to implement them. Having an established follow-up process conducted by the formal office who receives complaints could improve departmental accountability.

## Provide Opportunities for Feedback

Employees often fear retaliation when coming forward with disclosures about abuse of power, including workplace bullying. According to the Ethics Resource Center, 41% of employees observe unethical behavior and 37% do not report what they have observed.<sup>15</sup> As a result, departments should consider other ways to create an environment where employees feel comfortable communicating with management to share additional insights about what is happening in the workplace, including but not limited to:

- **Exit Interviews.** Exit interviews are conducted before employees leave.<sup>16</sup> By learning the reasons for a person’s departure and collecting data, a department can identify patterns, themes, or problems that may not surface otherwise. In addition, exit interviews demonstrate to current employees that the University wants to hear feedback, which supports a culture of organizational trust and accountability.

<sup>15</sup> See “National Business Ethics Survey of the U.S. Workforce,” Ethics Resource Center, 2013, <https://www.ethics.org/ecihome/research/nbes/nbes-reports/nbes-2013>.

<sup>16</sup> See Martha Frase-Blunt, “Making Exit Interviews Work,” Society for Human Resources Management, August 1, 2004, [https://www.shrm.org/hr-today/news/hr-magazine/pages/o8o4agenda\\_empstaffing.aspx](https://www.shrm.org/hr-today/news/hr-magazine/pages/o8o4agenda_empstaffing.aspx).

In 2016, Campus Shared Services started conducting exit interviews for CSS employees and this type of process could be utilized for all Berkeley employees.

- **Climate Reviews.** In areas with high turnover or poor climate survey results, the Staff Ombuds Office recommends that HR Partners engage managers and employees to identify the root cause of turnover and poor workplace climate. Then, the unit can develop strategies, which may include changes in organizational structure, personnel, resource allocation or offering tailored training, executive coaching, group facilitation, mediation, team building, or other interventions.
- **Other Feedback Mechanisms.** Other ways to obtain feedback and cultivate a culture where employees feel their voices are valued are:
  - To offer Town Halls that educate, answer questions, and enable employees to provide input about how to address abuse of power in the workplace<sup>17</sup>;
  - To facilitate focus groups where employees can generate ideas to address abuse of power at a systemic level;
  - To survey employees who use the complaint processes provided by Human Resources and compliance offices to learn from their experiences and make improvements.

## Increase Awareness and Monitor Retaliation

According to the Ethics Resource Center, more than 1 in 5 workers who reported misconduct stated they experienced retaliation.<sup>18</sup> Educating the entire campus community about the University's "no retaliation" policy and encouraging leaders to speak publicly about the value of raising issues is important. Emphasizing the courage of employees who come forward encourages a culture of trust and accountability.<sup>19</sup>

In addition, providing more information on Human Resources and Whistleblowing websites about how to file a retaliation complaint, the elements of retaliation, who conducts the investigation regarding retaliation, and the timeline for completion of the process would help employees feel more comfortable coming forward. Even the creation of a retaliation complaint form with contact information of the University resource who can answer questions about the retaliation complaint process would also help guide employees and assist them in obtaining answers to questions they may have. Finally, the University can check-in over an extended period of time with employees who have filed complaints to ensure they have not experienced retaliation or suffered in their career advancement for reporting suspected violations.<sup>20</sup>

## Conduct Collective Case Reviews

Often employee complaints span the scope of various campus formal complaint resources, including Human Resources, Office for Prevention of Harassment and Discrimination, Whistleblowing, or Disability Compliance, and other resources that do not handle formal complaints, but may have relevant knowledge including the Office of Legal Affairs, Equity & Inclusion, and Disability Management Services. By identifying cases that have excessive delay or high risk potential and debriefing these cases, the University could better identify how processes could improve and implement systemic change. Without identifying any confidential information,

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<sup>17</sup> A good example of this type of event was the recent Staff Perspectives Event sponsored by the Berkeley Staff Assembly March 28, 2017.

<sup>18</sup> According to the Ethics Resource Center, reports of retaliation have almost doubled from a low of 12% in 2007 to 21% in 2013. See *supra* note 15.

<sup>19</sup> See "Principles and Practices of High-Quality Ethics & Compliance Programs: Report of the ECI's Blue Ribbon Panel," Ethics & Compliance Certification Institute, April 2016, <http://www.ethics.org/research/hqp-standards>.

<sup>20</sup> *Id.*

the Staff Ombuds Office and Employee Assistance could also participate to identify how counseling, training, or informal conflict resolution processes and interventions may have had a positive impact on a particular workplace dispute.

## Hire for Accountability

According to the Ethics Resource Center, 60% of misconduct involved someone with managerial authority from the supervisory level up to top management.<sup>21</sup> Because managers, including deans and chairs, are responsible for holding employees accountable for abuse of power and cultivating a culture of trust, it is important that the University consider ethics when recruiting. Asking how prospective managers would handle workplace bullying, or misconduct could be effective interview questions. Providing abuse of power scenarios and obtaining information about applicants' ability to hold others accountable and promote organizational trust could lead to hiring managers who would be more effective.

## Train Managers and Supervisors

Effective January 1, 2015, all employers with 50 or more employees must train managers and supervisors on how to prevent abusive conduct in the workplace.<sup>22</sup> The University of California has fulfilled this legislative requirement by incorporating training into the mandatory online *UC Sexual Harassment Prevention Training*. The Staff Ombuds Office recommends that all managers and supervisors be trained on how to prevent and handle abusive conduct in the workplace with in-person training. This type of training provides opportunities for employees to ask questions and practice with interactive scenarios and role plays to develop skills for ensuring accountability. This information should also be incorporated into the New Deans and Chairs series and presented at the Council of Deans so that faculty administrators can be better equipped to handle their employees who may engage in abusive conduct. By requiring employees in managerial and supervisory positions to attend training, the University can better promote a culture of accountability. In addition, the Staff Ombuds Office recommends that these educational sessions be led by staff and faculty administrators and provide opportunities for staff and faculty to learn from one another.

## Inform and Engage the Campus Community

Campus communications are often dependent on managers and supervisors forwarding information to their employees. The Staff Ombuds Office has found that these trickle-down communications are ineffective and often do not make their way down the line to the intended recipients. As a result, employees in supervisory and non-supervisory positions may not know of (1) new policies, such as the Workplace Bullying Prevention Policy, (2) guidance from UCOP, such as Presidential Guidance regarding the results of the UCOP Abusive Conduct Working Group, or (3) reports on campus climate, such as Equity and Inclusion's *Where Do We Go From Here?: Highlights from the Campus Climate Survey* report. The Staff Ombuds Office recommends that the University invest in internal communication expertise to improve delivery and accessibility of information to employees and decrease reliance on individuals to pass information down the organizational chain.

Leadership plays an important role in cultivating organizational trust and accountability. Leaders from all sectors of the campus community, including deans, chairs, and administrators, can promote accountability by holding meetings where they can share expertise on how they have addressed abuse of power and provide resources for both staff and faculty.

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<sup>21</sup> See *supra* note 15.

<sup>22</sup> See California Government Code Section 12950.1, [https://leginfo.ca.gov/faces/billCompareClient.xhtml?bill\\_id=201320140AB2053](https://leginfo.ca.gov/faces/billCompareClient.xhtml?bill_id=201320140AB2053).

In addition, messaging from the highest levels of leadership can direct employees to appropriate support resources, offer clear pathways to address abuse of power, and inform employees about retaliation protections. This will encourage members of the campus community to feel safe in reporting misconduct.

## Invest in a High-Quality Ethics and Compliance Program

Recently, the Ethics & Compliance Certification Institute published a comprehensive Blue Ribbon Panel report regarding the qualities needed to create High-Quality Ethics & Compliance Programs (HQPS), including leading practices and supporting objectives. Some of the recommendations of the Staff Ombuds Office report are supported by the HQPS approach; however, greater insight and analysis can be found at <http://www.ethics.org/research/hqp-standards>. Investing in HQPS, creates a culture where a high standard of integrity “becomes part of the DNA of the organization” and “reflects a willingness to be bold in promoting integrity as central to the organization’s mission.”<sup>23</sup>

## Improve Performance Management

Berkeley has an established [Performance Management Cycle](#) that includes three phases: (1) Planning; (2) Check-in; and (3) Review.



The way the Performance Management Cycle is administered can either inspire and motivate employees or cause resentment and disengagement. Following are a number of concerns gathered by the Staff Ombuds Office about the performance management process<sup>24</sup>:

<sup>23</sup> See *supra* note 19.

<sup>24</sup> These concerns were collected both from Staff Ombuds Office direct observations and from the employees (22%) who expressed concern about performance evaluations during FY 2014-2016.



**Unclear Expectations and Metrics.** Employees expressed concern that supervisors did not provide goals or provided vague goals that did not meet the S.M.A.R.T. criteria<sup>25</sup>. Likewise, employees did not have an understanding of how their performance would be measured using identifiable metrics.

**On-Going Feedback Missing.** As employees described, some supervisors do not check-in regularly to discuss progress on goals or provide feedback on performance. As a result, employees stated they were “surprised” or “blind-sighted” by the evaluation because they had no indication throughout the Cycle that they were not meeting expectations. By providing on-going feedback throughout the fiscal year, managers can provide employees with the opportunity to improve and address performance issues in a timely manner.

**Failure to Adjust Goals.** Employees expressed concern that goals set were unrealistic or that goals were not adjusted when other initiatives or projects took priority or took more time than expected. With decreasing staff levels, the Staff Ombuds Office has observed that more and more staff are concerned about “unrealistic expectations” and lack of understanding of workload demands. The Phase 2 Check-In Process provides an opportunity to adjust goals as the year progresses and to shift with the changing needs of the unit.

**Vague Feedback.** Employees who have received “needs improvement” ratings on their performance evaluations often come to the Staff Ombuds Office to receive coaching on how to improve their performance. During this time, the Ombudsperson may review the performance evaluation to better understand the source of the problem. At times, the feedback provided on the evaluation is so vague that it is difficult to know what the employee needs to do to succeed. By helping employees craft questions to increase understanding about their performance and discussing performance issues, the Staff Ombuds Office provides employees with a resource that supports them in gaining better clarity and ability to meet performance expectations.

**Performance Evaluation “Errors.”** If employees believe there are errors or misinformation contained in a performance evaluation, they have the right to provide comments to accompany the performance evaluation.<sup>26</sup> Often employees feel that this right to comment is insufficient since it does not provide a process to prove the content is in error and have it removed from the evaluation.

**The Recency Effect.** Employees expressed concern that instead of managers evaluating their performance for the entire year, their performance evaluation was focused on the last month or two of the period. By heavily weighting the most recent activity, employees felt that their evaluation was incomplete and not representative of their performance during the entire year. In addition, some employees were concerned that events described in their performance evaluation did not occur within the fiscal year for which they were being evaluated.

**Responsibility for Evaluation.** With changes in organizational structures and staffing, employees may have new supervisors who are requested to complete a performance evaluation for an employee they did not supervise during most of the evaluation period. As a result, these employees typically feel their supervisors were too new to effectively or fairly evaluate their performance during the year in question. In addition, with the flattening of the organizational structure and reporting lines, employees felt that the evaluating supervisor was too far removed from understanding or evaluating their performance and felt that the evaluation should be conducted by a different employee who was more familiar with their work.

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<sup>25</sup> S.M.A.R.T. goals are defined as Specific, Measurable, Attainable, Relevant, and Timely. See Performance Management Phase I: Planning at <http://hr.berkeley.edu/performance/performance-management/cycle/planning>.

<sup>26</sup> According to PPSM 23, “Once the written evaluation has been completed and the employee has been given the opportunity to provide feedback, the employee is asked to sign the completed appraisal form. The employee is informed that his or her signature acknowledges discussion of the contents of the completed appraisal form, not necessarily agreement with it. The employee may add his or her own comments to accompany the performance appraisal form.”

**Employee Engagement.** In addition to soliciting employee feedback and input throughout the evaluation period, “[s]upervisors are strongly encouraged to initiate discussion with the employee in preparation for the written performance appraisal.” Many employees were upset that managers did not request a self-assessment or did not meet with them to discuss their performance prior to completing the written performance review. Most often employees received a copy of their written performance review during the performance discussion. As a result, employees felt they could not engage as effectively in the discussion since they had to read the evaluation and were not able to prepare for the conversation about their performance.

**Employee Development.** Employees who visit the Staff Ombuds Office have expressed concern that their managers or supervisors are not interested in their career advancement. Part of the annual performance review could include a review of employees’ development goals in the next 1-3 years, 3-5 years, and beyond 5 years with specific actions that could help employees meet their career goals. Currently, this Individual Development Plan process is available to all CSS-HR employees and it could be extended to the rest of the University.

**Evaluation Completion.** Seventeen percent<sup>27</sup> of employees who came to the Staff Ombuds Office did not receive a performance evaluation in 2015-2016. This problem has significantly decreased due to Human Resources’ efforts to ensure completion of performance evaluations by August 30<sup>th</sup>.

**The New Short Form.** For the FY 2016 performance evaluation cycle, most departments adopted the new performance evaluation “short form.” This new evaluation:

- Eliminates comments and separate ratings for the 9 core competencies.
- Provides for one overall rating of an employee’s performance.
- Focuses on evaluation of 3-4 SMART goals.
- Provides an overall comment box that is required to explain ratings above or below “meets expectations.”
- Eliminates professional development planning.
- Includes a check-box to note which Operating Principle employees best support.
- Provides one evaluation form for all staff members regardless of management status.

While the new short form takes much less time for supervisors to complete, some staff expressed concerns that the singular focus on SMART goals did not provide for an evaluation of their overall performance. In addition, the Staff Ombuds Office noticed that if goals are defined too narrowly then evaluation of the overall job responsibilities will be missed. This shift in focus from core competencies to goals may also deter supervisors from addressing behavioral competencies.

By raising awareness of the above concerns, the Staff Ombuds Office hopes that both supervisors and the staff they supervise will be able to address these concerns proactively to avoid future conflicts about performance. In addition, some of these concerns can be addressed systemically with the following:

- Send timely reminders from Control Unit or Department Heads to all managers and supervisors to initiate mid-term performance conversations that highlight the importance of on-going feedback as part of the Performance Management Cycle. Human Resources currently sends out an electronic Managers Newsletter that includes a reminder; which unfortunately can be easily missed. The importance of providing timely, on-going feedback and initiating a mid-term conversation may be more

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<sup>27</sup> This calculation includes only the employees who responded to the survey question about whether or not they received performance evaluations.

visible and readily acted upon if it is coming from higher levels of management within a unit or department. In addition, by focusing more attention on the mid-term reviews, it provides an opportunity for employees to improve their performance if needed and meet their goals by the end of the fiscal year.

- Provide an evaluation of Key Job Responsibilities and an overall evaluation of employees' performance based on Core Competencies or Operating Principles. This will allow for high technical performers to be evaluated on meeting SMART Goals and on competencies such as inclusion, teamwork, and leadership. In this way, behavioral competencies that interfere with the productivity and performance of others can be addressed.
- Use either the Core Competencies or Operating Principles to evaluate employees' overall performance. There are 9 Core Competencies and 5 Operating Principles, representing a total of 14 categories that could be evaluated.<sup>28</sup> Many of the Core Competencies and Operating Principles overlap and having to review all of these categories can be overwhelming to managers and supervisors who may be responsible for evaluating many employees.
- Require overall comments for all employees' performance, not just those who are above or below "meets expectations." Even employees who meet expectations may want or need feedback regarding their overall performance. This also provides an opportunity for employees to know how they can exceed expectations going forward and provide recognition for areas at which they excel.
- Create a separate performance evaluation form for managers and supervisors that evaluates managerial and supervisory skills. Managerial and supervisory skills are just as important as technical and substantive skills and should be evaluated to ensure quality and enhance these skill sets.
- Reestablish the "Participating in Your Own Performance Appraisal" course so that employees can better participate in the performance management process and learn how to write effective self-assessments.
- Include professional development planning as part of the performance evaluation to help employees improve their skill sets and advance their career paths. This could be in the form of Individual Development Plans described on page 24.

Currently, Central Human Resources is reviewing performance management and identifying areas of improvement. By focusing on performance as an ongoing process throughout the fiscal year, employees will be better informed of how to achieve performance goals and meet organizational expectations.

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<sup>28</sup> Berkeley Operating Principles focus on inclusion, innovation, simplification, accountability, and service. See <http://hr.berkeley.edu/performance/operating-principles>. Berkeley Core Competencies include inclusiveness, stewardship, problem solving/decision making, strategic planning & organizing, communication, quality improvement, leadership, teamwork, and service focus. See <http://hr.berkeley.edu/development/learning/uc-berkeley-competencies>.

## Increase Access to Professional Development

Berkeley's UC Learning Center offers an array of professional development courses for staff including:

- [KEYS Program](#) (Keys to Enhancing Your Supervisory Success), including courses on foundational management skills, performance management, employee and labor relations, and risk management.
- [UC People Management Certificate](#), including courses in KEYS and e-courses on communications, change management, operations, managing people, and performance management.
- [Sponsored Tuition Program](#), including courses on business, management, computer technology, information management, environmental engineering and management, writing, editing and technical communications.
- [CalPact Training](#) (Cal People and Computer Training), including courses on collaborative cloud services, databases, spreadsheets, document design, and Microsoft products (Access, Excel, Visio, Project Fundamentals).
- [Professional Skills Training](#), including courses on group facilitation, meeting facilitation, resiliency, and time management.
- [Multicultural Education Program](#), including courses on diversity, unconscious bias, cross-cultural communication, and creating an inclusive workplace.
- [Staff Ombuds Office Workshops](#), including courses on workplace civility, email civility, workplace bullying, collaboration, culture and conflict resolution, and team conflict competency.
- [Employee Assistance Workshops](#), including courses on retirement transitioning, sleep, anxiety, emotional intelligence, stress management, and mindfulness.
- [Career Center Workshops](#), including courses on career development, interviewing, marketing yourself, social networking, and career self-assessments.
- [Functional Training](#), including courses on Human Resources, Research Administration, Financial Analysis, and Student Advising.
- [Compliance Training](#), including sexual harassment and cyber security training.

In addition to the hundreds of courses providing in-person instruction, Berkeley now offers access to Lynda.com, which provides employees with over 5,500 e-courses free of charge and access to the [Wisdom Café](#), a new on-line campus learning community and resource.

While the University offers numerous training opportunities, limited communication vehicles exist for employees to learn about them. As a result, staff often miss out on these development opportunities. Recently, Human Resources launched a new [Training Events Calendar](#)<sup>29</sup> on its website. This provides staff with a centralized location where they can see what training events are offered on a particular day and read information about what professional development opportunities are available. Unfortunately, most staff do not know this website exists since there is no established communication mechanism to reach the more than 12,500 staff members and non-senate academics.

The Staff Ombuds Office recommends increased use of CalMessages to inform all staff and non-senate academics about learning opportunities and to encourage professional growth and development. In addition, HR's Talent and Organizational Performance unit could create an electronic newsletter or update that focuses on professional development opportunities. New employees could be asked to join the professional

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<sup>29</sup> See <http://events.berkeley.edu/index.php/calendar/sn/hr.html>.

development e-news mailing list and existing employees could be encouraged to register through a campus-wide announcement. In addition, employees who register for any course on the UC Learning Center could be automatically added to the e-mailing list or opt-in to join so that they could continue to be apprised of professional development opportunities. Without direct communication mechanisms, staff are left to rely upon word of mouth, random flyers, or relationships with staff organizations to learn about and access these development opportunities.

In addition, with reductions in staffing, existing employees often have greater workload demands and need the encouragement and support of managers and supervisors to take advantage of professional development opportunities. As a result, the Staff Ombuds Office recommends that communications from Human Resources and high-level administrators provide not only information about training events, but information about university policy<sup>30</sup> that supports professional development and encourages managers to allow employees time for learning and development opportunities. Also, professional development opportunities and support could be highlighted in the Berkeley News, the Berkeley home page, or an announcement by the Chancellor or other high-level administrators. These communications demonstrate to employees that their growth and development is important and necessary to continuing the excellence and advancement of UC Berkeley, which may improve morale in a time when staff are being asked to do more with less.

Finally, the Staff Ombuds Office recommends that Professional Development be reinstated on the campus Performance Planning and Review Form (Review Form). Last year, in an effort to shorten the Review Form, Human Resources removed the Professional Development Plan (PDP) section. By reinstating the PDP, the campus sends the message to staff that it values professional development and views it as essential to employees' success. In addition, this would encourage supervisors to discuss employee development and support career growth in accordance with [PPSM 23 Performance Management Policy](#)<sup>31</sup>.

## Progress On Prior Recommendations

This section contains a description of progress or action taken by lead offices to address systemic recommendations made in past Biennial Reports. In addition, it includes information obtained by the Staff Ombuds Office about progress made.

### Workplace Bullying

In 2010, the Staff Ombuds Office recommended that Berkeley adopt a campus anti-bullying policy. After work by Central Human Resources' Policy and Practice Unit and the Office of the Chancellor's [Compliance and Enterprise Risk Committee](#), on May 18, 2016, Berkeley became the first university in the UC system to have a [Workplace Bullying Prevention Policy](#) for staff. This new policy defines bullying, provides examples of bullying behaviors, and identifies reporting and response procedures for staff. This policy does not apply to faculty or academic appointees. Under the policy, "Central Human Resources will refer reports of alleged bullying by

<sup>30</sup> PPSM 50 states "Non-probationary career employees are eligible for up to 80 hours (non-exempt) or 10 work days (exempt) release time (pro-rated based on appointment) per calendar year for professional development, which should be career-ladder related."

<sup>31</sup> According to Berkeley Procedures for PPSM 23, "Supervisors are encouraged to also address the following in the written performance appraisal: Identify opportunities for professional development and options for acquiring additional knowledge and skills to support career growth".

faculty, academic appointees, and sworn members of the University of California Police Department to the appropriate office or grievance procedure for processing.” For this policy to be comprehensive and to have a positive impact on the campus climate, the Staff Ombuds Office recommends this policy be extended to all members of the campus community and that data regarding the number of complaints filed and the type of findings be made available.

## Staff Complaint Process

Staff continue to express confusion about the staff complaint process and many staff are frustrated that when they bring complaints to departmental Human Resources, they are not informed of their rights under the staff complaint process. While the Human Resources new and improved website provides a “Where To Go”<sup>32</sup> section under “Conflict Resolution,” it is not clear how staff bring complaints on policy violations that do not rise to the level of discrimination, harassment, retaliation or whistleblowing. In addition, it is still unclear how complaints make their way from CSS-HR to Central HR for investigation and how a staff member initiates a formal complaint. While Human Resources has posted a flowchart on its website of the PPSM 70 process, it is not written for an external audience and refers to Step I - Step II processes without defining what this means for someone who is unfamiliar with the policy and insider terminology.

## Compensation

In 2015 and 2016, Berkeley implemented a Non-Represented Staff Salary Program to address equity issues relating to compensation for similar job titles across campus. Units provided funding in the amount of 3% of the total compensation of eligible non-represented staff and distributed it as follows: 2% for merit-based increases and 1% for internal equity based increases. While this program incrementally addressed some of the concerns of employees who were paid inequitably, it also upset employees who believe their salaries should not be compared to the campus average, but to the departmental average that was higher in “wealthier” departments. In addition, employees continued to express concern that there was no appeal process or board to review equity decisions in cases that were denied.

## Conclusion

While the Staff Ombuds Office collects a small slice of data from Berkeley employees who experience workplace problems or conflicts, this report provides an opportunity for organizational growth and change. The recommendations contained in this report provide the campus community and leadership with options to address some of the systemic issues that interfere with individual and organizational effectiveness. With this report, current and future leaders can be better informed of employee concerns and develop solutions to address them.

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<sup>32</sup> See <http://hr.berkeley.edu/resolving-problems/where-go>.