STAFF OMBUDS OFFICE

2010-2012 | **BIENNIAL REPORT**

SARA THACKER, DIRECTOR & OMBUDSPERSON

BRIDGET M. REGAN, ASSOCIATE OMBUDSPERSON

MICHELE J. BERNAL, ASSISTANT OMBUDSPERSON

TABLE OF CONTENTS

MESSAGE FROM THE DIRECTOR

I am pleased to present the Staff Ombuds Office Biennial Report covering fiscal years 2010-2012. 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 a time of great organizational change, challenge, and opportunity. While layoffs have reduced, and furloughs and hiring freezes have ended, staff remain anxious about the future as the campus enters into the implementation phase of Operational Excellence. This large-scale effort to improve operational efficiencies has produced significant organizational changes in structures, processes and procedures. It is only natural that during this time of sizeable change, conflicts emerge with greater complexity and intensity.

While the Staff Ombuds Office provides a confidential and safe space to help individuals develop problem-solving strategies, tools, and options to better handle workplace conflicts, the Office has observed that increasingly individuals do not want to speak up or take action about a particular problem for fear that they will suffer negative consequences. As a result, these problems go unaddressed and often become obstacles to organizational achievement.

While this report describes the workplace concerns employees experienced over a two-year period of time, we hope the campus will use this report as an opportunity for problem-solving, creativity, and the collaboration needed to address systemic issues and the root causes of workplace conflict.

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 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.

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.

OFFICE ACCOMPLISHMENTS

The Staff Ombuds Office works diligently to support the problem-solving and conflict resolution capacities of individual visitors to our office and the broader campus community. Outlined below is a brief summary of the Office's accomplishments during the 2010-2012 fiscal report period, covering July 1, 2010 – June 30, 2012.

Satisfaction with Ombuds Services Remains High

Coaching and advising are at the heart of the Ombuds practice. In private, individual coaching sessions, the Ombudspersons work with employees to explore options and develop strategies to effectively resolve and better handle their concerns. This coaching often supports and enhances the development of individual communication, problem-solving, and conflict resolution skills. Each session is conducted with the respect, dignity, and autonomy of the employee uppermost in the Ombudspersons' mind.

During this report period, the Staff Ombuds Office coached and advised 500 individuals, 401 in person and 99 by phone. Each of the 401 individuals who visited our office for an appointment was given an Assessment of Services Survey. Of the 79 respondents,

- 97% found that the Ombudsperson helped identify and evaluate options to address his/her concerns;
- 90% developed skills or learned approaches that might help resolve future problems;
- 87% were better able to handle their issue following a discussion with the Ombudsperson; and
- 99% would use the Staff Ombuds Office again or refer others for assistance.

> *"Thank you for making this vital service available to UC employees. It has been invaluable as I confront my problems in my worklife."*

Group Facilitation Expands

Group facilitation services were greatly expanded during the 2010-2012 fiscal report period. The Staff Ombuds Office conducted 24 group facilitation appointments involving 40 individuals. Group facilitation involves the agreed upon intervention of the Ombudsperson to assist a group in problem solving and decision making. Each group facilitation meeting requires extensive planning and preparation by the Ombudsperson. While these cases are more time consuming, they often result in the greatest transformations of individuals and groups in conflict.

Connections to Other Campus Resources Robust

The issues the Staff Ombuds Office handles are often complex and may need referrals to other campus resources. In fiscal years 2010-2012, the Staff Ombuds Office made approximately 380 referrals to other services, including CARE Services, Employee Relations, Discrimination Complaint Resolution Coordinator, the Office for the Prevention of Harassment and Discrimination (formerly known as Campus Climate and Compliance), the Center for Organizational and Workforce Effectiveness (COrWE), Labor Relations, unions, UC Police Department, Audit and Advisory Services and other whistleblowing resources.

Campus Training Fully Reinstated

After limiting campus training due to staff shortages, the Staff Ombuds Office reinstated its full menu of classes to help employees manage and resolve workplace conflict. During this 2010-2012 fiscal report period, the Staff Ombuds Office provided a total of 25 conflict resolution classes with 357 participants. Of the 25 classes, 15 were open to the entire campus community, and 10 were specifically tailored and presented to individual departments. The majority of these classes (17) were presented during 2011-2012 when the office was fully staffed. Topics included *Bullies and How to Deal With Them, Civility: Respect in Action, Dealing with Difficult Situations and Behaviors in the Workplace, Email Civility, Introduction to Mediation: Facilitating Workplace Disputes, Dealing with Disputes and Disagreements,* and *Communicating Effectively During Conflict.*

> *"One of the best and most interesting classes I've attended — will be sending staff to attend."*
>
> Participant evaluations averaged 8.5 out of a perfect score of 10.

Outreach Rises

During this two-year fiscal report period, the Staff Ombuds Office made approximately 1,046 targeted outreach contacts, most of which (832) occurred in 2011-2012 when the office was fully staffed. This represents an increase of 22% over the previous two-year reporting period. A targeted outreach contact is an individual who attends an outreach event or is contacted directly to increase awareness about the Staff Ombuds Office. This outreach included presentations for New Employee Orientation, the Berkeley Staff Assembly Governing Council, the Council of Deans, union representatives, and various campus staff organizations and leadership. This outreach also included individual outreach to 28 departmental administrators and human resource professionals by phone to share information and answer questions about ombuds services and provide ombuds brochures for distribution. The Staff Ombuds Office also made on-site informational presentations to various groups in campus departments and control units, including, but not limited to, Student Affairs, Research, Facilities Services, Residential and Student Service Programs, Physical Plant-Campus Services, Graduate Division, School of Public Health, University Health Services, Environment, Health & Safety, Recreational Sports, and Human Resources.

In addition to these targeted outreach efforts, the Staff Ombuds Office reached countless employees by attending 15 campus events, including campus climate meetings, staff organization receptions, and informal staff-oriented gatherings. The Staff Ombuds Office also tabled at large campus events, such as Staff Summerfest, and the Operational Excellence Showcase.

Consultations Initiated Increases

The Staff Ombuds Office initiated consultations with key administrators, campus leaders and other staff providers to bring systemic problems to the attention of the responsible change agents, and to discuss general issues of concern, campus conflict trends and potential responses. For the 2010-2012 fiscal report period, Director and Ombudsperson Sara Thacker had over one hundred consult meetings with leaders in Human Resources, COrWE, Academic Personnel, CARE Services, the Equity & Inclusion Division, the Office for the

Prevention of Harassment and Discrimination, the Office of Ethics, Risk and Compliance Services, UC Police Department, Operational Excellence, Academic Senate, Faculty and Student Ombudspersons, Student Affairs, Staff Advisors to the Regents, the Office of the Chancellor, and various staff organizations.

Expert Associate Ombudsperson Hired

In May 2011, the Staff Ombuds Office was thrilled to hire Associate Ombudsperson Bridget Regan, filling a 22-month vacancy. Bridget has over 15 years of experience as a mediator, facilitator, trainer and consultant. Prior to joining the Staff Ombuds Office, Bridget was part of the teaching faculty of the International Center for Cooperation and Conflict Resolution at Teachers College, Columbia University, and a Lecturer in the M.S. Program in Negotiation and Conflict Resolution at Columbia University. Her expertise includes introductory and advanced courses and presentations on negotiation, mediation, collaborative problem solving, conflict coaching, and intercultural conflict style dynamics. Bridget also served as the Director of the Brooklyn Law School Mediation Clinic and Adjunct Associate Professor of Clinical Law. She is a certified mediation trainer for the New York State Unified Court System and has extensive experience mediating a wide variety of conflicts, including workplace, community, divorce, landlord-tenant, and victim-offender.

With the addition of Bridget, the Staff Ombuds Office was able to increase its outreach activities and offer conflict resolution training and workshops once again. These activities are often responsible for referrals to the Staff Ombuds Office and may account for the 17% increase in persons served during this reporting period.
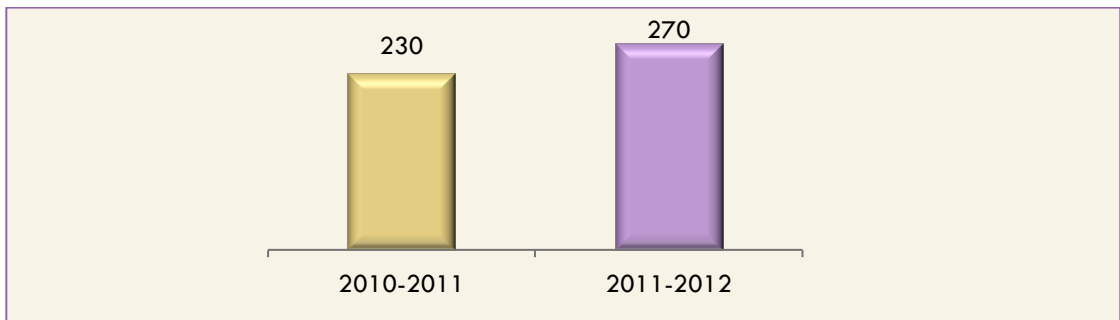
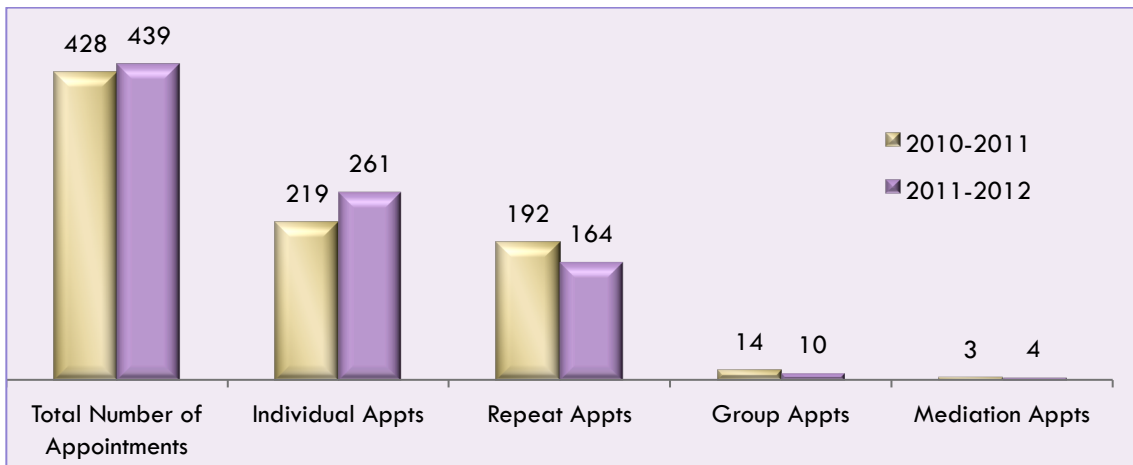## CASELOAD VOLUME

Figure 1. Persons Served

Figure 2. Appointment Types (not including Lawrence Berkeley National Laboratory)

Increased Utilization

During this two-year fiscal report period, the Staff Ombuds Office served 500 individuals, representing a 17% increase in persons served between 2010-2011 and 2011-2012. (Fig. 1) These employees participated in various types of appointments, including 480 individual appointments, 356 repeat appointments, 24 group appointments, and 7 mediations. Between these two years, the Office experienced a 19% increase in new individual appointments and a 15% decrease in repeat appointments. (Fig. 2)

Voluntary Mediation Low

In addition to individual appointments, the Staff Ombuds Office conducted 7 mediations between the 2010-2012 fiscal years. This number was surprisingly low. In contrast, between the 2008-2010 fiscal years, the Staff Ombuds Office conducted 26 mediations. Mediation is a voluntary process in which a third-party neutral, the Ombudsperson, facilitates a conversation between employees in a confidential manner. While the Staff Ombuds Office regularly offers mediation as an option, far more employees in 2010-2012 declined this option and opted to receive individual confidential conflict and communication coaching from the Staff Ombuds Office. Several factors contributed to employees declining mediation, including (1) conflict avoidance; (2) fear of retaliation; (3) lack of trust in the other party; and (4) competing workplace demands and time constraints.

CASELOAD DEMOGRAPHICS
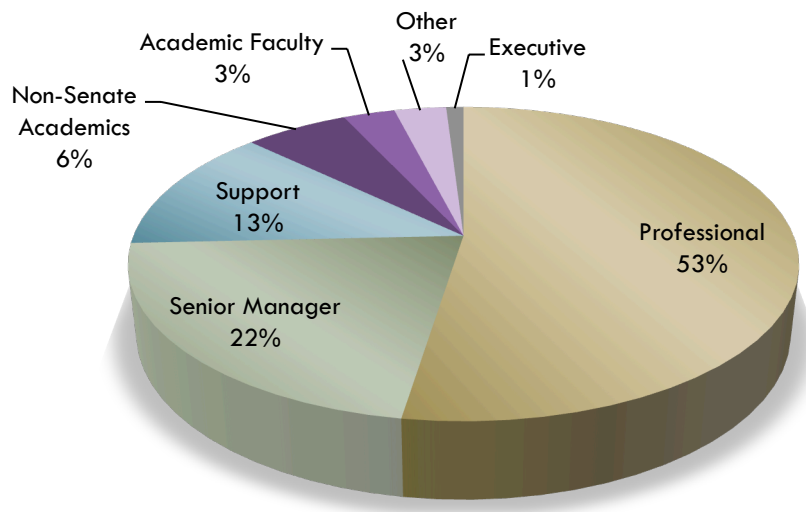
Job Group Distribution

Figure 3. Job Group Distribution

During fiscal years 2010-2012, the Staff Ombuds Office served employees in 7 campus control units. Professional staff represented the largest population of visitors to the Office at 53% or 264 employees, including 80 professional managers/supervisors and 182 non-managerial/non-supervisory professionals and 2 of unknown professional status. Those employees in the Professional job group work in the following fields including, but not limited to, General Administration, Finance, Student Services, Healthcare, Fundraising, Human Resources, Information Technology, Research, Communications, and External Affairs.

Support staff represented 13% (66) 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. Most staff in the Support job group are represented by unions.

Non-Senate Academics consistently represented 6% of our two-year caseload, while Academic Faculty represented only 3% of our two-year caseload, increasing slightly from 1% (3) in fiscal year 2010-2011 to 4% (10) in fiscal year 2011-2012. 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, part of the Berkeley Division of the Academic Senate.
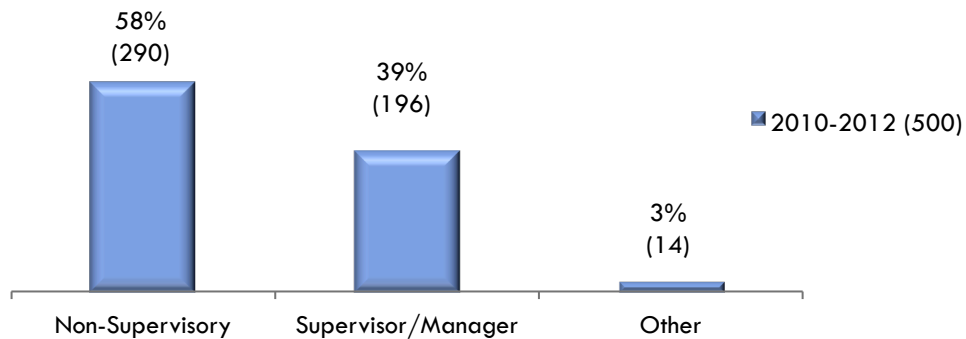
Management Status

Figure 4. Management Status

During the two-year fiscal report period, the Staff Ombuds Office served 290 non-supervisors. The utilization of non-supervisory employees was proportionally 7% higher in 2011-2012 than 2010-2011. Of the 196 supervisors and managers served, 110 were Senior Managers, such as departmental directors and other high-level managers. The utilization of supervisors and managers was proportionally 3% lower in 2011-2012 than 2010-2011. Cases handled by phone involving either non-employee UC affiliates, members of the public, or individuals who chose to remain anonymous were classified as "Other".

Union Representation
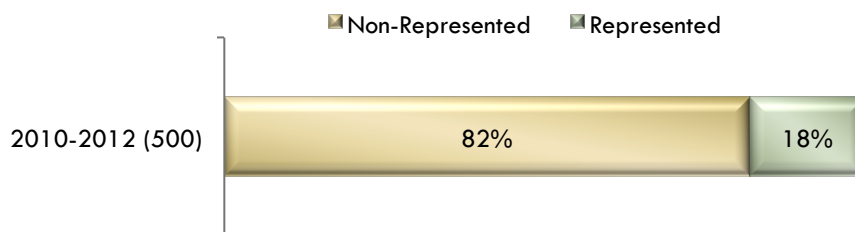
Figure 5. Union Representation

For the 2010-2012 fiscal report period, 18% (88) of all visitors to our office were represented by unions, and 82% (412) were non-represented employees. There was a 6% proportional increase in use of the Office by represented employees in fiscal year 2011-2012. This may be a result of the increased outreach efforts and tailored training by the Staff Ombuds Office to inform all segments of the campus community about our services. While the Office works with represented and non-represented employees to problem solve, resolve conflict and improve workplace communications, it does not intervene in issues covered by union

contracts. Most of the represented employees were members of CUE (Coalition of University Employees) and AFSCME (American Federation of State, County and Municipal Employees). Union employees served also belonged to UPTE (University Professional and Technical Employees), FUPOA (Federated University Police Officers Association) and ACBCTC (Alameda County Building and Construction Trades Council), UC-AFT (University Council-American Federation of Teachers) and LAUC (Librarians Association of the University of California).

Gender Distribution
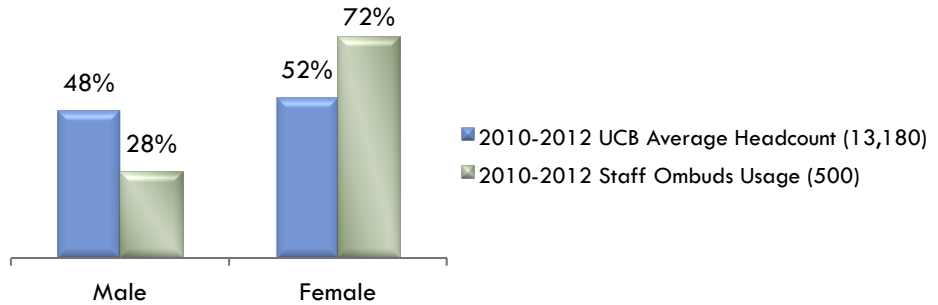
Figure 6. Gender Distribution[1]

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. This gender disparity in utilization of ombuds services comports with well-documented trends that show consistent gender differences in help-seeking behavior.

Ethnic Distribution
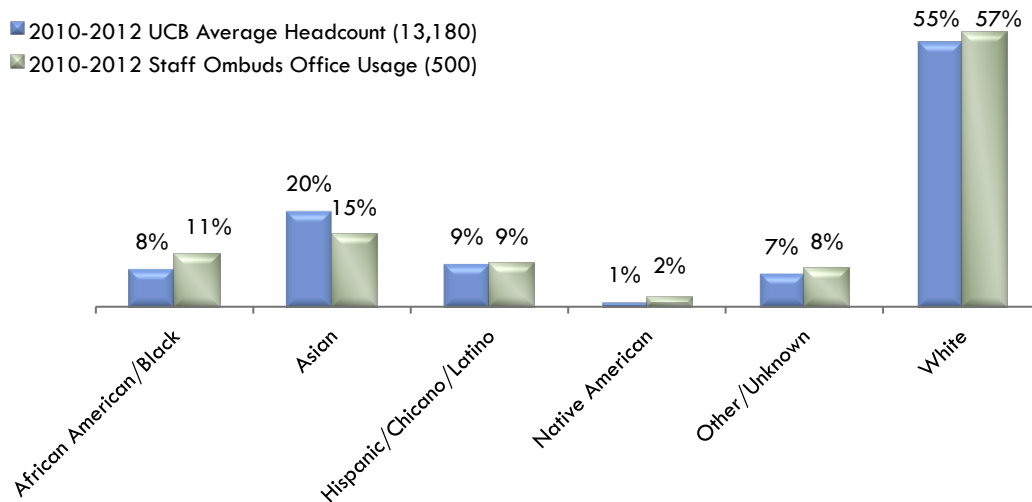
Figure 7. Racial/Ethnic Distribution[2]

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[1] UCB Average Headcount referenced in this report is based on HCM – BAIRS demographic data contained in UC Berkeley – Staff EEO Compliance document dated June 27, 2012. Data includes demographics for staff and non-senate academics taken from headcounts on April 30, 2011 and April 31 [sic], 2012.
[2] Totals for the Staff Ombuds Office exceed 100% because individuals may report multiple ethnicities.

While during this report period, the Staff Ombuds Office served employees whose ethnicity was generally representative of the campus workforce, some shifts occurred between the 2010-2011 and 2011-2012 fiscal years that are noteworthy:

- Asian staff utilization, including Chinese, Filipino, Korean, Vietnamese, East Indian, Japanese, and Pacific Islander staff, increased by 2%;
- African American/Black staff utilization decreased by 5%;
- Hispanic/Chicano/Latino staff utilization decreased by 5%;
- Native American staff utilization decreased by 1%;
- Other/Unknown staff utilization decreased by 1%; and
- White staff utilization increased by 5%.

Should African American/Black staff and Hispanic/Chicano/Latino staff utilization continue to decline, the Staff Ombuds Office will no longer be serving employees whose ethnicity generally mirrors the campus workforce. In addition, the Staff Ombuds Office remains concerned that Asian staff are underrepresented users of our services relative to the campus community. Currently, the Staff Ombuds Office meets at least once a year with the Council of Ethic Staff Organizations and with each individual ethnic staff organization to discuss outreach efforts, hear concerns, and provide information about trends and systemic issues. The Staff Ombuds Office is committed to ensuring that every member of the campus community feels welcomed and wants all employees to know that we are here to help anyone struggling with workplace problems, disputes, or conflicts.

Age Group
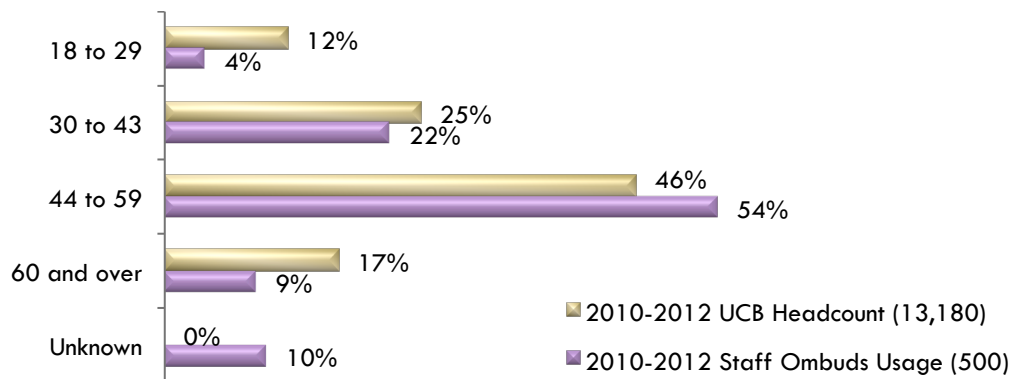
Figure 8. Age Group[3]

Utilization of the Staff Ombuds Office varies greatly by age and may be attributable to generational differences. As a result, the Staff Ombuds Office is reworking its data collection methods to comport with generational categories, including the Silent Generation (1922-1945) Baby Boomer Generation (1946-1964), Generation X (1965-1980), and the Millennial Generation (1981-2000).

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[3] UC Berkeley Human Resources Staff EEO Compliance Office uses 7 age increments in its data collection: 29 and under; 30-39; 40-49; 50-54; 55-59; 60-64; 65 and over. This report makes comparisons using approximate equivalents.

Length of Service
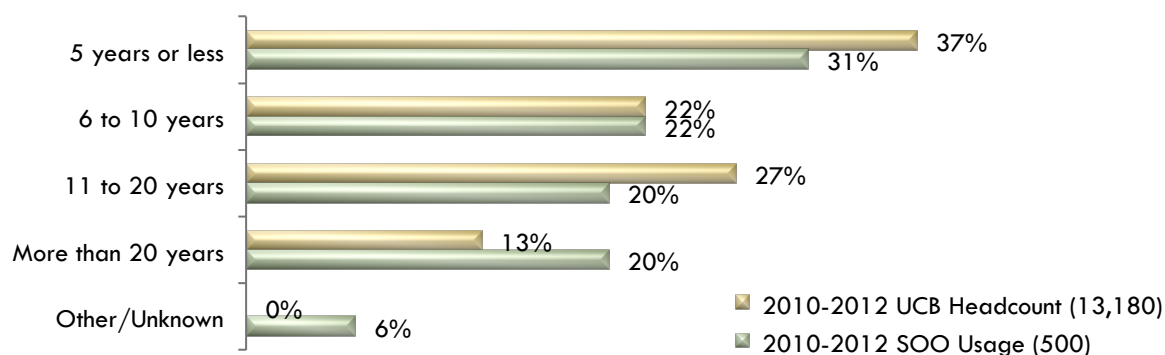
Figure 9. Length of Service[4]

The largest population served by the Staff Ombuds Office are those employees with 5 years or less of university service. Often employees who are new in their jobs have to adjust to new management styles, work styles, and organizational cultural differences that may cause conflict or exacerbate workplace problems. Employees with more than 20 years of service constitute 13% of the campus staff workforce yet represent 20% of visitors to our office. Those with the greatest length of service may be most aware of campus resources, including the Staff Ombuds Office.

PRIMARY WORKPLACE CONCERNS & TRENDS

Conflict is inevitable in our personal and professional lives. However, when conflict is managed constructively it has the potential to enhance our development, our relationships, and our overall effectiveness. The Staff Ombuds Office views each employee concern as an opportunity to increase our excellence as a campus learning community.

During the 2010-2012 fiscal report period, 74% of cases concerned management and employee relationships. Concerns involving peers represented 16% of cases, with a significant jump proportionally between the two fiscal years, 11% in 2010-2011 to 21% in 2011-2012. In 11% of the cases, employees shared concerns with the Staff Ombuds Office about individuals who work outside of their department (e.g. other departmental employees, customers, clients, or vendors). Finally, in 9% of the cases, employees came to the Staff Ombuds Office not because they were a party to a particular conflict, but because they wanted to explore ways to find other employees assistance, prevent a conflict from occurring, or explore options for themselves alone. It is important to note that an individual case may involve conflicts with multiple relationships.

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[4] UC Berkeley Human Resources Staff EEO Compliance Office uses 7 Length of Service increments in its data collection: less than 5 years; 5-9; 10-14; 15-19; 20-24; 30+years. This report makes comparisons using approximate equivalents.

What follows is a list of leading workplace concerns brought to the Staff Ombuds Office during the 2010-2012 fiscal report period. Since one visitor can have multiple concerns, percentage totals, on the chart exceed 100%. To view a complete list of all visitor concerns the Staff Ombuds Office tracks, see Appendix A.
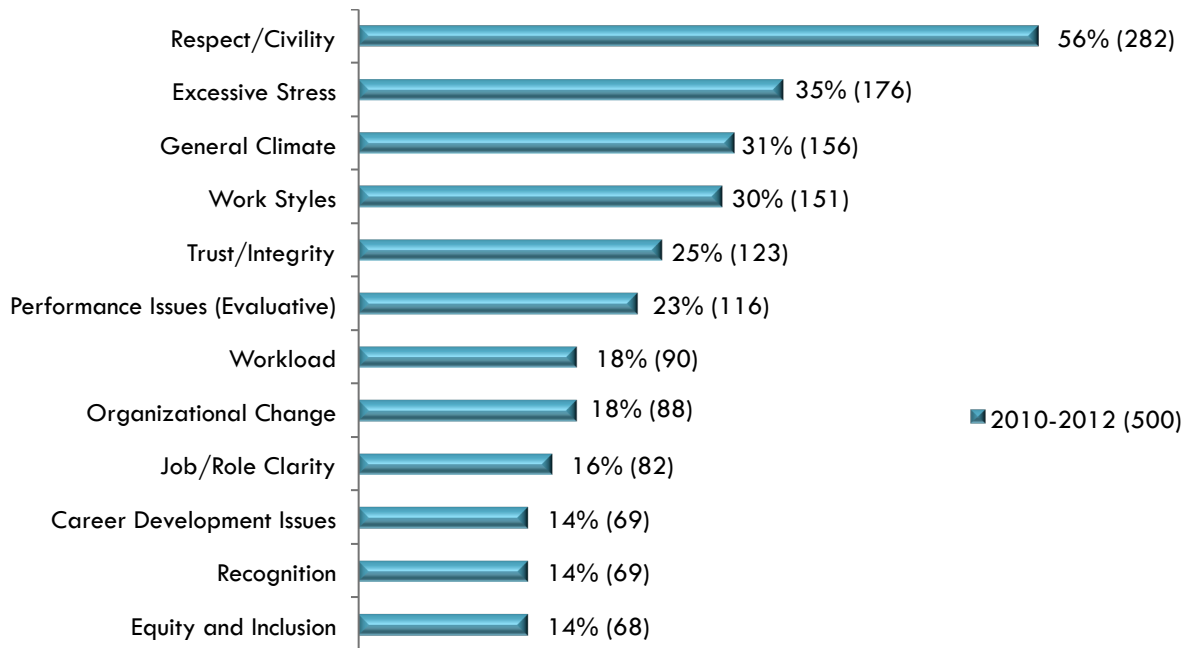
Concern	2010-2012 (500)
Respect/Civility	56% (282)
Excessive Stress	35% (176)
General Climate	31% (156)
Work Styles	30% (151)
Trust/Integrity	25% (123)
Performance Issues (Evaluative)	23% (116)
Workload	18% (90)
Organizational Change	18% (88)
Job/Role Clarity	16% (82)
Career Development Issues	14% (69)
Recognition	14% (69)
Equity and Inclusion	14% (68)

Figure 10. Primary Workplace Concerns

Respect/Civility

Respect and treatment topped the list of concerns brought by employees during this report period. The Staff Ombuds Office defines these issues as complaints of incivility and inappropriate behavior, including, but not limited to, disregard for other people, rudeness, ridicule, cursing, yelling, interrupting, harsh or demeaning language and tone of voice, public embarrassment, passive aggressiveness, unresponsiveness, and/or lack of respect for personal boundaries.

- For the two-year fiscal report period, 282 employees (56%) voiced concerns about disrespectful treatment in the workplace;
- In 2010-2011, 46% of cases related to lack of respect and poor treatment; and
- In 2011-2012, 65% of cases included these concerns, a proportional increase of 19% from the previous fiscal year.

Demonstrating respect for subordinates, colleagues, supervisors, and managers, is crucial to building and sustaining successful workplace relationships. Whenever, and wherever respect is diminished, so too are trust, cooperation, productivity, and effective outcomes. Without a basic culture of respect, staff is unable to perform at their best, or to fully support the mission of their organization. Employees voiced concerns that disrespectful treatment was caused, in some cases, by the anxiety and uncertainty related to new organizational expectations and processes. They also felt that the increase of these negative behaviors was the result of staff "jockeying for positions" in work environments with shrinking resources and job opportunities.

Excessive Stress

The second leading workplace concern was excessive workplace stress. Excessive stress is defined by the Staff Ombuds Office as work-related stress that rises to such a level that it manifests physically or requires professional counseling and psychological services.

- For the two-year fiscal report period, 176 employees (35%) reported experiencing excessive stress;
- In 2010-2011, 27% of cases included excessive stress; and
- In 2011-2012, 42% of cases included these concerns, a proportional increase of 15% from the previous year.

Typically conflict and workplace discord trigger some level of stress, however, excessive stress goes beyond what is typical for most workplaces. Visitors to the Staff Ombuds Office voiced a variety of reasons for excessive job-exacerbated stress including excessive stress caused by real or perceived job insecurity; increased financial pressures caused by the poor economy; the impact of incivility, disrespectful treatment and bullying in the workplace; uncertainties about organizational changes; fears about shrinking retirements; and worries about medical coverage if one's job is eliminated. Some visitors also expressed feeling "trapped" in their current work situation since comparable positions are in short supply. This sense of diminishing options, including the ability to leave an unhappy job situation, often led to exacerbated job-related stress conditions.

General Climate

The third leading cause of concern for visitors to the Staff Ombuds Office was general climate issues including issues with group morale, high turnover, negative gossip or rumors, and/or issues with prevailing behaviors, norms or attitudes within the organization.

- During the two-year fiscal report period, 156 employees (31%) expressed concerns about the general climate of the organization;
- In 2010-2011, 23% of cases involved general climate issues; and
- In 2011-2012, 39% of cases involved these concerns, a proportional increase of 16%.

Significant organizational changes continued and accelerated during the report period. Some visitors voiced concerns about how an effective balance could be achieved between the relationship-focused Berkeley culture and the metric-driven, shared services Berkeley culture. While many of these visitors recognized the need for more efficient and effective work processes and outcomes, there was some uncertainty and confusion about how these changes would impact the overall work climate on campus. At the time of the writing of this report, two important initiatives were underway to assess and respond to climate and culture concerns on campus: UCOP's Campus Climate Study and Operational Excellence's Berkeley Operating Principles Project.

Work Styles

Work style issues were raised by 151 employees, comprising 30% of all cases. These issues encompass conflicts resulting from differing ways of approaching one's job; challenges related to problem solving, decision making, and access to information; and opinions about what constitutes effective collaboration or teamwork. Work style conflicts also include perceptions of micromanaging or the failure to manage properly.

Work style differences are inevitable in the workplace, and frequently these differences are resolved through increased communication, agreed upon processes and protocols for tasks and outcomes, and the setting of clear expectations for the level of autonomy and oversight needed to successfully perform the key functions of one's job. However, when these differences are not addressed, it often fosters a perception by employees

that their supervisor or manager is micromanaging and/or unfairly criticizing their work style, thus undermining their autonomy, confidence and effectiveness on the job.

Trust/Integrity

The fifth leading concern brought by 123 visitors (25%) to the Staff Ombuds Office involved issues of trust and integrity, including suspicions of dishonesty, ulterior motives, or distrust of one's judgment on the job. Visitors' trust and integrity concerns are often linked to concerns about diminished respect or uncivil behaviors in the workplace. Trust and integrity are key ingredients for developing and maintaining effective professional relationships. When these ingredients are absent or in short supply collegiality, teamwork and performance outcomes are negatively impacted.

Performance Issues (Evaluative)

During this two-year report period, 116 employees (23%) expressed concerns about performance issues. Performance issues relate to the perception of how one's job or a supervisee's job is done, including work quality, productivity, and job competence. This category also includes formal and informal appraisal of job performance and concerns about the performance evaluation process. Concerns about performance evaluations can pertain to either actual job duties or the required core competencies. These issues may also involve concerns regarding insufficient training to perform the job well.

Many supervisors/managers and staff members visiting the Staff Ombuds Office voiced the perception that there is heightened scrutiny of the quality of work, productivity, and job competence of UC Berkeley employees. Some visitors observed that some on-the-job behaviors, once tolerated on campus, are now being managed more assertively through formal counseling memos and disciplinary measures. Many staff members, frequently long-term employees, reported receiving written performance evaluations for the first time, or for the first time in many years. These visitors often reported being surprised by the process, the comments in their evaluations, and the overall ratings they received. Also, during the report period, and for the first time in many years, staff was eligible for merit pay increases of 3% for work performance that "*met expectations*". Some visitors complained that they received higher ratings in previous performance reviews cycles and felt disappointed by the lower ratings. They believed they received these lower ratings, not because their performance had fallen off, but due to a directive from Human Resources to cluster staff into the "meets expectations" rating.

Workload and Organizational Change

Workload concerns include the actual or perceived unreasonable increased workload due to staff shortages, backlogs in work, or unrealistic productivity demands from management. During the 2010-2012 fiscal report period, 90 employees (18%) visited the Staff Ombuds Office with concerns about their workload. During this same time, 214 permanent staff members and 35 temporary staff members were laid off. These numbers included non-senate academic employees whom the Staff Ombuds Office also serves. While the pace of layoffs of permanent staff slowed from 134 in fiscal year 2010-2011 to 80 in 2011-2012, many visitors pointed to ongoing workload demands placed on them due to successive downsizing that began in fiscal year 2008-2009.

Like workload, organizational change issues also constituted 18% of the Staff Ombuds Office caseload. Eighty-eight (88) employees expressed concerns about organizational change, which focus on change management concerns resulting from impending or actual reorganization or process redesign. These concerns also may include on-going fallout from any organizational change, including making, responding, or adapting

to organizational changes, and concerns about the quality of leadership in facilitating organizational changes. Complaints regarding organizational change were expected since UC Berkeley continued to experience dramatic and dynamic organizational change during fiscal years 2010-2012. During this report period, Operational Excellence began designing initiatives in the following areas: Energy Management, Finance, High Performance Work Culture, Information Technology, Organizational Simplification, Procurement, and Student Services. In addition to these projects, the campus' Shared Services model was developed and a timeline for implementation was presented to staff.

Job/Role Clarity

Job and role clarity concerns are defined as fears of loss of or change in work duties. These concerns include job description issues, disagreements over appropriate assignments and tasks, and lack of role clarity or expectations. During this report period, 82 employees (16%) expressed concerns of this type. Staff job and role clarity concerns often occur hand-in-hand with organizational changes and new expectations. They also occur when staff has been assigned the work of a retiring or laid-off colleague, but specific job tasks and responsibilities have not been clearly communicated or described in a revised job description. These concerns also arise when new employees have not received the proper orientation and/or support for performing their job functions.

Equity & Inclusion, Recognition, and Career Development

These three separate concerns each comprised 14% of the overall caseload for the 2010-2012 fiscal report period.

Equity and inclusion issues include favoritism, cronyism, nepotism, or other perceived unequal treatment. This category also includes feelings of exclusion or lack of belonging. Staff voicing these concerns claimed feeling left out of group activities, including work meetings and informal socializing by team members. Others voiced concerns that perceived favoritism or nepotism secured and/or advanced one's employment in their departments.

Recognition concerns include the perception that one's work is not recognized, valued, or rewarded. Many staff with these concerns felt that their supervisors frequently focused on their failures while seldom acknowledging their successes. They also expressed frustration that highly competent work was not rewarded through regular pay raises and other recognition strategies. Some staff expressed the desire to simply be thanked for a job well done and their ongoing commitment to the mission of the University.

Career Development concerns involve the availability of access to professional development opportunities, resources, and/or training, an employee's career progress, promotions, or the prospect of continued employment at UCB when development opportunities appear limited. Staff bringing these concerns understood the need for continued professional development, especially in the changing campus environment, but often expressed frustration that they did not know which classes or training programs would advance their careers and departmental goals. Some expressed concerns that they were being passed over by their supervisors for advancement opportunities, either because of their supervisors' belief that they lacked the necessary skills, or conversely, because their supervisors felt threatened by their competence, thus sidelining their advancement. Often, competent staff members pursued off-campus job opportunities, which they perceived as better suited to their long-term career objectives.

Discrimination

The Staff Ombuds Office has seen a significant decrease of allegations of discrimination brought by employees during the 2010-2012 fiscal report period. In contrast to the 2008-2010 period, in which 88 individuals (17% of total cases) brought concerns about discrimination, only 34 individuals (7% of total cases) brought these concerns during the current 2010-2012 report period. Of these 34 individuals alleging discrimination, two employees alleged more than one basis for the discrimination. The following graph depicts the types of discrimination alleged and the frequency of each type during this reporting period.
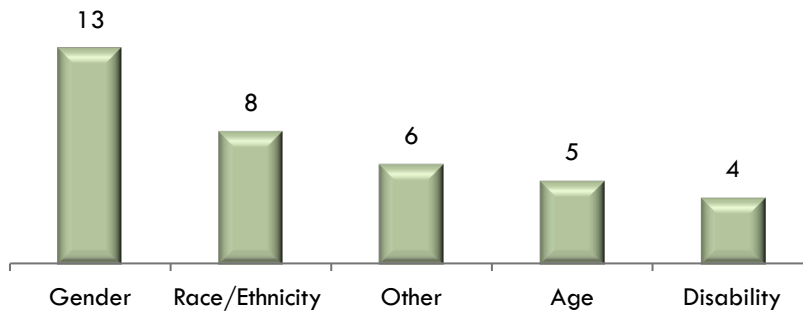

Figure 10. Discrimination Categories

Of the types of discrimination claimed, discrimination on the basis of gender and race represented the majority of concerns. Concerns about other forms of discrimination were less common and included discrimination on the basis of disability, age, sexual orientation, national origin, parental status, and religion.

OBSERVATIONS & SYSTEMIC RECOMMENDATIONS

Workplace Bullying: A Continued Concern

One of the roles of the Ombuds Office is to report on and raise awareness about systemic issues that pose potential risk to the university or exacerbate workplace problems or tensions.[5] After analyzing the concerns that emerged over the last two years, the Staff Ombuds Office has again identified workplace bullying[6] as a systemic problem where gaps continue to exist in university policy, practices, and structures that make this problem extremely difficult for targets, supervisors, and human resource professionals to manage effectively. This problem was also noted in the Staff Ombuds Office 2008-2010 Biennial Report and since that time, complaints of workplace bullying have only increased. During the 2010-2012 fiscal report period the Staff Ombuds Office handled 33 cases of workplace bullying. While this increase mirrors research that shows that in times of major organizational stress and change bullying increases, it is up to key administrators to find ways to address the systemic gaps that allow workplace bullying to persist.

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[5] An issue is considered "systemic" when the source can be located at least in part in organizational policies, practices, structures, and/or culture. See Susan Sturm & Howard Gadlin, *Conflict Resolution and Systemic Change*, JOURNAL OF DISPUTE RESOLUTION, no. 1 (2007).

[6] Workplace bullying is defined as prolonged, repeated psychological and/or physical intimidation, resulting in stress-related health complications or psychological/emotional injury. For more detailed information about the definition of workplace bullying, see the Staff Ombuds Office 2008-2010 Biennial Report.

Rather than repeat the information and systemic recommendations made in our last biennial report, following is a description of any progress or action taken by suggested lead offices to address the problem of workplace bullying.

2008-2010 Recommendation 1: Establish a Campus Civility Project

Because workplace bullying is often not understood, it is easily dismissed or minimized as a problem. As a result, the Staff Ombuds Office recommended that University Health Services[7] and the Equity and Inclusion Division establish a Campus Civility Project, including an Anti-Bullying Campaign.

2012 Update: University Heath Services and the Equity Inclusion Division did not establish a Campus Civility Project, including an Anti-Bullying campaign that would increase awareness of workplace bullying.

Activities that did increase awareness of workplace bullying came from UCOP's Office of Ethics, Compliance & Audit Services whose staff initiated and sponsored an educational webinar entitled "Identifying and Addressing Workplace Bullying: UC Challenges and Obligations" offered to all of the UC campuses. At that time, this webinar received the highest number of registrants since UCOP began these online educational offerings two years ago. In addition, UCOP Senior Vice President and Chief Compliance & Audit Officer recently provided access to a webinar offered by a private consultant entitled "Workplace Bullying: How HR Can Recognize & Stop It." Finally, the Staff Ombuds Office and Human Resources provided a special session for Departmental Human Resources Managers (DHRMs) to heighten awareness of bullying. Human Resources also distributes an email reminder each year to DHRMs to be aware of "behavior that is calculated to undermine, patronize, humiliate, intimidate, or demean the recipient."

2008-2010 Recommendation 2: Create Comprehensive Anti-Bullying Training

The Staff Ombuds Office recommended that in order to tackle the problem of workplace bullying multiple campus resources collaborate to create a comprehensive campus-wide educational program. This comprehensive anti-bullying training would involve 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.

2012 Update: The offices listed above did not collaborate to create a comprehensive campus-wide educational program. However, in fiscal year 2011-2012, the Staff Ombuds Office provided two 3-hour workshops on how to handle workplace bullying. In addition, the Interactive Theatre Program presented two productions entitled "Power Play" and "Paying Dues" that addressed the issue of workplace bullying and civility. Funding for the ITP program ended in 2011; however, departments may pay for workplace bullying presentations upon request. The Office of Human Resources also reported that it will be developing new curriculum for campus HR professionals that includes a workplace bullying scenario as one of its case studies.

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[7] University Health Services was listed as a suggested lead office since workplace bullying impacts employees' health and well-being. In fact, workplace bullying is sometimes referred to as "health-harming behavior."

2008-2010 Recommendation 3: Implement a Campus Anti-Bullying Policy

In order to provide greater protection to targets, the Staff Ombuds Office recommended that Human Resources establish an anti-bullying policy, looking to proposed anti-bullying legislation (sometimes referred to as Healthy Workplace bills) for guidance.

2012 Update: At the time of publication of its 2008-2010 Biennial Report, the Staff Ombuds Office was unaware that UC Berkeley enacted a new Workplace Violence Prevention Policy on December 1, 2010 that included a definition of bullying.[8] This policy applies to the Berkeley campus and is not included in the Personal Policies for Staff Members (PPSM).

As defined in the Workplace Violence Prevention Policy:

> *Bullying is unwanted offensive and malicious behavior which undermines an individual or group through persistently negative attacks. There is typically an element of vindictiveness and the behavior is calculated to undermine, patronize, humiliate, intimidate, or demean the recipient.*

According to Human Resources, since this clause is contained in the Workplace Violence Prevention Policy, employees cannot invoke this policy or effectively use the reporting procedures identified in the policy unless there is actual violence or the threat of violence. Because the vast majority of workplace bullying cases do not include actual violence or the threat of violence, this policy fails to protect most targets. On the other hand, Human Resources reports that this bullying clause can be used as a foundation for progressive disciplinary action in performance management. Human Resources will be exploring revisions to this policy in the future.

2008-2010 Recommendation 4: Centralize Handling of Bullying Complaints

Too often targets of bullying complain that 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. As a result, the Staff Ombuds Office recommended that complaints of bullying be handled centrally by a compliance office, such as Human Resources or the Office of Ethics, Risk, and Compliance Services.

2012 Update: Central Human Resources (CHR) reports that all complaints and grievances are coordinated by CHR regardless of the nature of the issue. The Staff Ombuds Office continues to see cases where DHRMs are handling complaints of bullying without contacting CHR.

2008-2010 Recommendation 5: Ensure Campus Accountability

Effectively ending workplace bullying requires that there is accountability and action when workplace bullying persists. The Staff Ombuds Office recommended a number of actions that could improve accountability, including:

- Incorporating the University's Principles of Community in departments
- Developing departmental standards for civil behavior to strengthen these Principles and methods for measuring success

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[8] Prior to publication of its 2008-2010 Biennial Report, the Workplace Violence Prevention Policy was not circulated and the Staff Ombuds Office as well as HR Directors and key administrators were unaware that any policy existed that addressed workplace bullying through Spring 2011. Human Resources now sends out an announcement once a year to campus human resource professionals to ensure that there is awareness about this policy.

- Using tools to identify workplace bullying, including 360-degree evaluations, climate surveys, and exit interviews, especially when turnover is particularly high
- Establishing corrective action systems that include special training and counseling for offenders
- Using performance management tools to hold employees accountable for bullying behaviors
- Ensuring that investigators who produce reports where bullying is identified follow up with departmental managers until recommendations have been implemented
- Having training, compliance, human resources, counseling, conflict resolution, and risk management offices meet to share and discuss prevention and intervention efforts and innovative ideas and new tools for managing and investigating workplace bullying.

2012 Update: Collaboration among Employee Relations, CARE Services, the Equity and Inclusion Division, the Office of Ethics, Risk and Compliance Services, and the Staff Ombuds Office to address workplace bullying has not occurred. The Associate Vice Chancellor of Human Resources holds an advisory group that focuses on trends in workplace personnel issues. This would be the forum for discussing systemic issues such as workplace bullying and suggestions for strategies and systemic solutions. However, since 2010 and the development of the Workplace Violence Prevention Policy, the topic of how to address the systemic problems related to workplace bullying has not been addressed in this forum.

In 2010, UCOP launched a new online reporting system with a Systemwide Intolerance Report Form in which any UC staff, faculty, or student can report "intimidation, bullying or physical violence" or other behaviors that are inconsistent with UC's Principles of Community. Because this UCOP reporting mechanism is rarely mentioned and not widely utilized on the UC Berkeley campus, it is not clear whether it has resulted in increased accountability.

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Too often targets of bullying hear there is nothing they can do because no policy exists to prevent employees from "being a jerk at work." Too often complaints of bullying are minimized and marginalized. Too often employees are not held accountable for bullying behaviors. And so, the yelling, cursing, belittling remarks, exclusion, public humiliation, threats, and other intimidating and demeaning behaviors continue sometimes to the point where a target is forced to take medical leave, call in sick, or find another job. While there are tangible costs to workplace bullying, the Staff Ombuds Office fears that until a crisis exists that places the University in the public eye, little will be done to address the systemic gaps that allow workplace bullying to persist.

Integrated Conflict Management Systems

While the University has a number of formal and informal resources that provide support, assistance, guidance, and complaint and grievance processes for staff experiencing workplace conflicts, disputes, or problems, these resources do not function within an integrated conflict management system.[9] Integrated Conflict Management Systems (ICMS) "employ a coordinated set of easily accessible organizational mechanisms to identify conflict in its earliest stages, manage it carefully to prevent escalation, and resolve it

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[9] For purposes of this report, conflict is defined broadly meaning "any organizational friction that produces a mismatch in expectations of the proper course of action for an employee or group of employees." Disputes are "a subset of conflicts that require resolution activated by the filing of a grievance, a lawsuit against an organization, or even a simple written complaint." David B. Lipsky, et al, EMERGING SYSTEMS FOR MANAGING WORKPLACE CONFLICT (2003).

efficiently to maintain positive workplace relations."[10]

ICMS are structured in ways that allow employees to easily find and access resources that will assist them to better manage and handle workplace conflict.[11] While the University has multiple resources to assist staff, it is often unclear which one they should use. As a result, staff struggle to find a resource to assist them or may engage resources that may not be appropriate. For example, issues involving discrimination are particularly confusing. Discrimination on the basis of race is handled by Employee Relations, yet the Office for the Prevention of Harassment and Discrimination handles discrimination on the basis of sex. If you are a staff member, discrimination complaints on the basis of disability are handled by Employee Relations, yet the Office of Ethics, Risk and Compliance Services' Disability Compliance unit handles these same complaints for students and faculty. The investigation processes also may differ depending on the unit handling the complaint.

In addition to having a coordinated set of easily accessible resources, ICMS provide a forum where campus resources work together to identify the root causes of conflict and uncover systemic problems and solutions.[12] For example, the Staff Ombuds Office is just one resource that handles workplace problems, conflicts and disputes. Other resources include Human Resources, CARE Services, the Office of Ethics, Risk and Compliance Services, Equity and Inclusion, General Counsel, the Ombuds Office for Student and Postdoctoral Appointees, and the Faculty Ombuds. In an Integrated Conflict Management System, these resources would regularly collaborate to analyze whether the cases handled have any root causes that are systemic in nature. This approach requires a change of mindset that approaches conflict as an opportunity to advance systemic solutions and opportunities for organizational growth and development.

2010-2012 Recommendation 1: Establish an Integrated Conflict Management System

Because Integrated Conflict Management Systems were originally created to mitigate risk, the Staff Ombuds Office recommends that the Office of Ethics, Risk and Compliance Services' Enterprise Risk Management unit lead the effort to coordinate this initiative. At the very least, establishing a system where there is better understanding and clarity of existing resources will help get employees to the appropriate resources within the University.

Changing Organizational Culture

During this two-year reporting period, the University moved into the design and implementation phase of Operational Excellence (OE), a multi-year, multi-project effort to make operations more efficient so that resources for administrative expenses could be redirected toward teaching and research thereby enhancing the University's mission.[13] The vast majority of employees who expressed concerns about OE believed that organizational change and improved efficiency were necessary. At the same time, they had concerns about the way in which change was implemented. When asked if they felt comfortable expressing these concerns with management, most employees did not believe this communication would be effective and chose to remain silent. This silence stemmed from the belief that providing feedback or even asking questions about OE would be damaging to their career. Should the perception that staff are labeled or penalized for expressing their concerns continue, disengagement and apathy could occur.

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[10] Howard Gadlin, *Bargaining in the Shadow of Management: Integrated Conflict Management Systems* in THE HANDBOOK OF DISPUTE RESOLUTION (2005).

[11] For more information about ICMS, see Society of Professionals in Dispute Resolution, Designing Integrated Conflict Management Systems (2001), available at http://digitalcommons.ilr.cornell.edu/icrpubs/2/.

[12] *Id. footnote 10*.

[13] For more information about Operational Excellence, see http://oe.berkeley.edu/vision/whatisoe.shtml.
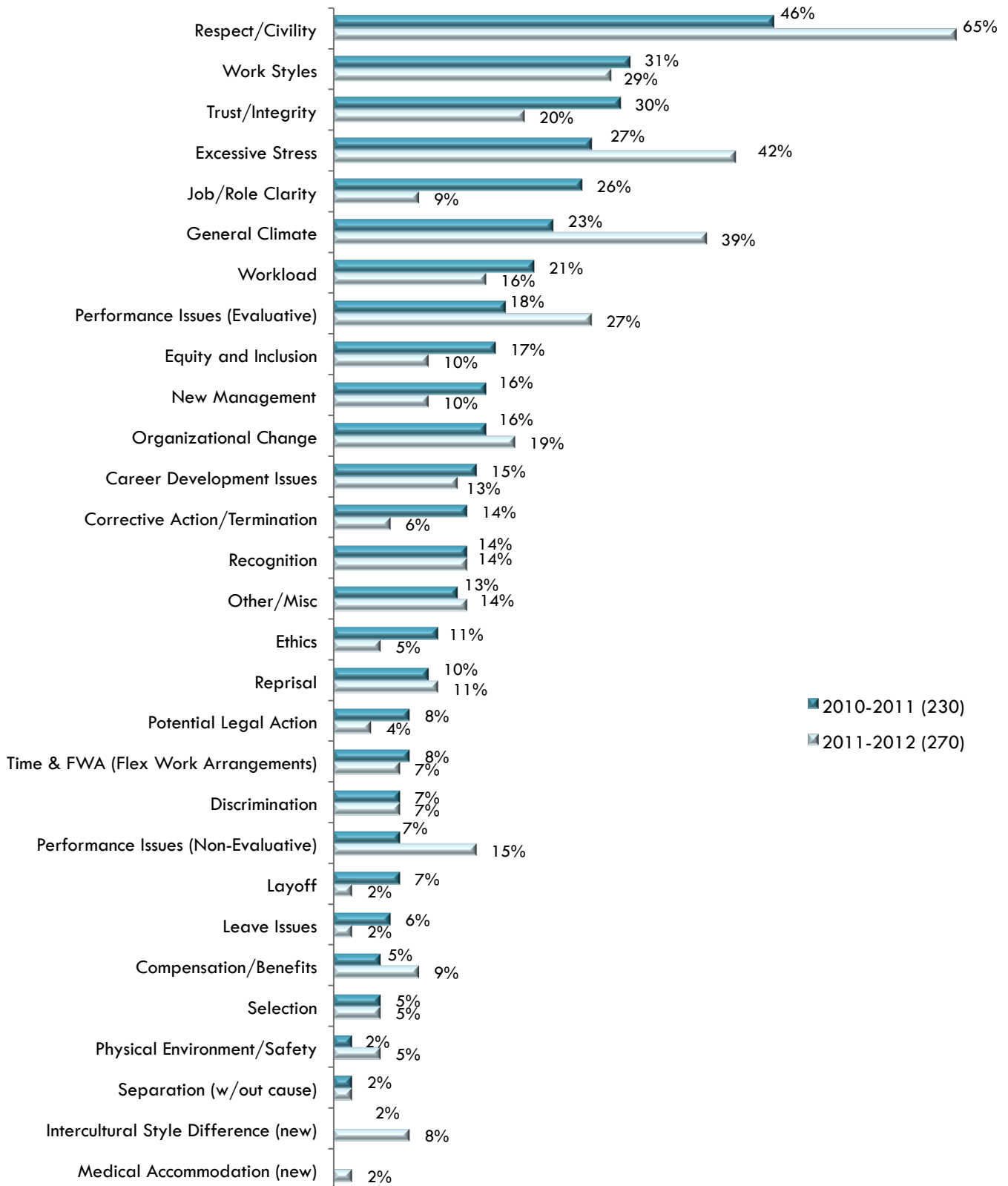
2010-2012 Recommendation 2: Demonstrate Understanding of OE Concerns

Communications about OE often only highlight the accomplishments of this ambitious initiative. By acknowledging the challenges and hardships staff experience, OE has the opportunity to demonstrate that it cares about staff beyond the bottom line. In addition, by valuing questions and challenges about organizational change, OE has the opportunity to engage staff and respond to their concerns. In addition to soliciting feedback, OE could improve its relations with staff by demonstrating how it is using the feedback obtained to affect and enhance change initiatives.

CONCLUSION

Over the past two years, the Staff Ombuds Office has assisted hundreds of employees in developing strategies and skills to better handle workplace problems, disputes and conflicts. As a result, the Staff Ombuds Office is uniquely positioned to report not only on the types of concerns employees have, but also to identify where systemic problems exist. With this approach, the Staff Ombuds Office views conflict as an opportunity that will lead to constructive organizational change and improvements in the work environment. The systemic issues identified in this report, including workplace bullying, integrated conflict management systems, and challenges surrounding changing organizational culture, require systemic solutions and the collaborative effort of responsible campus leaders and change agents. The Staff Ombuds Office remains optimistic the University will rise to the challenge.

APPENDIX A: STAFF OMBUDS OFFICE VISITOR CONCERNS

Concern	2010-2011 (230)	2011-2012 (270)
Respect/Civility	46%	65%
Work Styles	31%	29%
Trust/Integrity	30%	20%
Excessive Stress	27%	42%
Job/Role Clarity	26%	9%
General Climate	23%	39%
Workload	21%	16%
Performance Issues (Evaluative)	18%	27%
Equity and Inclusion	17%	10%
New Management	16%	10%
Organizational Change	16%	19%
Career Development Issues	15%	13%
Corrective Action/Termination	14%	6%
Recognition	14%	14%
Other/Misc	13%	14%
Ethics	11%	5%
Reprisal	10%	11%
Potential Legal Action	8%	4%
Time & FWA (Flex Work Arrangements)	8%	7%
Discrimination	7%	7%
Performance Issues (Non-Evaluative)	7%	15%
Layoff	7%	2%
Leave Issues	6%	2%
Compensation/Benefits	5%	9%
Selection	5%	5%
Physical Environment/Safety	2%	5%
Separation (w/out cause)	2%	
Intercultural Style Difference (new)	2%	8%
Medical Accommodation (new)		2%

Staff Ombuds Office
University of California, Berkeley
2350 Bowditch Street
Berkeley, CA 94720-5140

Phone: (510) 642-7823
http://staffombuds.berkeley.edu