

STAFF OMBUDS OFFICE



FY 2008–2010

BIENNIAL REPORT

SARA THACKER, DIRECTOR & OMBUDSPERSON

ANITA J. MADRID, ASSOCIATE OMBUDSPERSON

MICHELE J. BERNAL, ASSISTANT OMBUDSPERSON

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MESSAGE FROM THE OMBUDSPERSON

I am pleased to present the Staff Ombuds Office Biennial Report covering fiscal years 2008–2010. This report is just one mechanism the Staff Ombuds Office uses to provide information about non-confidential office activities and feedback to the campus community and leadership.

The past two years have been extraordinarily difficult for the campus community. During this time, we have weathered substantial budget cuts, layoffs, furloughs, hiring freezes, and organizational change. These unprecedented challenges have caused great fear and anxiety that have only intensified from year to year.

In this climate, informal, confidential resources such as the Staff Ombuds Office are critical to organizational success. The Staff Ombuds Office provides a confidential and safe space to help individuals find creative ways to successfully handle the inevitable external and internal workplace conflicts that left unmanaged become obstacles to organizational achievement.

Staff are often the silent but essential partners in the University's commitment to Access and Excellence. Their innovation, creativity, loyalty, hard work, and dedication are values that thrive in a healthy and supportive work environment where conflict is constructively managed and used as an opportunity for growth.

We recognize and thank the staff who enrich our community and support the University during these challenging times. We look forward to working with you to find opportunities amidst the challenges and engaging campus resources to address the systemic issues contained in this report.

Sincerely,



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



STAFF OMBUDS OFFICE OVERVIEW

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 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.



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

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.

PRIMARY ACTIVITIES

Coach & Advise

The Staff Ombuds Office advised 525 individuals, many of whom were seen more than once. Working with these individuals often involved contacting several others to assess the situation thoroughly and facilitate resolution.

Facilitate & Mediate

The Staff Ombuds Office conducted 26 mediation sessions involving 43 individuals, including two-person and multi-party sessions. These mediations entail extensive preparation of the parties. While these cases are more time-consuming, they often result in the greatest transformations between individuals in conflict.

Refer

The Staff Ombuds Office often connects individuals with other university resources. From 2008–2010, the Staff Ombuds Office made over 200 referrals to other services, including CARE Services, Employee Relations, Discrimination Complaint Resolution Coordinators, Campus Climate and Compliance, Center for Organizational and Workforce Effectiveness (COrWE), Labor Relations, Unions, UCPD, Audit and Advisory Services and other whistle-blowing resources.

Train

The Staff Ombuds Office provided a total of 29 conflict resolution classes in 2008–2010 with 461 participants. The majority of these classes (21) took place during 2008–2009 when the office was fully staffed. Workshops included Communicating Effectively During Conflict for Non-Supervisors, Managing Conflict in the Workplace for Managers and Supervisors, Civility: Respect in Action, Bullies and How to Deal With Them, Dealing With Difficult Situations and Behavior in the Workplace, E-Mail Civility, and Introduction to Mediation: Facilitating Workplace Disputes. Offerings also included tailored versions of these trainings for staff in individual departments such as Residential & Student Service Programs (RSSP), Letters & Science Advising, CITRIS (Center for Information Technology Research in the Interest of Society), International House, the Graduate Division, Human Resources, and the Academic Senate. Due to staff shortages and cuts, the Staff Ombuds Office would have eliminated training in 2009–2010, but for funding provided by the Center for Organizational and Workforce Effectiveness (COrWE) that allowed for 8 campus and tailored departmental trainings to continue throughout the fiscal year.

Consult

The Staff Ombuds Office consulted with key administrators and leaders in Human Resources, COrWE, Academic Personnel, CARE Services, the Equity & Inclusion Division, Campus Climate and Compliance, Academic Senate, Student Affairs, Staff Advisors to the Regents, the Office of the Chancellor, and various staff organizations to bring systemic problems to the attention of the responsible change agents and discuss general campus conflict trends and responses.

Outreach

During this two-year time period, the Staff Ombuds Office made approximately 858 targeted outreach contacts, most of which (601) occurred in 2008–2009 when the office was fully staffed. Outreach included presentations for New Employee Orientation, the Berkeley Staff Assembly, the Chancellor’s Staff Advisory Committee, union representatives, and various campus staff organizations and leadership. This outreach also included individual outreach to 234 departmental administrators and human resource professionals by phone to share information about ombuds services, mail brochures, and answer questions. The Staff Ombuds Office also provided on-site informational presentations to campus departments such as Plant and Microbial Biology, Economics, Early Academic Outreach Program, School of Public Health, Physical Plant – Campus Services, Business Services, and University Health Services.

In addition to these targeted outreach efforts, the Staff Ombuds Office attended various campus climate meetings, staff organization receptions, and informal staff-oriented gatherings; tabled at large campus events such as Staff Appreciation Day, the Chancellor’s Leadership Forum, and the Native American Diversity Conference; and held a Staff Ombuds Office Open House for the campus community celebrating the 25th Anniversary of the Office.

For more information about Staff Ombuds Office Activities, including Accomplishments and Challenges please see Appendix A.

CASELOAD VOLUME

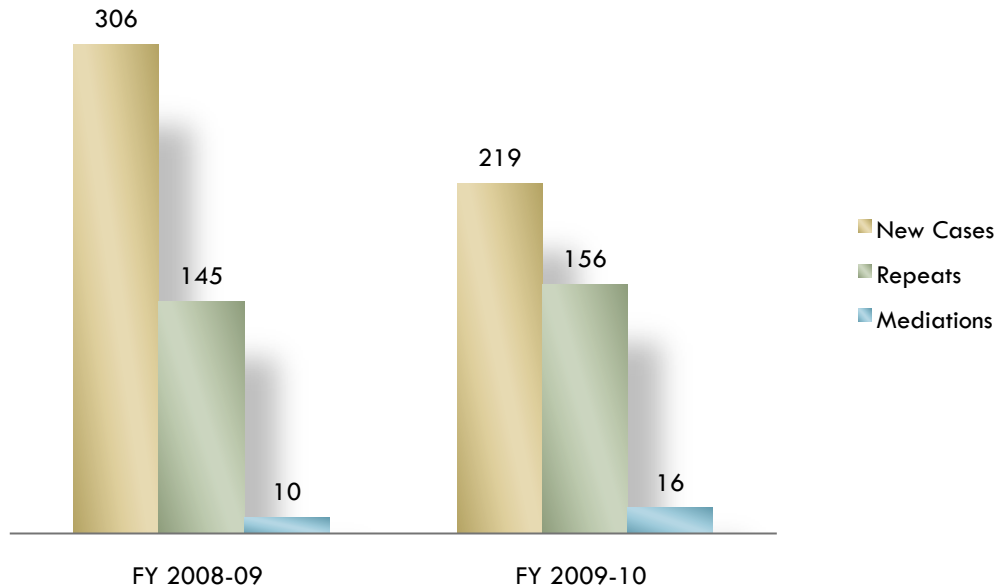


Figure 1. Caseload Volume (not including Lawrence Berkeley National Laboratory)

Decreased Utilization Rates

From 2008–2010, the Staff Ombuds Office handled 852 total appointments, including 525 new cases/individual appointments, 301 repeat appointments, and 26 mediations. Between these two years, the Staff Ombuds Office experienced a 15% decrease in the total number of appointments. While the number of new cases decreased by 28% from 306 to 219, the number of new cases requiring multiple follow-up appointments substantially increased. Of the 306 new cases in 2008–2009, 47 (15%) required multiple appointments; while in 2009–2010, of the 219 new cases, 81 (37%) required multiple appointments. As a result, repeat appointments constituted 31% of our total appointments in 2008–2009; whereas in 2009–2010, repeat appointments rose to 40% of the total appointments. This rise in repeat appointments is a result of the substantial increase in complexity and intensity of cases handled by the Staff Ombuds Office. In addition, more staff members sought to find mutually agreeable ways to resolve their disputes through mediation services offered by the Staff Ombuds Office, up by 60%. In short, while the Staff Ombuds Office experienced a decrease in overall appointments, the scope of the Ombuds Office workload is not reflected in these numbers alone as time involved in each case increased with complexity.

The decrease in the number of visitors to the Staff Ombuds Office can be explained in part due to (1) campus staff reductions that resulted in increased fear, conflict avoidance, and workload demands; and (2) internal ombuds staff reductions that resulted in substantially reduced outreach activities.

Campus Staff Reductions

During 2008–2010, 443 permanent staff members and 36 temporary staff members were laid off from the University. Fear of layoffs only intensified during this two-year period of time as layoffs for permanent staff jumped from 122 in 2008–2009 to 321 the following fiscal year.

The Staff Ombuds Office observed a corresponding increase in fear, stress and anxiety as many employees expressed concerns that bringing problems to light might result in their termination. In total, the headcount for staff dropped from 9,040 as of April 30, 2009 to 8,193 the same time the following year.¹ This change represents a 9% (847) decrease in headcount for staff. Staff reductions coupled with the hiring freeze triggered workload increases for the remaining employees, many of whom became less willing to take time from work to air their concerns or feared losing their own jobs in this uncertain climate. In fact, the Staff Ombuds Office experienced an unusual number of cancelations in 2009–2010 due to workload issues. In addition, employees seemed to wait longer before seeking assistance from the Office because they were unable to take time to address their problem, dispute or conflict. Typically, this delay only intensified the existing conflict situations. In fact, one of the most common comments from individuals as they leave their appointment with the ombudsperson is that they wish they had come to our office sooner.

Internal Office Reductions

The reduction in visitors may also be due to the reduced outreach activities of the Office following the retirement of the Director of the Staff Ombuds Office in June 2009 and the still vacant position of full-time Associate Ombudsman. Without the normal three-person staffing, targeted outreach activities were substantially reduced by 57%. Outreach activities regularly account for new visitors to the office so such a sharp decline in outreach negatively impacted caseload volume. In addition, ombuds training classes and workshops dropped by 62% reducing the number of employee participants by 70%. These classes and workshops also provided an opportunity for staff to learn about the Ombuds Office and follow-up with individual appointments to address their concerns.

¹ Figures exclude non-senate academics, as permanent non-senate academic members were minimally impacted by layoffs (3) during this two-year time period.

CASELOAD DEMOGRAPHICS

From 2008–2010, the Staff Ombuds Office served employees in approximately 125 or 50% of the total 248 (as of 12/31/09) campus departments. Concerns regarding management and employee relationships represented 71% (218) of all visits in 2008–2009, and proportionally increased to 79% (172) in 2009–2010. On average, non-supervisory employees constituted 51% of our visitors, 42% were supervisors/managers, and the remaining 7% were “others” such as non-employee UC affiliates or members of the public. Most of our visitors were in career staff positions; approximately 1% were on probation, and 7% were on limited appointments or contract positions.

Job Group Distribution

In terms of major campus job group categories, the distribution is as follows:

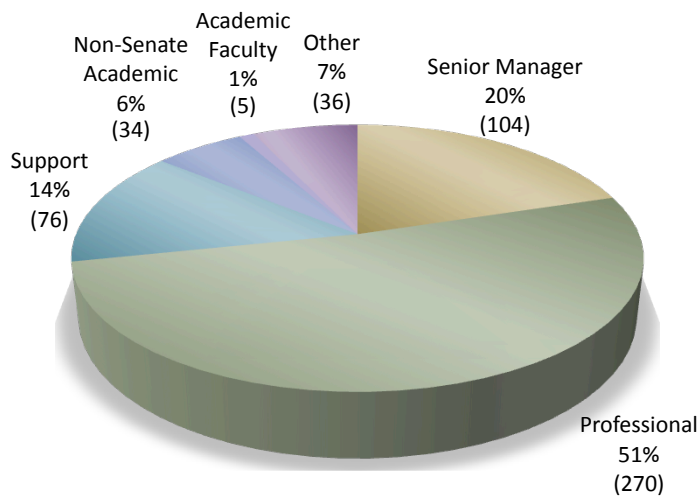


Figure 2. Job Group Distribution

While Non-Senate Academics represented 6% (34) of our two-year caseload, this number proportionally increased from 5% in 2008–2009 to 9% in 2009–2010. Academic faculty cases constituted only 1% (5) of our caseload. Academic Faculty may not be aware that the Staff Ombuds Office assists faculty who serve in a management capacity, such as deans or chairs. In addition, faculty may also utilize the [Faculty Ombudsperson](#), a standing committee of the Berkeley Division of the Academic Senate.

Support staff represented 14% (76) of our two-year caseload. This job group includes positions such as administrative assistants, library assistants, childcare workers, patient care technical employees, service workers, police, skilled crafts employees, and others.

Sixteen percent of all visitors to our office were represented by unions, most in CUE (Coalition of University Employees) and AFSCME (American Federation of State, County and Municipal Employees). Union employees also belonged to UPTe (University Professional and Technical Employees), FUPOA (Federated University Police Officers Association) and ACBCTC (Alameda County Building and Construction Trades Council).

Of all visitors to the Staff Ombuds Office, 42% serve in a management or supervisory capacity, including 20% (104) Senior Managers, such as departmental directors and high-level managers. Professional Staff (51%) represent the largest population of visitors to the Staff Ombuds Office, including 115 professional managers/supervisors and 155 non-managerial/non-supervisory professionals. These Professionals work in the following job fields including, but not limited to: General Administration, Finance, Student Services, Healthcare, Fundraising, Human Resources, Information Technology, Research, Communications, and External Affairs. The vast majority of Professional staff are not represented by unions.

Gender Distribution

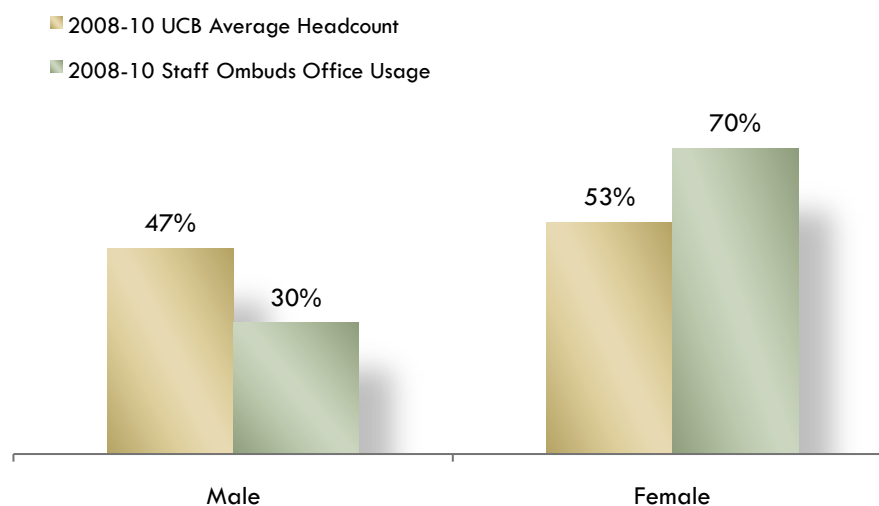


Figure 3. Gender Distribution²

The gender distribution of users of our services has remained steady for both years. Women continue to be the highest gender group among visitors for both fiscal years at 72% for 2008–2009 and 68% for 2009–2010. Male representation increased slightly by 4% in fiscal year 2009–2010. The gender disparity in utilization of ombuds services comports with well-documented trends that show consistent gender differences in help-seeking behavior.

² UCB Average Headcount is based on HCM – BAIRS demographic data contained in UC Berkeley – Staff EEO Compliance document dated September 20, 2010. Data includes demographics for staff and non-senate academics taken from headcounts on April 30, 2009 and April 30, 2010.

Ethnic Distribution

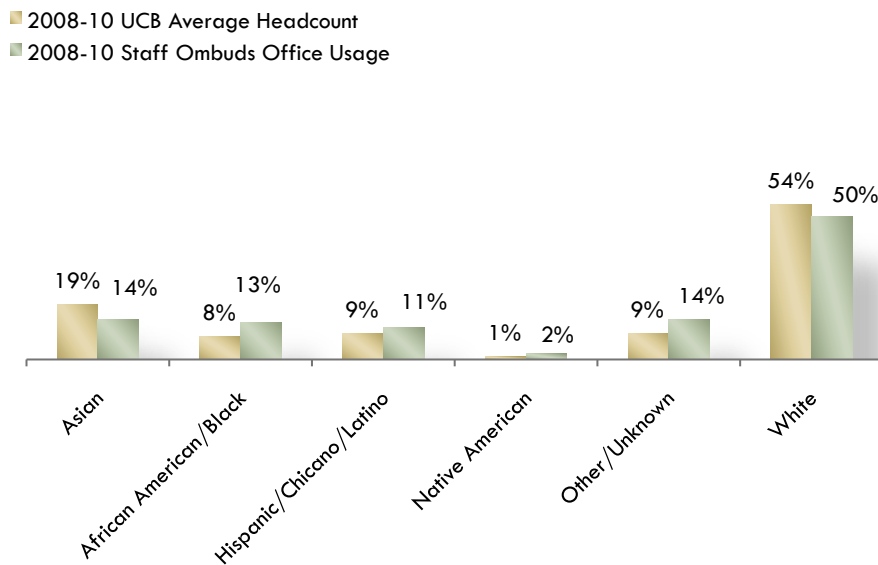


Figure 4. Racial/Ethnic Distribution³ (totals for the Staff Ombuds Office exceed 100% because individuals may claim multiple ethnicities)

The ethnic distribution of staff and non-senate academics using the Staff Ombuds Office has remained fairly steady and representative of the campus workforce. Minority group representation among office visitors remained stable at 40% (121) for 2008–2009 and 39% (85) for 2009–2010. During these two years, the ethnic distribution of office visitors showed slight proportional changes:

- Asian staff utilization, including Chinese, Filipino, Korean, Vietnamese, East Indian, Japanese, and Pacific Islander staff, decreased by 3%;
- African American/Black staff utilization increased by 1%;
- Hispanic/Chicano/Latino staff utilization increased by 1%;
- Native American staff utilization remained the same at 2%;
- Other/Unknown staff utilization dropped by 4%; and
- White staff utilization increased by 8%.

³ *Id.*

PRIMARY WORKPLACE CONCERNS & TRENDS

The following list ranks the leading workplace concerns and provides a comparison of conflict issues brought to the Staff Ombuds Office between 2008–2009 and 2009–2010. To view a complete list of all visitor concerns the Staff Ombuds Office tracks, see Appendix B.

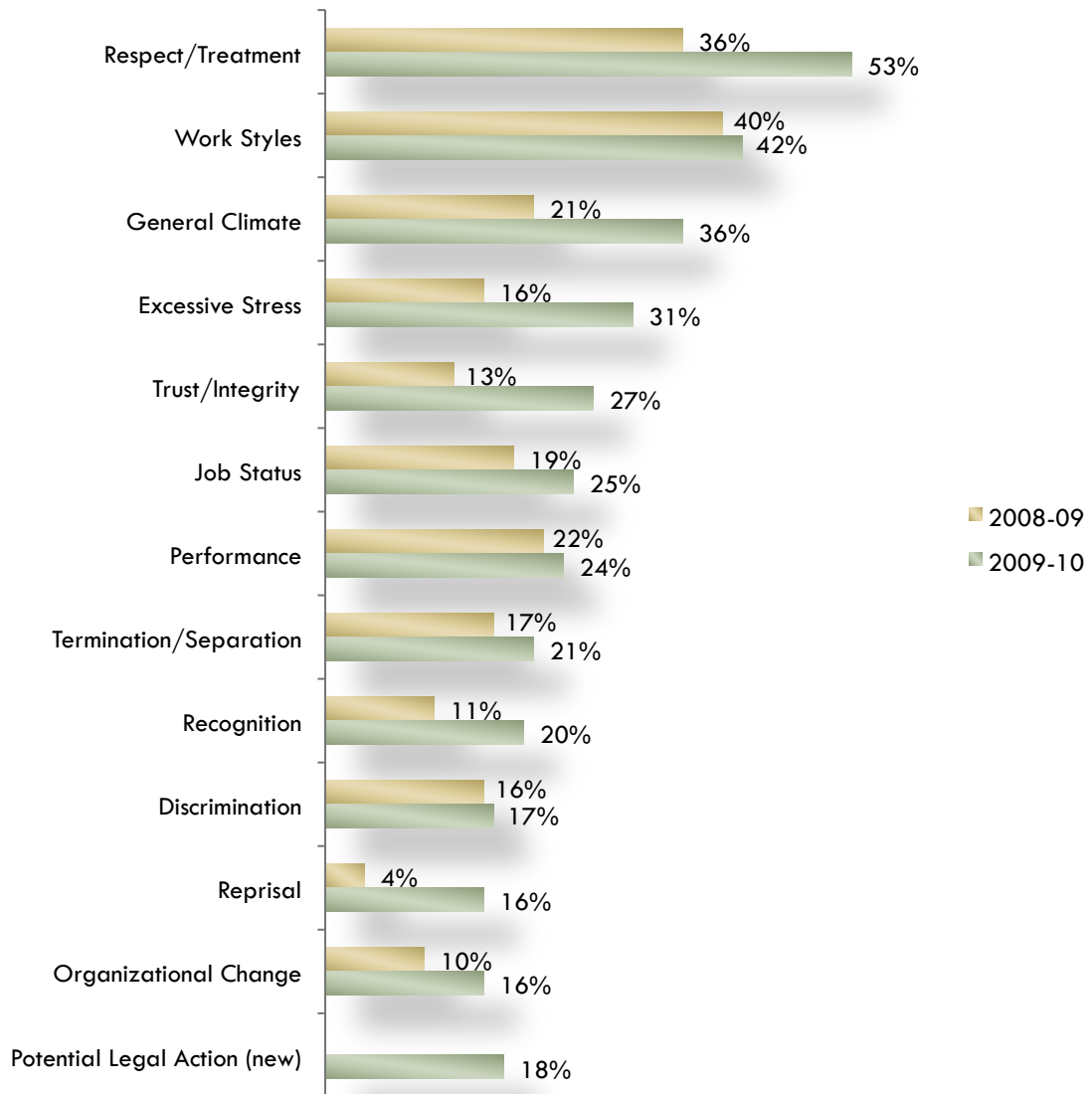


Figure 5. Primary Workplace Concerns

Lack of Respect Up 17%

Respect and treatment issues are typically the leading concerns brought by staff members in any given year. Over the past two fiscal years, respect and treatment issues have increased from 36% to 53%. These issues include complaints of incivility and inappropriate behavior, including disregard for other people, rudeness, ridicule, cursing, yelling, interrupting, harsh or demeaning language and tone of voice, public embarrassment, passive aggressiveness, unresponsiveness, lack of respect for personal boundaries, etc. Included in this category are cases involving allegations of “bullying.” See Observations & Systemic Recommendations on page 16. The Staff Ombuds Office has observed that the increase in staff incivility is exacerbated by the increased work-related stress, pressure, and anxiety experienced by management and non-management alike as they cope with staff shortages and increased workload.

Excessive Stress Up 15%

Because the Staff Ombuds Office helps employees who are experiencing workplace problems, most individuals who use our office are under stress. For our purposes, excessive stress is work-related stress that rises to such a level that it manifests physically or requires professional counseling and psychological services. Due to the increased fear of layoffs, staff who are experiencing workplace conflict often experience physical manifestations of stress, including loss of sleep, panic attacks, heart palpitations, skin disorders, hair loss, migraines, emotional outbursts (crying or sobbing), poor concentration, etc. Many individuals are worried about how their loss of employment will impact their families, including lack of health care, the inability to afford rent or mortgage payments or to take care of their children’s needs. Not only the fear of layoff, but also the fear that individuals will not be able to find another job exacerbates work-related stress. During the two years of this report, [unemployment in California](#) rose from 7.6% in July 2008 to 12.2% in June 2010. These grim statistics cause grave anxiety for staff who fear losing their employment in such a poor economic climate and job market.

General Climate Issues Up 15%

While most employees visit the Staff Ombuds Office to express concerns about their individual conflict situation, many times they will also describe situations that impact the general workplace atmosphere, including group morale, high turnover, negative gossip or rumors, and/or issues with prevailing behaviors, norms or attitudes within the organization. Due to the significant organizational changes during the past two years, it is not surprising that complaints about the general climate have increased.

Lack of Trust/Integrity Up 14%

Conflicts involving concerns of trust and integrity, including suspicions of dishonesty or ulterior motives or distrust of other's judgment, increased from 13% to 27%. This increase likely stems from the instability and uncertain workplace climate. Some examples of trust and integrity issues include distrust of management rationale for layoffs, reorganizations, or other management decisions; suspicions that other staff assume work outside their job description in order to protect their job; or allegations of lying or deception.

Reprisal Up 12%

Staff complaints of perceived reprisal or retaliation for an action taken by an employee rose from 4% to 16%. These cases often involve allegations that staff members are "paying for" behavior management does not approve of, particularly if there is a belief they had a right to that action. Examples of reprisal may involve change of job duties, cutting out an employee from meetings, withholding information, poor performance reviews, termination, or incivility. Those employees who felt most at risk of reprisal were in contract positions or held probationary status.

Lack of Recognition Up 9%

Staff complaints that they are not recognized for their work increased from 11% to 20%. This increase is largely due to management failure to appreciate the increased responsibilities that staff have assumed due to staff shortages resulting from retirements, layoffs, terminations, unfilled vacancies, hiring freezes, and furloughs. The most common complaint is that management does not understand or acknowledge the increased responsibilities staff have assumed during these times.

Potential Legal Action New

Beginning in fiscal year 2009, the Staff Ombuds Office began tracking cases involving potential legal action. These are cases in which a staff member may be considering taking legal action against the University or the staff member raises facts that suggest the University may be at risk of litigation. This category reached 18% (40) of the total visitor concerns. Since one lawsuit typically costs an average of \$100,000 (not counting the loss and cost in the work hours and wages of the litigants), this high number portends potentially high legal costs for the University if conflicts are not caught early and managed constructively.

Discrimination

During 2008–2010, 88 individuals (17% of total visitors) brought concerns involving allegations of discrimination to the Staff Ombuds Office. Of the 88 individuals alleging discrimination, 24 of these individuals alleged multiple bases for discrimination, which brought the total complaints of discrimination to 117. Of these 117 forms of discrimination claimed, discrimination on the basis of race/ethnicity and gender represented the majority of concerns.

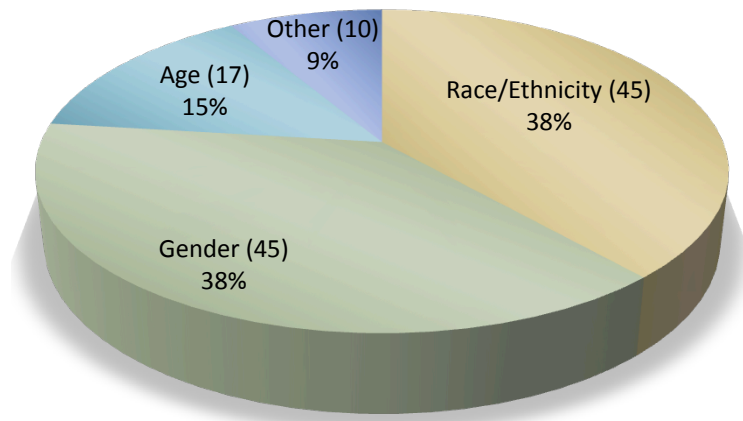


Figure 6. Discrimination Categories

As the table comparing 2008–2009 to 2009–2010 below shows, allegations of discrimination on the basis of race/ethnicity dropped significantly from 41% (28/69) in 2008–2009 to 35% (17/48) in 2009–2010.

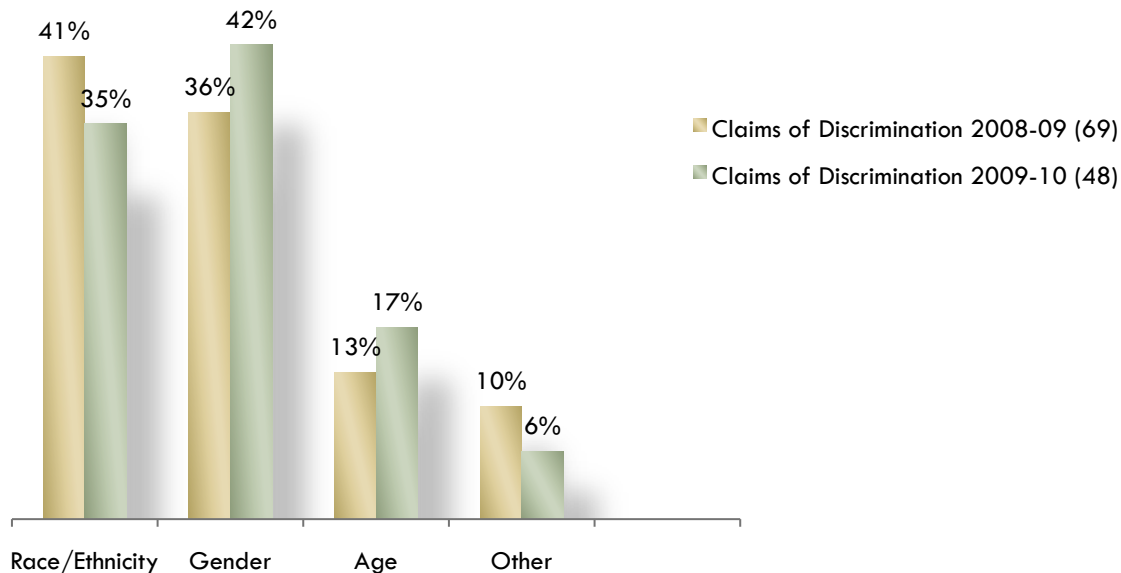


Figure 7. Two-Year Comparison of Discrimination (includes multiple bases for discrimination)

Gender, a primary concern in 2009–2010, proportionally increased from 36% (25/69) in 2008–2009 to 42% (20/48) in 2009–2010. Age discrimination was the third top concern and also proportionally increased over the previous year from 13% (9/69) to 17% (8/48) in 2009–2010. Other forms of discrimination were uncommon and included discrimination on the basis of health/disability, sexual orientation, national origin, socio-economic class, marital status, and military status.

OBSERVATIONS & 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 based on its direct observations. An issue is considered “systemic” when the source can be located at least in part in organizational policies, practices, structures, and/or culture.⁴

After analyzing the concerns that emerged over the last two years the Staff Ombuds Office made 7 recommendations to address systemic issues involving workplace bullying, organizational communication about layoffs, and building staff conflict competencies. The following section provides a discussion of the issue, the recommendation, and the campus offices that could best lead the change.

Workplace Bullying

The Staff Ombuds Office has observed an alarming increase in allegations of bullying defined as prolonged, repeated psychological and/or physical intimidation resulting in stress-related physical health complications or psychological/emotional injuries. Last fiscal year alone, the Staff Ombuds Office handled concerns from numerous individuals involving allegations of bullying in various departments. This increase in staff complaints comports with reports finding that in times of major organizational stress, including budget cuts, layoffs, changes in leadership and organizational design or processes, bullying increases.⁵

Workplace bullies may use physical intimidation, including finger-pointing, invading space, looming or hovering, and slamming objects. However, non-physical intimidation, including threats, belittling comments, public humiliation, insults, name-calling, swearing, glaring, yelling, rage, severe tone of voice, ostracism or exclusion, constant interruptions, withholding information, is equally damaging to targets of bullying. In isolation, experiencing one of these behaviors may seem minor; however, what makes bullying unique and particularly toxic is the frequency and duration of exposure.⁶ Bullying is not a one-time event. It is a repeated pattern of negative behaviors that takes its toll on targets over a period of time. In addition, the University suffers from increased sick leave,

⁴ Susan Sturm & Howard Gadlin, Conflict Resolution and Systemic Change, *JOURNAL OF DISPUTE RESOLUTION*, no. 1 (2007).

⁵ See e.g. Ed Frauenheim, [Recession Unleashes Boss Bullying](#), *WORKFORCE MANAGEMENT* (April 2010).

⁶ Loreleigh Keashly, [Some Things You Need to Know but may have been Afraid to Ask](#), *JOURNAL OF THE INTERNATIONAL OMBUDSMAN ASSOCIATION*, vol. 3, no. 2 at 12 (2010).

absences, turnover, reputational damage, and decreased productivity and morale that are the hallmarks of workplace bullying.⁷

Recommendation 1: Establish a Campus Civility Project

Suggested Lead Offices: *University Health Services & the Equity and Inclusion Division*

Increasing awareness of the definition of bullying, the signs of bullying in the workplace, the impact it has on targets, and the campus support resources may encourage staff and bystanders to seek assistance and establish a culture where bullying is not tolerated. Establishing a Campus Civility Project, including an Anti-Bullying Campaign, to increase awareness could be a first step toward bringing attention to a problem that often goes unreported.⁸ Because of the harm to employee health and safety and the damage to the workplace climate, the Staff Ombuds Office recommends that University Health Services and the Equity & Inclusion Division lead this effort.

Recommendation 2: Create Comprehensive Anti-Bullying Training

Suggested Lead Offices: *Employee Relations, CARE Services, the Staff Ombuds Office, & the Interactive Theater Program*

Tackling workplace bullying requires engaging multiple resources in creating a comprehensive and coordinated campus-wide educational program that engages Employee Relations (to address the management and grievance aspects of workplace bullying); CARE Services (to address the psychological effects and stress responses to workplace bullying) and the Staff Ombuds Office (to address the informal conflict resolution and coaching options to end workplace bullying). The Interactive Theatre Program (ITP) could also be engaged to create training videos of workplace bullying scenarios to increase understanding and audience engagement. With appropriate resources, these trainings could be tailored for various audiences, including human resource specialists, managers, staff, and faculty.

⁷ *Id.*

⁸ Workplace Bullying Institute & Zogby International, [U.S. Workplace Bullying Survey](#) (Sept. 2007) (finding that 40% of bullied targets take no action and do not report bullying either formally or informally). In the fall of 2010, the University of California launched a new system-wide reporting mechanism found at https://ucsystems.ethicspointvp.com/custom/ucs_ccc/ to report campus bullying, acts of intolerance, and hostile climate issues in an anonymous manner. Depending on utilization, this mechanism may increase understanding of the extent of workplace bullying.

Recommendation 3: Implement a Campus Anti-Bullying Policy

Suggested Lead Office: *Office of Human Resources*

Targets of bullying often feel powerless. The powerlessness is increased by the lack of policy prohibiting workplace bullying. While the [Principles of Community](#) “call for civility and respect in our personal interactions,” this statement does not define or prohibit workplace bullying. As a result, unless a target is a member of a protected class, there is little basis for a formal grievance. In establishing an anti-bullying policy, the Office of Human Resources could look to proposed anti-bullying legislation or other countries’ laws prohibiting workplace bullying.⁹ Establishing a policy will give more protection to targets, especially those who are informed that bullying cannot be stopped because such a request limits individual freedom of expression.

Recommendation 4: Centralize Handling of Bullying Complaints

Suggested Lead Offices: *Office of Human Resources & the Office of Ethics, Risk, and Compliance Services (OERCS)*

Targets of bullying who have utilized the Staff Ombuds Office often complain that Departmental Human Resource Managers (DHRMs) do not have the ability or power to end bullying, especially when the alleged bully is in a management position that is equal to or higher than the DHRM. To address possible power disparities and enhance perceived neutrality, Employee Relations, the new Human Resources Shared Service Center, or an independent compliance department, such as the new Office of Ethics, Risk, and Compliance Services, should handle all complaints of bullying. In addition, one individual with expertise in workplace bullying could be designated to investigate these particularly challenging cases. Currently, to utilize campus experts in specialized compliance offices, such as Campus Climate and Compliance or Employee Relation’s Discrimination Complaint Resolution Coordinators, targets must also allege that they experienced bullying due to their protected class status.

⁹ See <http://www.healthyworkplacebill.org/> for a list of 18 states that have proposed the Healthy Workplace Bill and existing international anti-bullying legislation.

Recommendation 5: Ensure Campus Accountability

Suggested Lead Offices: *Employee Relations, CARE Services, the Equity and Inclusion Division, the Office of Ethics, Risk, and Compliance Services (OERCS), & the Staff Ombuds Office*

Managing bullying behaviors requires new accountabilities. Managers need new skills and tools to establish and communicate civility standards and expanded investigative procedures are needed to intervene when civility standards are not met.

The University's Principles of Community should be incorporated in campus departments and periodically measured if they are to be realized. Managers can strengthen the Principles of Community by developing departmental standards for civil behavior and methods for measuring success.

Where multiple allegations of bullying exist or turnover is particularly high, management could utilize 360 degree evaluations, simple climate surveys, and exit interviews to identify and address ongoing cases of workplace bullying. In addition, corrective action systems could include special training for all staff and training and counseling for offenders. If expectations for a civil climate are still unmet and bullying behavior persists, managers could use performance tools or tap campus formal investigative resources to help re-focus efforts.

Investigators who produce reports where bullying is identified as a problem should follow-up with departmental managers until effective recommendations have been implemented and the identified bullying behavior has ended. Follow-up efforts can incorporate simple, anonymous and periodic department climate questionnaires to measure whether the desired behaviors increase or decrease and work with managers until progress is realized. Bullying behavior requires immediate action, the use of many performance systems, consultation with experts, and consistent attention until it ends.

Lastly, it is important that training, compliance, human resources, counseling, conflict resolution, and risk management offices meet at least annually to share and discuss prevention and intervention efforts and innovative ideas and new tools for managing and investigating workplace bullying.

Organizational Layoffs & Communication

During 2008–2010, a number of staff members expressed concerns about actual and proposed layoffs. While the Staff Ombuds Office does not have the ability or authority to change management decisions, including layoffs, it noted trends in complaints about the layoff process that could be addressed at a systemic level. The two most common complaints about the layoff process involved (1) lack of transparency and (2) inability to provide input to inform the decision making process.

While transparency is a noble value, managers interpret this concept differently. As a result, communication about the layoff process could be disjointed with staff reporting to one manager having more information than staff reporting to a different manager in the same unit. Staff were upset to hear about possible layoff decisions from colleagues outside their reporting line who appeared to have more access to information. In addition, staff wanted the opportunity to provide input into the layoff process, especially when layoffs were the result of reorganization within the department. The ability to provide such input prior to a decision being made was particularly important to staff who felt that after-the-fact input was not valued.

Recommendation 6: Implement a Management Communication Strategy

Suggested Lead Offices: *Campus Department Heads & the Office of Human Resources*

Supervisors and managers reporting to the same management team could improve organizational communication regarding staff reductions by establishing a communication strategy to guide them through the layoff process. Implementing the [communication guidelines](#) established by Human Resources will help in developing an effective communication strategy. These guidelines encourage “two-way communication, which provides for information flowing to employees and for ideas and feedback flowing back to management.” By using two-way communication, staff feel they have a part in making and understanding decisions that affect them, and managers may also benefit from new staff ideas about budget saving strategies. Meetings for gathering staff feedback should occur prior to a decision being made. In addition, staff feel their feedback is valued when they know management has considered their input in the decision-making process and followed up with a response. This type of two-way feedback loop should be implemented as part of Human Resources’ [Department Layoff Flowchart](#), which encourages consulting with staff as part of the layoff decision-making process. In presenting decisions made regarding layoffs, managers should consider holding unit-wide meetings so that all employees hear the same information. If this is not possible, managers could time separate meetings to occur on the same day with the same information communicated to each group, thereby avoiding unnecessary rumors, anxiety, and lost productivity.

Conflict Management

Conflict is an essential part of work and life, and many benefits derive when it is well managed. Too often, however, in the absence of training, seasoned managers promoted from within or hired from outside apply their own conflict management style from their personal experiences, which may not fit the specific situation or the workplace culture. Others, new to management, struggle on their own to develop their style. An inappropriate conflict management style can cause needless anguish for these managers and their staff and trigger unwanted destructive conflict. Managers need to understand their default style, what new styles they must acquire, and when a specific style is needed for a specific situation or a unique work group.

Recommendation 7: Build a Comprehensive Conflict Competency Program

Suggested Lead Offices: *Staff Ombuds Office & the Office of Human Resources*

Designing a comprehensive conflict management program for staff is essential to effective management of human resources. In addition to increasing conflict competencies, such a program should align with some of our key human resource systems, especially hiring, training and development, performance evaluations, corrective action, and promotion.

While the Staff Ombuds Office offers a variety of workshops to improve workplace civility, conflict management, and effective communication, it has yet to create a comprehensive conflict competency curriculum. Such a curriculum could expand to include new topics on conflict resolution resources and processes, conflict analysis, individual conflict styles, intercultural considerations in conflict, constructive communication, facilitation, group dynamics, work style conflicts, and more.

In addition to expanding the conflict competencies of staff, such a program could align with existing Human Resource systems. For example:

- the hiring process could include questions regarding applicants' understanding of their conflict management styles and examples of how and when they apply them;
- the performance process could expand the existing core competencies for supervisors to include conflict management;
- the promotion process to supervisory and management positions could require successful conflict management core competency or provide timely training for it; and
- corrective action could focus on re-training or mentoring supervisors who need more time to work on conflict competencies.

CONCLUSION

The Berkeley campus culture and its many subcultures are dynamic and responsive to an ever changing and challenging environment. While complaint resolution offices often see community members in strife, they have a special view of how people adjust or not and where policy or procedural gaps exist in the organization.

By communicating these observations, identifying possible lead officers, and providing possible options for systemic change, this Report seeks to facilitate workplace adjustment, reduce employee frustration, and contribute to the continuous improvement of the work environment. The Staff Ombuds Office looks forward to discussing possible prevention and intervention efforts contained in this Report with responsible change agents and hopes to stimulate increased dialogue and collaboration among the campus community during these times of great change and transition.



APPENDIX A: OFFICE ACCOMPLISHMENTS & CHALLENGES

Move to the Office of the Chancellor

In October 2009, the Staff Ombuds Office began reporting to Associate Chancellor Linda Morris Williams on an interim basis. In the summer of 2010, Chancellor Birgeneau announced this permanent change to the campus community, stating “This move recognizes the value and support the Staff Ombuds Office provides in managing and resolving conflicts on campus at an informal level.” This move also brings the Staff Ombuds Office into better alignment with the International Ombudsman Association Standards of Practice, which recommend that “The director of the Ombudsman Office should report directly to the highest level of the organization (such as board of directors, CEO, agency head, etc.) in a manner independent of ordinary line and staff functions.” The Staff Ombuds Office looks forward to working with Associate Chancellor Williams and Chancellor Birgeneau to better serve the campus community and address the systemic issues contained in this report.

Ombuds Services Extended to Lawrence Berkeley National Laboratory

On April 1, 2010, the Staff Ombuds Office began providing ombuds services to all employees at Lawrence Berkeley National Laboratory (LBNL). The successful launch of this program was the result of substantial planning and collaboration with LBNL, including:

- Developing a charter, contract, and program project plan for delivery of ombuds services.
- Reviewing LBNL’s organizational structure, policies, procedures, and employee resources.
- Developing a general understanding of the functions of LBNL’s operational and scientific units.
- Meeting with key administrators, including the LBNL Director, Chief Operating Officer, Employee and Labor Relations Manager, EEO/Affirmative Action Manager, Research and Institutional Integrity Manager, Security and Emergency Operations Manager, Director of Health Services, Business Manager for the Office of Chief Finance Officer, and Human Resources Policies Analyst.
- Conducting outreach to the Division Business Council, the Laboratory Support Advisory Council, and Operations to explain and market the new ombuds services program.
- Developing an online informational video, website and marketing content for ombuds services with Public Affairs.
- Tailoring a conflict issue database to provide feedback on systemic issues.

In the first three months of service, the Staff Ombuds Office provided ombuds services to 14 LBNL employees and has served a total of 42 LBNL employees thru December 2010. Assessment of services surveys and informal feedback demonstrate that LBNL employees are very satisfied with the ombuds services provided. Based on these results, the Staff Ombuds Office expects that its contract will be renewed in the following year.

New Satisfaction Surveys

On April 1, 2010, the Staff Ombuds Office began using a new Assessment of Services Survey and established a new process for obtaining feedback. Instead of surveying staff once per quarter, the Staff Ombuds Office now provides a self-addressed campus envelope to every visitor to its office. From April 1 – June 30, 2010, the Staff Ombuds Office provided in-person appointments to 45 new visitors (excluding follow-up/continuing cases or cases handled by phone). Fifteen (15) staff members or 33% responded to the survey. Most notably, 100% of those responding to the survey would use the Office again or refer others for assistance. In addition, 100% of respondents believed that through their interactions with the Ombudsperson, they developed skills or learned approaches that might help them resolve future problems.

New Collaborative Training Efforts

The Staff Ombuds Office developed and provided conflict resolution training for managers and supervisors as part of Human Resource's new [KEYS \(Keys to Enhancing Your Supervisory Success\)](#) program. This course entitled "Dealing with Disputes and Disagreements" received an average score of 4.9/5.0 from participants surveyed and was one of four modules in the Risk Management Track series. In addition, the Staff Ombuds Office provided training to members of the [Interactive Theatre Program \(ITP\)](#) to enhance development of scripts used in ITP educational workshops regarding workplace bullying. Through live performances and audience participation, these workshops increase understanding of this complex topic from a variety of perspectives.

Enhanced Data Collection Processes

The Staff Ombuds Office established a new process for collecting demographic data. Each visitor now has the option of completing a confidential demographic form that provides information to inform Staff Ombuds Office outreach efforts and understand conflict issues of various demographic groups. New demographic data collected includes self-identification of multiple ethnicities, sexual orientation, age, and years worked at UC

Berkeley. In addition, the Staff Ombuds Office added questions to solicit how individuals first learned about the office and possible referral sources.

Improved Outreach & Understanding of Diverse Conflict Issues

In spite of the overall decrease in outreach activities due to staffing shortages in 2009–2010, the Staff Ombuds Office remained committed to extending outreach to leaders of ethnic staff organizations and provided tailored presentations and data analysis for Alianza, the Asian Pacific American Systemwide Alliance (APASA), and the Black Staff and Faculty Organization (BSFO). The data analysis provided demonstrated how conflict issues differed between the general campus and each demographic group. This was the first time the Staff Ombuds Office conducted tailored data analysis for ethnic staff organizations in the 25-year history of the office.

Staff Shortages & Funding

Beginning July 1, 2009, the Staff Ombuds Office operated without an Associate Ombudsperson, resulting in a one-third reduction of its staff. This staff shortage caused excessive workload pressures that were exacerbated by the expansion of services to LBNL. Like many other campus departments, the Staff Ombuds Office “did more with less” and its personnel has been stretched beyond capacity. In February 2010, the Staff Ombuds Office received limited relief by contracting with former Director Anita Madrid to assist with its caseload on a part-time basis. After a 22-month vacancy, the Staff Ombuds Office will be fully staffed with a full-time Associate Ombudsperson beginning this spring.

Due to structural deficits left by two years of successive cuts equaling \$58,000, the Staff Ombuds Office has the ability to operate at fully capacity for two years based on its reserve of temporary funds and revenue generated by LBNL and COrWE training grants. Restoring full funding to the Staff Ombuds Office is critical in order to handle the intensity and volatility of the current caseload and expansion of ombuds services to LBNL while maintaining high-quality service. By providing the necessary resources to fully fund the Staff Ombuds Office, the University demonstrates its commitment to resolving workplace conflicts, creating a safe, caring and humane environment, maintaining respect and civility in a diverse workplace, reducing risk, and assisting staff when they are most in need.

APPENDIX B: STAFF OMBUDS OFFICE VISITOR CONCERNS

