



2019-2020 Annual Report

Office of the Employee Ombud

Statistics, Trends, and Recommendations from 2019-2020

This report includes an introduction to the Seattle Office of the Employee Ombud, information about our case management process, and capacity building efforts. It also includes statistics and analysis from our inaugural year in service.

Table of Contents

2	Executive Summary
3	Note from the Director
5	Introduction
7	Office Structure
8	Case Management Process
10	Office Tenets
12	2019 Statistics
15	Case Outcomes
19	Systemic Trends
27	Capacity Building
30	2020 Priorities
31	Conclusion

Executive Summary

This report highlights the trends and systemic issues observed by the Office of the Employee Ombud (OEO) during its inaugural year beginning at the end of July of 2019 through March of 2020. The goal of the report is to provide feedback to the City of Seattle with recommendations based on our initial 204 cases. It also includes an introduction to the Office of the Employee Ombud: the office structure, case management process, and some case narratives based on cases received by the office but redacted to preserve the confidentiality of our visitors.

We provide a series of statistics to demonstrate through data the impact of our office and the need for a systemwide approach to conflict management here at the City. Some notable statistics include the time for a case to reach closure in our office: about 50 days or a little under two months on average. Since our inception, we continually field questions about how a case resolves in our office. About 39% of the time, the OEO intervened behind the scenes doing back channel diplomacy to resolve issues without identifying the individuals who raised the concerns. Another 27% of cases resolved through open intervention by the OEO, including mediations, facilitated dialogues, and shuttle diplomacy to restore healthy communication and reconnect employees around a shared purpose. In every case, we analyzed whether there were indicators of a broader systemic trend.

During 2019-2020, the OEO identified ten systemic trends that foster conflict among employees:

- Inconsistency in disciplinary processes
- Uncertainty about policy
- Discrimination
- Retaliation
- Mistrust of hiring processes
- Conflicts of interest
- Disparate promotion processes
- Out of Class Assignments
- No reintegration plans
- ADA process consistency

Discrimination, our third highest trend, will be a central focus of our office's capacity building efforts and training curriculum in 2020. This decision is informed by the history surrounding the establishment of the OEO and the City's commitment to pursue racial and social equity. Reports of discrimination to the OEO are self-identified by visitors as instances of racism, ageism, sexism, harassment, and microaggressions. We apply a "no-shame" response to build awareness and encourage personal accountability among leaders and staff. We collaborate to develop the skills needed to create a more inclusive and respectful work environment. In response to the other systemic trends noted by the OEO, we have made recommendations including the creation of guidelines for disciplinary action, development of a Senior Leadership training institute to promote consistency in people-management from top down; and investment of resources to centralize the ADA process at the City. Other recommendations include increasing staff input in managerial hiring and creating a reintegration process for employees returning from conflict related absences.

With an emphasis on restorative justice, our office believes that we can heal and build together into a more caring, inclusive, and equitable community. We will continue to monitor the highlighted trends and others as they emerge, and we will track the implementation of our recommendations. We look forward to partnering with all City of Seattle employees in the coming year.



Note from the Director

The Office of the Employee Ombud will complete its inaugural year in July of 2020. From writing our charter and terms of reference to developing position descriptions and functional areas, we have grown at a breakneck speed to meet the ever-growing needs of a robust city and the 14,000 employees who serve it. Brick by brick as we lay the foundation of a restorative justice focused conflict management service for City of Seattle employees, we never forget the countless courageous voices and justice-driven minds from across city departments that fought for and envisioned this new entity. Doing justice to that legacy of courage is difficult and compelling simultaneously. There are challenges related to access and awareness — not everyone knows what we do and how we can assist. There are also challenges of misperceptions and mis-calibrated expectations regarding an Ombud process.

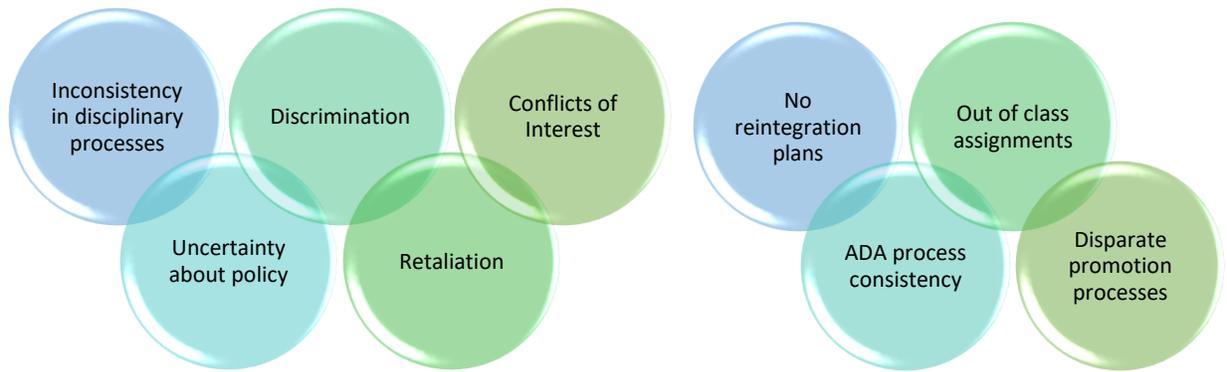


We believe however, that the challenge of building awareness of the Ombud role and process is more easily overcome than the philosophical challenge in front of us. Is our city ready for a conflict management system that is truly rooted in restorative practices? For restorative justice to take effect, our culture must shift from hiding behind intent to ownership of impact and it also requires seeking and granting forgiveness and giving grace — lots of it. There is a difference between vengeance and justice and our job is often to educate folks about the merits of each. In the end, the complainant is always in the driver’s seat deciding what resolution is the mutually dignified way to manage the conflict. As of March 2020, our numbers speak to the level of commitment OEO’s young team has already brought to the cause of making the City of Seattle a more respectful place for all.

Cases Closed	Cases Pending
147	56
72%	28%

As the Director, I wish to share a few critically significant philosophical aspects of our approach. First, leading with race and justice is not an add-on or an optional preference. The nature of conflict we are living with as a society is deeply rooted in racial prejudice, power, and privilege afforded to a few in a systemic manner. Second, being impartial does not equate to being blind and certainly does not require being oblivious. If bias, ignorance, or, at times, hate, is driving someone’s disrespect, an Ombud must point out the cause of the conflict in order to correct the behavior. Finally, we are often asked how bad the state of our workplace is. My answer is always the same; this city is no more or less toxic than the rest of our nation. We, as people, are exceptionally capable of harm and often entirely incapable of repair. That said, the OEO is meeting its mandate on watching emerging trends so City leadership can direct its efforts on specific areas of growth. The following themes have emerged that require corrective attention:





The OEO team has participated in and hosted a combined 34 events and conducted outreach to over 950 employees. Cases present varying levels of complexity to us, and the biggest challenge is often to help people understand the value of a fair answer--even if it's not the answer they are seeking. As an accountability function for the city, we take our obligation to the truth very seriously. It is our consistent practice to take reported concerns directly to the people involved or named in the grievance regardless of what title or power they enjoy at the City. Our office has a tremendous amount of gratitude for the trust already placed in us by hundreds of employees and leaders.

Sincerely,

Dr. Amarah Khan



Introduction

Since the official opening of Seattle’s Office of the Employee Ombud in July of 2019, we received a total of 204 cases from employees (as of filing date). The OEO acquired a secure case intake platform known as EthicsPoint, which went live in July of 2019 and offers an anonymous way for individuals to raise concerns or report issues.

We define a case as an individual incident or conflict, not as an individual person. Thus, a case often involves more than one individual, and the total number of cases does not reflect the individuals our office has served since its inception – that number would be higher than 204. In fact, because each case involved more than one individual, a more useful number to understand the work of our office is the number of contacts for each case, which is on average about five contacts, for a total of over 1,000 contacts since our office began accepting cases. We will describe our case management process in more detail below.

As a new entity for a large city, effective outreach/marketing and quick response to emerging conflict have been our top priorities. To make ourselves known to City employees and to build much needed trust with them, we set our sights on a lofty goal of visiting all 192 City of Seattle sites by the end of 2020. Towards that end, we have visited or held introductory sessions with several City Departments, workgroups and affinity groups, HR Directors Citywide, and Cabinet Members. The OEO team also participated in the annual Benefits Fair, established points of contact and regular meetings with City department designees and facilitated a core-collaborators group that meets every two weeks. Recently, the OEO was designated a co-lead on the Mayor’s Hate Crimes Executive Order. In partnership with the Office of Civil Rights, our mandate is to review and revise the way City departments respond to incidents of hate reported to them while also carrying out extensive community outreach for combating hate crimes in a communal manner.

Finally, we have been in the process of searching for a new office space and hope to move into that location in mid-2020. There are challenges to providing confidentiality in our current space in City Hall, so we worked to find a space that is still close to many employees and accessible to all, but one that is better equipped to provide a safe space for all employees.

The development of this report represents a collaborative effort among many entities. In developing this report, the OEO discussed trends and recommendations with SDHR, including Workforce Equity and HRIU, OCR, and departmental points of contact. The OEO maintains bi-monthly conversations to review emerging trends with collaborators in SDHR, Ethics, Civil Service Commission, OCR, HRIU, ADR, OIG, OPA and OLS. This allows us to review what the OEO’s numbers and initial data indicate and ensure that the reported trends are contextualized and understood in conjunction with complaints received from and by other units. We also maintain ongoing consultation with assigned points of contact in each department, usually an HR Director or Chief of Staff, in monthly meetings where we review cases and trends specific to each department and discuss capacity building efforts that might help improve issues that are department specific. We would like to thank all our partners in helping develop the report and provide support to the OEO.





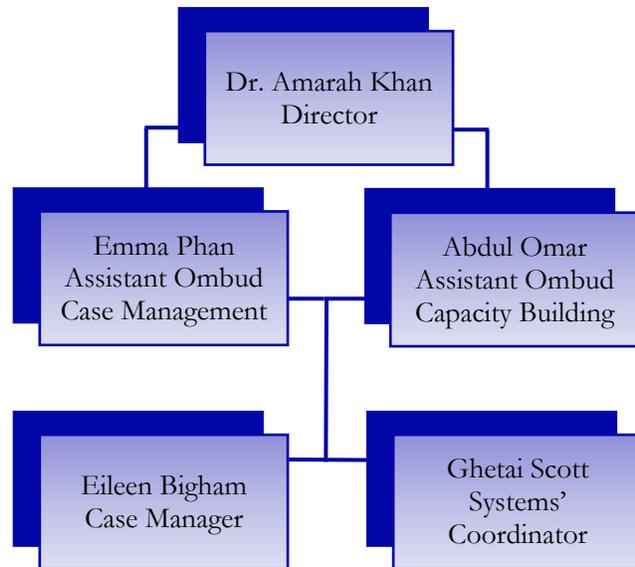
Office Structure

Much of the focus of 2019 has been to get our office fully staffed and to restructure the office to serve several distinct functions going forward.

The OEO Director, Dr. Amarah Khan, was appointed in April of 2019. Amarah has a Doctorate in Applied Anthropology from Oregon State University and was most recently with Renton School District where she served as the Director of Equity and Inclusive Practices. Eileen Bigham, who serves as our Case Manager, joined the office in May of 2019. Eileen has a Master of Studies in Law from University of Southern California and has previously worked on the Administration

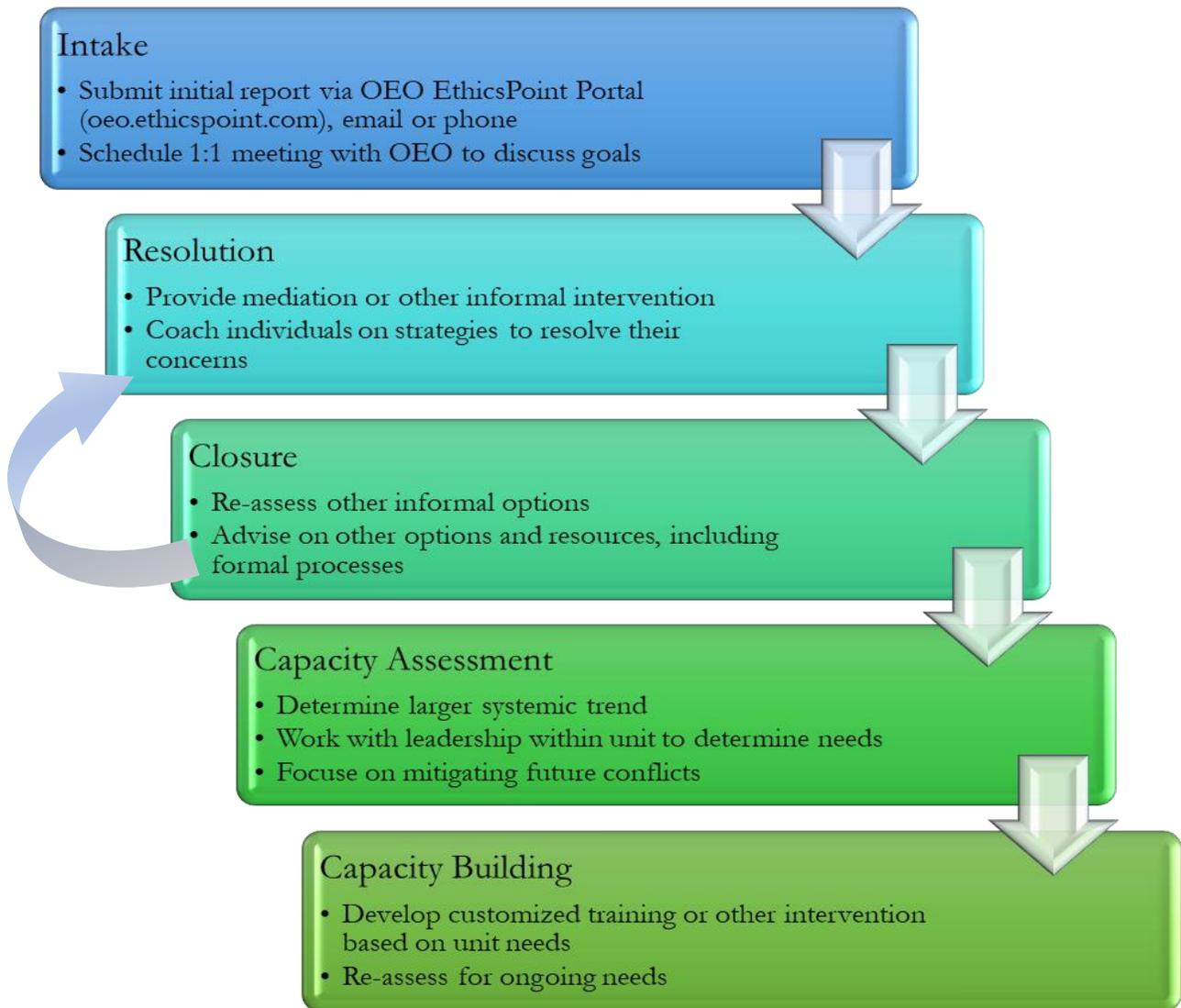
Team at Seattle Goodwill Industries. Emma Phan joined the office in July of 2019 as the Assistant Ombud. Emma has a Master of Dispute Resolution from Pepperdine University and has been with the University of Washington for the past six years serving UW students, faculty, staff, and the public as their Associate Ombud. Abdul Omar joined the office in September of 2019. Abdul holds a Master of Governance and a Master of International Human Rights Law both from American University. He previously worked as Legal Counsel to the Chief Justice of Kenya and more recently as a Mediator with the Dispute Resolution Center of King County. As of April 2020, our latest team member, Ghetai Scott, will be joining the OEO team. Ghetai has a Master of Science in Management and Leadership and a Master of Business Administration both from Western Governors University. She worked most recently with The Human Service Department, in the Homeless and Strategies Investments Division as a Data Analyst.

The OEO, as seen in our updated organizational chart above, is divided into two core functions: Case Management and Capacity Building. Emma Phan is the Assistant Ombud supporting Case Management and Operations, while Abdul Omar has taken on the role of Assistant Ombud for Capacity Building. Eileen Bigham supports both functions in her role as Case Manager, as will Ghetai Scott as she comes on as the Systems' Coordinator. Our case cycle, as illustrated below, is designed to run from intake to preventative efforts to capacity building and or training in response to every incident if possible.



Case Management Process

We have received many questions regarding the process our office uses to open and move a case forward toward resolution. Below is a graphic designed to help clarify the process. It should be noted that given the complexity of cases, this process, particularly in intake and resolution phases, will vary depending on the needs and goals of the individual visiting our office:



To help illustrate this process, here is a case narrative presenting a relatively common case scenario and how that case might move through our process. The OEO received a case from an employee, Janelle* (*name changed to preserve confidentiality) who had recently overheard a very insensitive comment made by a colleague, Steve* (*name changed preserve confidentiality) in a staff meeting. Janelle met with the OEO to review her concerns – she was worried both by Steve’s comment, but



also because no one in the meeting knew how to respond, even though she was certain that she was not the only made uncomfortable by the comment.

Janelle wanted strategies for herself and her colleagues to raise concerns about comments like the one that Steve made. The OEO raised Janelle's concerns anonymously with the supervisor of the unit, who had similar concerns and, as Janelle had concluded, wasn't sure how to address Steve's behavior. The OEO provided the supervisor with some ideas and strategies on how to work with Steve and address the concerns with the team. The OEO also saw a systemic issue and raised that concern with leadership. Leadership was supportive of a broader intervention, so the OEO then developed a training that was delivered to the entire unit on bystander intervention strategies.

As the graphic represents, there may be multiple times that a case moves back and forth between the resolution and closure phase – in Janelle's case, the OEO's initial intervention might not have yielded the outcome she wanted, or she may have continued to have other concerns. In that case, the OEO process would move back into the resolution phase where her concerns could be reassessed, and other strategies or ideas used to resolve the conflict.

While case outcomes will be discussed in more detail below, it should be noted that the OEO has conducted some intakes with visitors who are uninterested in repair work and just want the other party disciplined or fired. The OEO cannot engage in disciplinary action as part of an informal process – the other party must be given opportunity to correct their behavior if warranted and receive feedback to help them improve. The informal process through the OEO will focus on restoration and repair, as noted, and not on disciplinary determinations that should come only after a formal investigation or inquiry.

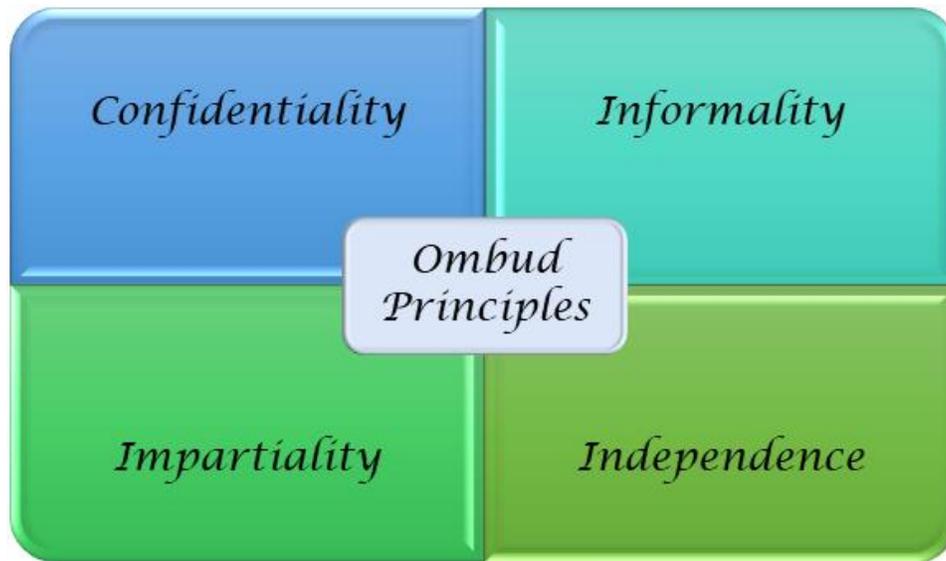
Case Audits

Case audits are routinely conducted by office staff in the OEO. Although we have over 200 cases and those numbers continue to grow, we regularly review past cases to see what we can do to learn and improve going forward. Ongoing audits include review of case notes in EthicsPoint (our case management program) for consistency, review of all open cases for closure or follow-up, review of closure notes to see whether further resolution can be achieved or additional capacity building efforts can be implemented, and review of identity factors in cases as reported by visitors. Case audits are our primary tool for identifying systemic trends and emerging patterns within the data. With the addition of a Systems' Coordinator, we will continue to evaluate the data to see what else it can offer in terms of insight and perspective.



Office Tenets

The Office of the Employee Ombud has four main tenets that guide our work – these same tenets govern the working scope of most Ombud offices around the world. We are often asked about how those tenets work in practical application and how they might apply in an individual case.



Confidentiality

Our office maintains confidentiality and anonymity according to the standards of the International Ombudsman Association. The main caveat to confidentiality is where the OEO determines that there is a threat of imminent risk of harm to the visitor or others. In that case, the OEO may take action including revealing the names of visitors in order to prevent harm. Where there is no threat of harm, and a visitor to the OEO invokes anonymity, we have additional protections surrounding the disclosure of their identity as per RCW 42.56.250. When a visitor requests anonymity, we review with them what we think can reasonably be achieved within those boundaries. For example, if an employee feels that their supervisor did not address an issue raised in a 1:1 meeting, and wants the supervisor to answer their specific questions, it would be difficult to raise concerns to the supervisor without identifying the visitor. A visitor may also give the OEO permission to reveal their identity while seeking resolution, in which case we would be allowed to use their name or other identifying details in working with their department, supervisor, or other individuals pertinent to the resolution of their concerns. Even with this permission, however, we take all reasonable precautions to retain only necessary data and protect names/identifiers as much as possible.

As a confidential office, our goal is to create as few records as possible, which is why we generally discourage the use of email in communicating with our office. All emails are kept in compliance with



the 90-day general retention policy at the City. The OEO is not an office of notice for the City of Seattle, nor are we mandated reporters. We keep some handwritten notes while a case is open to help us follow-up on questions as requested by our visitors. Once a case is closed, we enter a summary of the notes into our online database in EthicsPoint and shred all paper records. Additionally, as per RCW 42.56.250 an employee may invoke anonymity in which case no identifying information is entered into EthicsPoint and all notes are shredded on case closure.

The office will in general release only non-identifying information regarding case data and trends in our reports or via a public records request. Where information is requested outside of a Public Disclosure Request or an OEO report, we review requests for records on a case-by-case basis to determine whether it is possible for us to provide a redacted summary of actions taken by the office in response to a conflict.

Informality

The OEO is not part of any formal process and does not launch investigations into concerns raised through our office. Where an investigation or enforcement of a policy is the primary outcome desired by a visitor to our office, we work to identify the appropriate resource to investigate their concerns, whether HRIU, OCR, or another formal process. Our informal fact-finding and seeking clarification from all stakeholders to a conflict helps determine what resolution path is the most respectful and expedient. We usually coach individuals to determine what is most important to them and they often come up with resolutions that a formal process might not have yielded. We also bring parties together to have conversations about their underlying needs rather than focusing on whether a policy has been violated.

Impartiality

We uphold the integrity of the Ombud process by maintaining impartiality to all parties involved in a case. We work to acknowledge the harm to the visitor who comes to our office while leaving space for the idea that the other parties to the conflict are capable of repair. When we approach folks to address the concerns raised by a visitor, we also take the time to understand their perspective, so a mutually respectful resolution can be achieved. Often, an Ombud office is impartial to the individuals involved in a case, but not neutral on issues of social justice, racism, or systemic inequity. Our office can and will call out issues of systemic oppression and racism while continuing to provide support to all parties involved in a case in as unbiased and equitable way as possible.

Independence

The OEO is accountable to all City employees and has a dotted reporting line to the Mayor and City Council. Our Director, Dr. Amarah Khan, is appointed by the Mayor and can only be removed with both the approval of the Mayor and the City Council. This is the standard of the International Ombudsman Association which maintains that to remain free and unfettered an Ombud office must not be at the discretion of a single individual, nor should they be positioned in an organization in a specific unit, like HR or Compliance, in such a way that they would be impacted by other considerations of line staff functioning while providing systemic feedback.



2019 Statistics

204 Cases

72% Closed

7 weeks: average
time case remains
open

Systemic Trends:

Inconsistency in disciplinary processes

Uncertainty about policy

Discrimination

Retaliation

Mistrust of hiring processes

Conflicts of interest

Disparate promotion processes

Out of Class Assignments

No reintegration plans

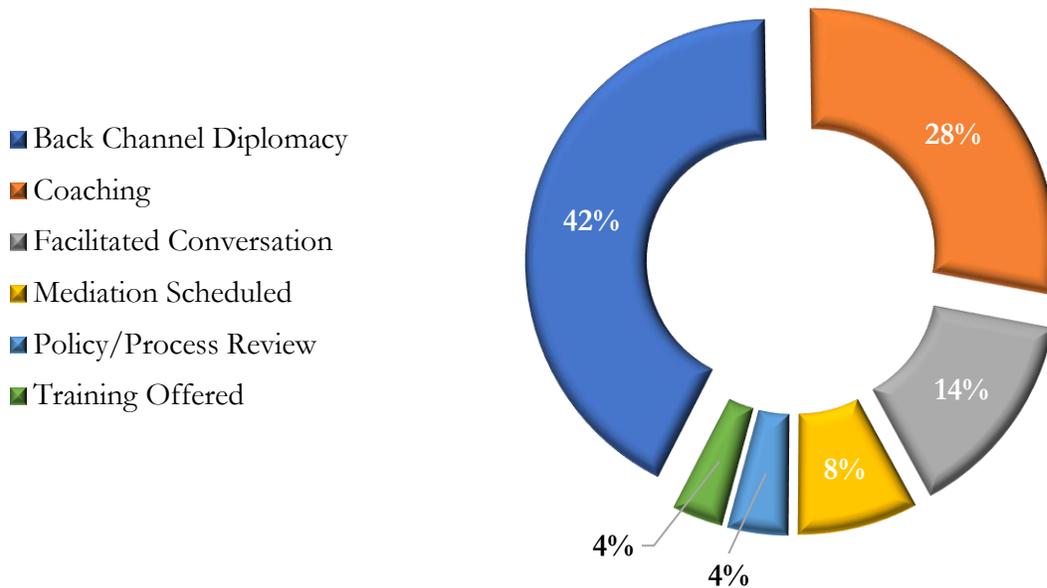
ADA process consistency

Case Resolution

The OEO intervened on approximately 66% of our cases. 39% of the time, we used back channel diplomacy or other strategies to raise concerns without identifying the visitor. 27% of the time, cases were resolved using direct OEO intervention including facilitated dialogues, mediation, and shuttle diplomacy. All cases that came through our office, whether the OEO intervened or not, were used as data points to help us understand ongoing systemic issues.

OEO Case Interventions

As mentioned above, our process is highly customized to meet the needs of the visitors to our office. In 2019, our office engaged in the following intervention strategies:



Definitions:

Back Channel Diplomacy: Concerns are raised by the OEO to leadership without identifying the visitor who raised the concern with our office. The goal is to work with leadership to provide information such that they can address and resolve concerns within their units.

Coaching: Working directly with the visitor on their own communication and conflict resolution strategies to help them resolve conflicts without direct OEO intervention or involvement.

Facilitated Conversation: Usually a large group dialogue or listening session designed to help a group raise concerns to leadership or resolve issues within the group.

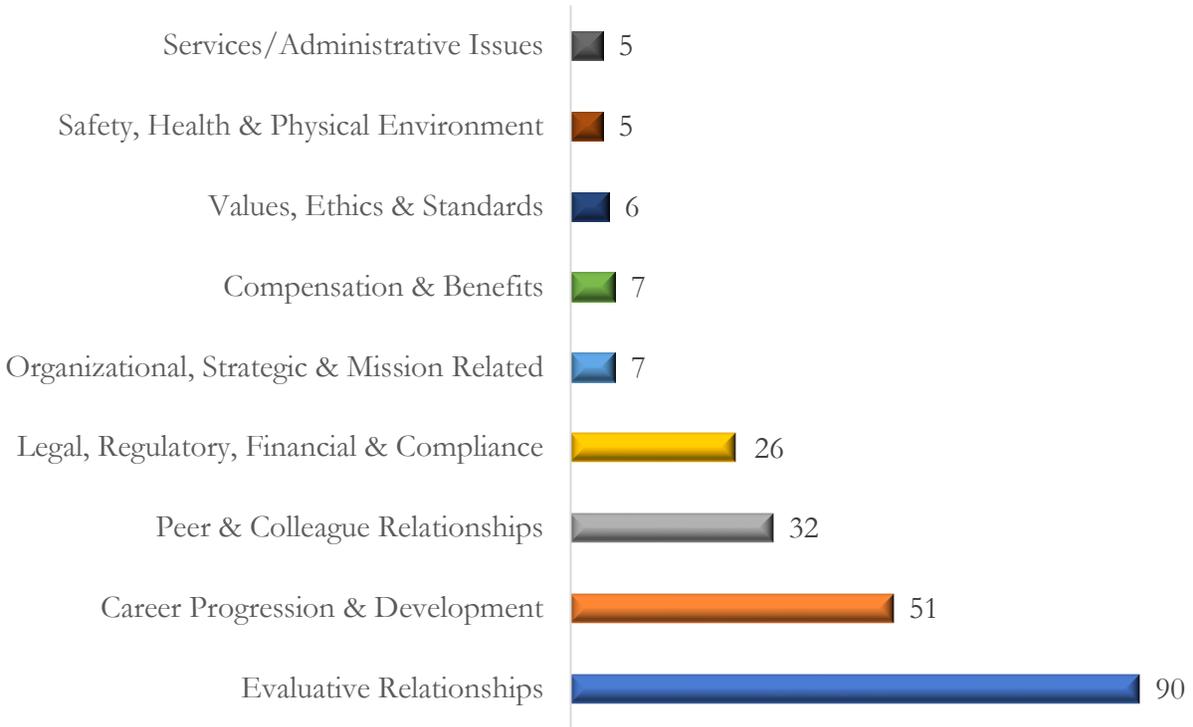
Mediation: Usually 2-3 people in a small group dialogue designed to help the individuals involved address harms they have caused to each other and resolve concerns to improve their relationship.

Policy/Process Review: A review of policy or procedure with leadership to raise concerns about lack of clarity or unintended impacts of a policy.

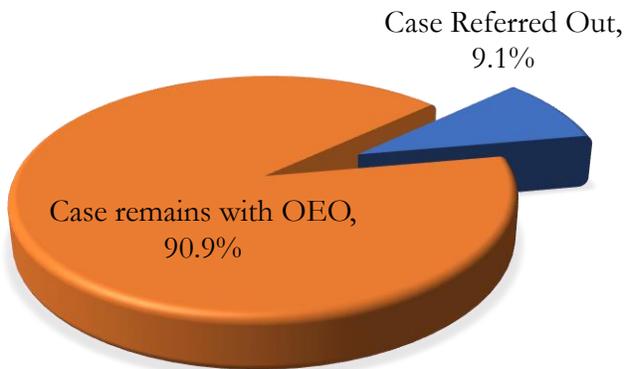
Training Offered: The OEO team works with leadership in a unit to identify issues within their unit that could be improved or resolved through a training developed by the OEO and customized to unit specific needs.



IOA Reporting Categories and Referrals



The OEO practices to the standards of the International Ombudsman Association (IOA). We track issues using the IOA Standard Reporting Categories. One thing to note about the above chart is that each case may include more than one category. For example, for many individuals who are concerned with their relationship with their supervisor, or with a bad performance evaluation, we would characterize that as an issue of “Evaluative Relationship”. However, the individual may also be concerned about transitioning to that next step in their career, which would also be classified as “Career Progression & Development.” Full descriptions of IOA categories are available at the IOA [website](#).



In 91% of our cases, we attempted informal resolution within the OEO. Some cases were then still referred out to a formal process, but the vast majority were resolved through informal intervention. However, there are cases where the resolution sought is not possible through informal process, and in those 9% of cases, we made the referral without any OEO intervention.



Case Outcomes

Cases that come through the OEO vary in complexity and differ widely, making it difficult to categorize them by generalized case outcomes. To preserve the confidentiality of our visitors, we cannot report specifically on outcomes of cases because, in doing so, we might reveal the identity of the individuals who have met with us. It can be difficult to provide enough information to measure the impact of our office while preserving confidentiality. There is also a distinction in our work between conflict mitigation and conflict resolution. What that essentially means is that, by identifying the underlying root cause of an existing conflict, we work to mitigate the circumstances that could allow that conflict to recur. We do not close cases only when we resolve them, we analyze each case to determine whether further OEO intervention at the individual or departmental level could yield more lasting outcomes desired by all parties involved.

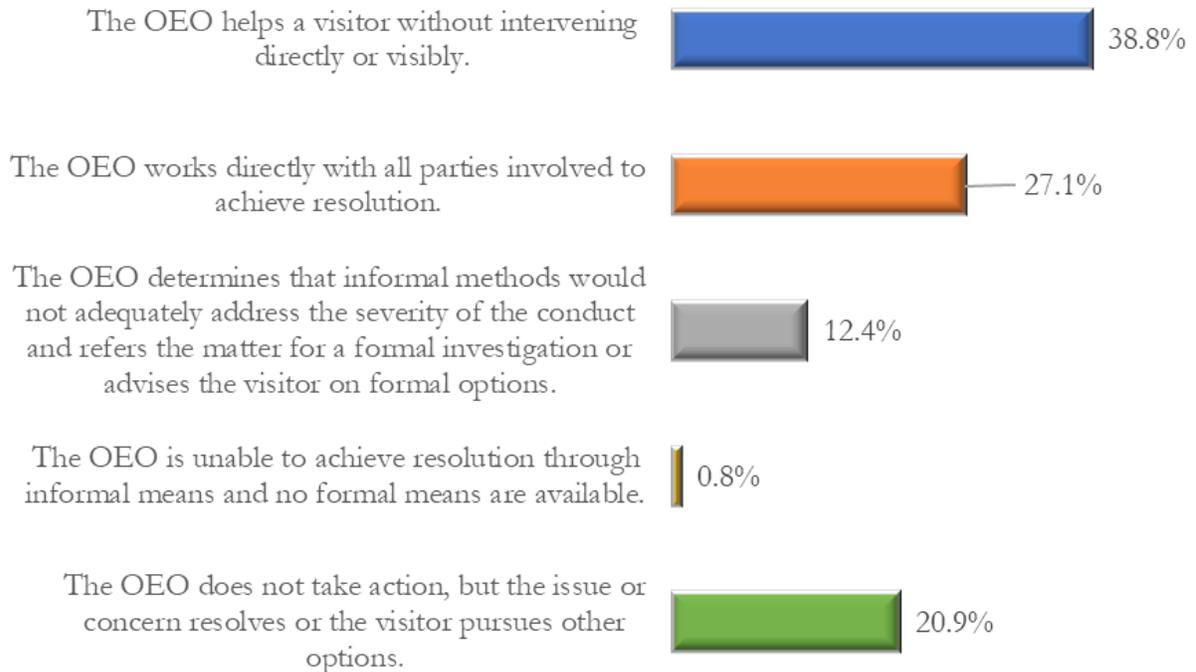
Our office may be visibly involved in bringing about a resolution, but also may work directly with individuals to empower them to resolve their own conflicts, employing strategies like back channel diplomacy or coaching to bring about their own resolution. Providing individuals with information about a process or policy can also help them decide how to proceed and give them the best possible options to achieve their desired resolutions. There are also cases where the office is visibly involved in bringing about resolution through negotiation, mediation, or facilitated dialogue between parties. The most important outcome of a case being brought to the OEO is the co-ownership of solutions at all levels of the organization.

We start our invitation to dialogue with the immediate stakeholders to a conflict. Pertinent questions raised by a visitor to the OEO are brought to the parties named in the conflict, and their response is recorded at every step. In that sense, the OEO offers parity and inclusion to all parties involved without deciding who is good or bad. Matters are elevated to the attention of the senior department leadership every time the individual named in a case is unwilling to participate in a corrective effort. The escalation of that concern and the response by senior leadership are all recorded in EthicsPoint. The OEO considers each case to be a data point in our systemic tracking to help us understand and analyze larger trends. The OEO assesses the health of city departments through that department's leadership standards and reports emerging concerns on an ongoing basis to the Mayor and the City Council.

In the chart below, we have provided generalized information about the case outcomes in the OEO and case narratives illustrating how each outcome looks in practice.



Case Outcomes in the Ombud Office



While we cannot and will not share the specifics of case outcomes to protect the confidentiality of our visitors, we will try to highlight through a non-identifying example of a case that we would classify in each of the above categories.

1. The OEO helps a visitor without intervening directly or visibly:

Several visitors came to the office with concerns about the hiring process used to hire their new supervisor. They were concerned that the new supervisor did not have the technical expertise required to lead and direct their work. The OEO worked with management to do an informal review of the hiring process and understood from management that they were unaware of the concern but prepared to work with staff to ensure that the supervisor had the knowledge needed to be successful. In fact, the new supervisor had expertise in a slightly different area but had been found by the hiring panel to have the skillset necessary to pick up what was needed in this new technical area. Management met with all of the staff to listen to their concerns and share information about how they would provide support to the staff and their new supervisor going forward.

2. The OEO works directly with all parties involved to achieve resolution:

An employee was upset by a disrespectful comment they overheard their supervisor make to another colleague about their performance. They wanted to discuss their concerns but were worried that the supervisor would be offended or upset. The OEO reached out to the supervisor and found that the supervisor was embarrassed, as they did not know their comments had been overheard. In fact, they were not sure how to raise their concerns about this staff member directly and had been attempting to seek support from the staff member's



colleague on the best approach. The supervisor met with the staff person in a dialogue facilitated by the OEO and apologized. The staff member and supervisor agreed that going forward the supervisor would bring all concerns about the employee's performance to the employee first and discussed openly what approach the staff member would prefer.

3. **The OEO determines that informal methods would not adequately address the severity of the conduct and either refers the matter for a formal investigation or advises the visitor on formal options:**

An employee came to the office with concerns about ongoing sexist behavior from their coworker. She felt that her coworker had opinions that were disrespectful towards women and that he was unaware that he was being disrespectful in expressing his views and opinions in the office. She had raised her concerns to their manager, also male, who told her that she was making the workplace uncomfortable by forcing the supervisor to become involved in what he felt was an interpersonal conflict. She was unsure that he had done anything to address her concerns after that meeting. The OEO worked with the appropriate offices and confirmed that an investigation would be conducted into both the coworker and the manager's conduct. The OEO advised the visitor on how we would provide support during the formal investigation and committed to holding a restorative repair process upon its conclusion.

4. **The OEO is unable to achieve resolution through informal means and no formal means are available:**

An employee went in for an emergency medical procedure and was treated in an in-network hospital by an out-of-network doctor. The employee's medical plan did not cover significant portions of the medical bill and the employee reported that they were constantly getting additional bills related to the hospital visit. In this case, the OEO does not have jurisdiction over a balance billing issue with an external insurance provider and the City has no formal process to challenge insurance coverage. However, the OEO still helped to put the employee in contact with the relevant entities who handle such claims at the insurance agency.

5. **The OEO does not take action, but the issue or concern is resolved, or the visitor pursues other options:**

The OEO received concerns from two employees about their new manager changing the way work was conducted within their unit. They had previously carried out processes and procedures one way but were now being asked to change most of their workflow under the new manager. When the employees contacted the OEO, they said that they were going to raise concerns with their manager as a group to discuss the impacts of the changes to overall workflow. They reported back that this conversation had been very productive and that their new manager was receptive to transitioning more slowly into new practices and reviewing changes more openly with staff before implementing those changes.

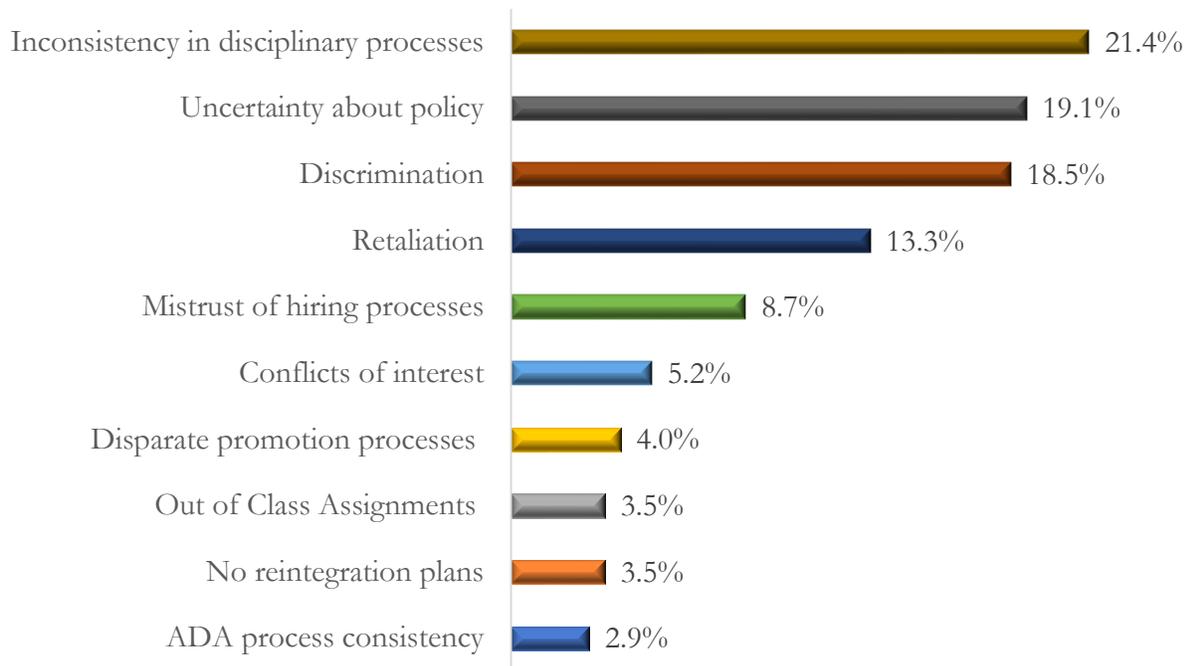
The OEO gets asked about cases where there is no informal resolution and no formal option for the employee. At a minimum, the OEO will always meet with that individual to understand their concerns and offer whatever resolution is possible through an informal process. In some cases, the act of listening with compassion can be enough to help bring some peace and healing, and the visitor leaves feeling as though their comments were at least heard and validated, if not resolved.



There are also cases where an individual takes their own action without OEO intervention or coaching, which occurs around 21% of the time. In some cases, this can mean that an individual contacts the office to schedule an intake meeting and ultimately chooses to resolve the issue through individual effort. Many individuals captured in this category have reported that they felt better after reaching out to the office, even when they did not ultimately visit the office, and that they wanted a backup option through OEO if their initial efforts on their own were unsuccessful. Whether or not the OEO intervenes, as previously noted, simply knowing about the concern can help the OEO add that information to our systematic trends data.



Systemic Trends



Over our first year, the OEO has been tracking and reporting to leadership ongoing systemic concerns and trends that we have seen in the first 204 cases that came to our office in 2019-2020. Several things should be noted about the trends above: first, our tracking system is being innovated as we grow and we can currently only select a single trend, whereas many cases may represent multiple trends. Thus, the trends we are highlighting might have appeared in more cases if we could track multiple trends simultaneously. As a Systems' Coordinator joins our team this year, we will add more capacity to gather and analyze data using best practices and reexamine how we identify and track trends going forward.

The trends that we highlight in our first Annual Report could be argued to be particularly significant, as they emerged immediately despite our comparatively short time in service. Our goal is always to provide transparent feedback to city leadership and raise concerns that can bring about positive change. The Ombud function is, by its nature, designed to recommend actions and offer actionable upward feedback, and we will strive to do so in our recommendations below. We recognize that many of the recommendations may be works in progress or may have significant barriers to their achievement. Our office will support and consider implementation strategies with City partners and be an active participant in innovative systems improvement.



Inconsistency in disciplinary processes

This was the primary presenting trend in 21.4% of our cases in 2019-20. Disciplinary action varies department to department or even unit to unit within a department. We know that in many departments, employee performance and behavior is managed effectively through coaching well before there is need for discipline. We have also seen many cases where managers or supervisors may not have the knowledge or training to provide effective coaching. This leads to challenging situations where employee behavior must be disciplined as it has been unaddressed too long for coaching to be effective.

Employees are usually aware of the performance management strategies used with their coworkers and colleagues. An employee will notice, for example, if they are given a verbal warning for disrespectful behavior towards their manager while another employee has not received any formal disciplinary action for what the employee perceives as equivalent behavior.

Recommendation

Develop and distribute a guideline for disciplinary sanctions to be used city-wide by managers, supervisors, and HR to encourage the consistency of sanctions.

Create consistency of leadership by establishing a Senior Leadership training program and instilling an Inclusive Excellence Model in City of Seattle leadership. This could help improve many people-management challenges faced across the City.

Uncertainty about policy

In 19.1% of our cases, employees referenced concerns about a lack of clarity in policies and procedures. This can include a wide variety of policies, from compensation and promotion to benefits, to hiring practices. What is notable in this trend, however, is that employees are often unclear about a policy, which is codified, versus a practice which is not codified. In many cases where there was confusion on policy, the OEO has worked with the department or unit to identify how communication around policy can be improved to increase clarity for employees.

One example where this trend presented was a case where an employee gave their resignation notice but decided, out of frustration, to stop working before the notice period had expired. The employee later asked to rescind their resignation but was informed that personnel policy does not allow for an employee who quit to rescind their decision. Although the OEO did not have jurisdiction over the former employee when our involvement was requested through a connected case, a cursory examination of the relevant personnel rule showed that there is no clear distinction made on the difference between quitting and resigning. Further, there was certainly no express rule prohibiting the rescinding of a decision to quit. The crucial point raised by this scenario is that even though there may be legitimate policy to back certain decisions, the rules need to be understood by all the people who are bound by them and not just the professionals who made them.

Recommendation

Continue partnership with OEO to increase communication and clarity of policies and practices. Where possible, City leaders should also focus on revamping outdated policies.



Discrimination

Representing the third highest trend reported to our office, discrimination in all forms is an ongoing trend that the OEO will join with other groups and units to address in the coming years. As part of our intake meetings with individuals, even if discrimination is not their primary reported concern, we ask whether they believe their identity may be a factor in the conflict. Over half the visitors to our office reported that they believed their identity was a factor. As a part of conflict mitigation in the OEO, we believe that identity is almost always a factor in conflicts, and that bias, even where there is not legally actionable discrimination, must be systemically acknowledged and corrected. This does not mean correction through punishment, instead, we believe that awareness and education are key to creating a more inclusive work environment. We will highlight below some of the unique perspectives brought by individuals who reported concerns of discrimination in our inaugural year as a means of considering how we might bring about improvements and healing within the system.

Race was the most common factor identified by visitors, noted about 43% of the time a factor was identified. Individuals who believe they are experiencing racism often seek a formal process and remedy through HRIU and OCR. However, visitors to the OEO also often wanted to focus on resolution through awareness building and healing. In some cases, there had been a formal investigation without a finding of discrimination. In all cases, our response to complaints of racism has been direct and decisive. We bring the victim and the subject of the complaint to name racism as the root of the conflict. Only after confronting the racial bias do we offer learning to overcome prejudice and strategies for future respectful conduct. If a recurring racial aggression is reported and our efforts do not lead to respectful conduct, we raise the alarm with department leadership and recommend discipline, or in rare cases, termination.

Gender was identified about 25% of the time as a factor by visitors to the OEO. Overt, legally actionable sexism was treated the same as racism and referred to HRIU or OCR for investigation. We consider perceived sexism and even non-legally actionable sexism to be a concern whether it

Recommendation

Expand trainings available to City employees on Bystander Intervention and Cultural Intelligence. The Capacity Building section of the OEO is debuting a Bystander Intervention training in 2020 to bring new strategies and techniques that will help combat and lessen accepted discriminatory behavior and comments within work units.

Centralize data. The City should put an emphasis on centralizing data and making it available, particularly on disciplinary processes and investigation findings so that the data can be reviewed using a racial equity lens. HRIU has already begun this effort and should continue to be given resources and support to move forward with this crucial work.

Centralize the development of trainings at the City to ensure more consistent design and delivery. This would not necessarily mean that trainings would be the responsibility of only a single unit, but instead that there would be a mechanism centrally for all trainings developed or delivered in various units to go through a central review process to ensure consistency.



meets the legal definition. Our office plays an informal yet critical role in legitimizing sexism related complaints. We ask stakeholders to consider how their conduct could be perceived as gendered and often biased, and to correct specific harmful behavior.

In terms of ageism, it is defined in our office as any case where an individual felt that their age, under or over the age of 40 as defined by discrimination law, was being unfairly considered by their coworkers, colleagues, or in many cases their reports and negatively impacting their work environment. For many young professionals, they felt that their age was perceived to be a barrier or indicator of their lack of experience, and they did not always feel that they were given the respect automatically given to their older colleagues. Similarly, we had reports from older individuals who felt that their younger colleagues were ignoring their institutional knowledge or industry experience.

Finally, in cases involving harassment or microaggressions, we again use a broad definition and allow visitors to self-report those concerns. Where possible, we offer decision-makers the ability to explain or rectify the situation. Our office places an emphasis on awareness building throughout the organization to not just prevent harassment, but also to reach higher standards of inclusion and belonging. One thing that visitors to our office have noted is their tendency to minimize microaggressions out of a fear of seeming overly sensitive. To be acknowledged and have their concerns heard and validated in our office can bring some healing to employees who may well be experiencing trauma as a result of these seemingly “small” acts. The cumulative negative impacts on individuals who regularly experience microaggressions are well documented, however, and we will continue to highlight ongoing issues with microaggressions because they serve as fodder for conflict. We believe microaggressions can and must continue to be characterized as a trend because they are so pervasive and so often underreported because they seem like they are “not a big deal”.

Retaliation

Our fourth highest trend after concerns about discrimination, was retaliation and employees reported it as a primary issue in 13.3% of cases. Retaliation is self-identified by our visitors and therefore may not be legally actionable retaliation as defined by other City entities. Individuals who report retaliation to our office are more often reporting negative impacts including the loss of relationships, open communication, and a general feeling of isolation and disconnection within their unit after they have reported a concern. It can be difficult, particularly after an investigation, for the employee who reported the concern initially to continue to engage with their coworkers. A restorative process aimed at directly addressing the rift between team members has been the most effective way of addressing such cases.

Recommendation

Expand the definition of retaliation within City policy.

Develop protocols for reintegration of employees who have reported issues or who have been on leave because of conflict.

Partner with the OEO to create reintegration plans focused on restorative justice to promote continued healthy work environments for all employees.



Mistrust of hiring processes

Hiring processes are often a secondary concern in cases where the primary concern is more focused on clarity of policy. 8.7% of our cases in 2019-20 were directly related to concerns about hiring practices themselves. This indicates to our office that establishing uniform guidelines for hiring processes could help mitigate conflict. In addition, while there are many policies related to hiring, there are also many unwritten practices that may not consistently be adhered to and are not enforceable.

Hiring process concerns that we heard included allegations of an applicant who gained an advantage through additional or advance knowledge of the interview process to concerns that the interview panel itself had a conflict of interest or previous relationships that challenged their ability to remain unbiased. We have also heard concerns about the weight given to interviews alone rather than relying as much on other means to vet a candidate.

Conflicts of interest

We heard many concerns where the primary issue was hiring process, promotion, OOC assignments, or consistency in discipline. In 5.2% of our cases in 2019-2020, however, the presenting issue was a concern about the impact of a personal relationship to a decision-maker's ability to exercise good professional judgment in decision-making.

For our office, conflicts of interest are not defined only as immediate family or someone in the same household as defined in the Code of Ethics. We have had a number of cases where visitors to our office perceive their peers or colleagues to have an advantage because of a multitude of different personal and professional relationships they have with managers or other individuals in positions of power.

In the perceptions of our visitors, these relationships lead to advantages like better positions, projects, and pay. Even where the Ethics Commission determines that there is no actual conflict of interest by policy, the individuals in the unit may continue to feel that there is an inherent unfairness in their group and the OEO works with those visitors to raise and resolve those concerns.

Recommendation

Wherever possible, provide a public forum with all team members for every finalist candidate for a managerial role over their team to solicit the team's feedback on the eligibility of each finalist.

Develop a Search Advocate Program where individuals are trained specifically to participate on hiring panels to increase the diversity, validity, and equity of search processes.

Recommendation

Facilitate open discussions of perceived conflicts of interest in a unit to address concerns of staff in as open and transparent manner as possible.

As noted above, involve staff in hiring processes for their managers so they have an opportunity to provide feedback in the hiring process.



Disparate promotion processes

In the 4% of cases where this was the primary presenting trend, visitors presented concerns about their path forward to promotion in two distinct ways. First, concerns were raised by staff that their management was unsupportive of their professional development and growth. Often, visitors would say that their manager did not like them personally and therefore was not invested in their individual career growth. They would see others in their unit getting Out of Class assignments or increasingly complex projects and wonder when they would get access to the same opportunities.

Recommendation

Explore wherever possible the option of creating technical tracks within positions that do not require an individual to take on managerial duties if they do not wish to or are not well suited to do so.

Second, and related to the first concern, were occasions where the visitor had reached the top of their technical career ladder and had nowhere to advance except over into a position in management. The visitor would either lack the skillset or disposition to make the transition, and their managers would be unsure how to communicate that the visitor's only option was to seek the training necessary to be ready for a position in management. The opportunities the visitor would see other colleagues getting were available to their colleagues because of their skillset or disposition, and not because the manager liked them. For individuals who are technical experts, once they reach a point of seniority within the City, their only option is to promote into management. However, their skillset may not lend itself to management and they may not wish to develop their skills in management. Giving these individuals, and their managers, more than a single path to promotion would be helpful where possible.

Out of Class assignments

Out of Class assignment concerns were related to trends around clarity in policy, hiring, and promotion processes but are represented as the primary presenting trend in 3.5% of cases. Most complainants assert that the policy itself is not unclear, but that it is susceptible to abuse by decision-makers looking to circumvent the standard hiring process.

Recommendation

Review and close OOC policy loopholes that create unintended consequences by allowing a bypass of the standard hiring process.

Acknowledge where the standard hiring process is bypassed appropriately and provide an explanation to staff.

There have been many anecdotal reports by employees to the OEO referencing the fact that an individual was appointed into a role directly out of an Out of Class assignment. There have also been concerns where an individual is placed in an out of class assignment (as per policy and without a competitive hiring process) for less than 90 days, but that the individual gains vital experience that makes them more competitive in a future competitive hiring process, and creates an unfair other employees who did not have the same opportunity. In all OOC assignments, we recommend a considered and transparent rotation among all interested and qualified candidates wherever possible to provide opportunities for all staff to develop.



No reintegration plans

Related to lack of clarity in policy and lack of consistency in discipline is a trend where there is no reintegration plan for employees placed on administrative leave. Represented in 3.5% of cases as the primary presenting issue, the concerns surrounding employees on admin leave are varied.

One concern about admin leave is that there is no limit or threshold to its duration. By policy, administrative reassignment can occur temporarily while there is an investigation, but there are no defined parameters limiting the duration of an investigation. As an office, we have heard cases where the investigation or disciplinary process took several years, which appears to be an outlier. There are already some investigation timelines within City units, like HRIU, which strives to complete investigations within 90 days. However, there is not consistency in the use of this timeline throughout the City. In any case, the longer an employee is out, the harder it is for them to rejoin their workgroup, who have in most cases been given no explanation for their absence and no explanation upon their return.

Recommendation

SDHR and City leadership partner with OEO to review reintegration of employees returning from admin leave and develop a transition plan focused on restorative justice.

Consistent use of a restorative circle for teams that have been involved in an investigation or where there has been major discipline.

ADA process consistency

The decentralization of ADA coordination is part of an ongoing trend that was the primary concern in 2.9% of our cases. Two distinct concerns among employees are the process itself and how to navigate it and how to assert their rights if they do not feel that their accommodation is being properly administered. An employee may not understand ADA compliance, and this can cause unnecessary frustration among employees who do not feel that they are being treated fairly.

There are also occasions where the accommodations process is bypassed when a manager meets the needs of the employee without a formalized process. In some cases, this works for the employee and manager long-term. However, this can cause future challenges where management changes and makes new decisions that impact the employee's ability to get their needs met. It can also mean that there is no assessment of the essential functions of a job (as required in a formal ADA process) and whether the employee's needs can be accommodated while still performing those functions.

Recommendation

Centralize ADA case management so all requests for accommodations are processed in a uniform manner in consultation with department HR within a prescribed timeframe.

Explore hiring a special investigator who has unique expertise in deciding allegations of disability related discrimination.



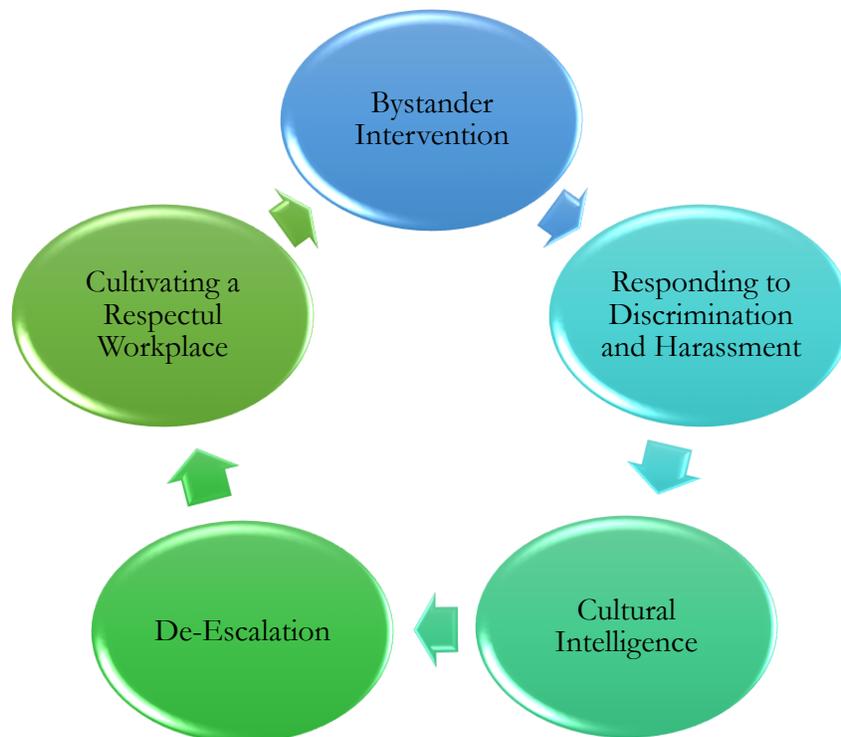


Capacity Building

Conflict occurs naturally, but the inability to manage conflict and prevent it from becoming toxic is directly related to institutional leadership. That is primarily why empowering City employees to address conflict at its genesis, with all its underlying causes, is central to OEO’s mission. Our work is thus equally divided into responding to conflict as it arises and applying longer term strategies aimed at minimizing recurrence of those conflicts.

In order to respond proactively to conflicts that arise in the workplace, OEO applies a robust capacity building component to our work. To realize the broader vision of our work in capacity building, we must be able to identify the appropriate entry points and create conditions for positive and lasting change.

During the course of the year, OEO intends to roll out at least four generic but thematically related trainings that will be offered city-wide. The suggested training curriculum is designed with an acute awareness that elements of power, privilege and race present themselves in all conflicts and must be acknowledged in any type of mitigation strategy. Based on that awareness, we have come up with the following trainings, which are meant to address occurring conflict and prevent future conflict. The projected trainings may be regarded as separate building blocks of our conflict mitigation hub. The trainings can be taken sequentially as illustrated below, or independently; with each completed step making us more adept at handling conflict in positive ways leading to an overall improvement of our workplace environment and culture.



Our hope is that all leaders will also participate in these trainings to advance their skills on how to handle a variety of constantly evolving situations that they or their employees may experience. In the next year, we will create a Leadership Academy, which incorporates the fundamentals of the tools we use in our conflict mitigation strategies.

In addition to the city-wide trainings, OEO will use case data to design and deliver one-of-a-kind customized trainings to specific City units. The unit may also request a particular training or other capacity building support if it has identified a need that is independent of the OEO case data. Pursuant to case data, the OEO delivered a Bystander Intervention training to over 250 employees in one department and is currently designing trainings on Conflict De-escalation; and How to Give and Receive Feedback, specific to other units.

The OEO will develop an evaluation tool for its capacity building efforts this year. This is a challenging but necessary task that we fully embrace. Our team is committed to finding the best way to assess our effectiveness in building the City's capacity and reducing recurrence of behaviors that negatively affect workplace culture. The OEO intends to conduct detailed evaluations concurrently with the ongoing capacity building activities, so that appropriate adaptations can be made as needed.

Data used to monitor the capacity building activities will come from multiple sources including document reviews, customer satisfaction surveys, focus groups with participants within the target City unit, surveys of participants, etc. In a Bystander Intervention training, for example, we may ask participants what they had learned and whether they perceived themselves as more capable of acting when confronted with problematic behaviors in the workplace as a result of their new knowledge. Long-term outcomes can be measured using follow-up surveys and interviews with participants to ask how they applied the knowledge they had learned, coupled with a review of data such as increase or decrease of reported incidents, policy changes, budgetary allocations, etc.

When approaching conflict charged environments, it is beneficial to apply a multifaceted approach. We should consider the conflict itself, the environment in which the conflict emerges from, and systemic issues that create conditions that sustain those conflicts. Outlined below are the criteria that OEO will examine in the coming year to assess potential leverage points and determine the appropriate capacity building interventions:

1. **Human and Institutional capacity:** This includes human capacity, organizational capacity, structural capacity and material capacity. All four types of capacity are interdependent and growth or stagnation in one area will affect another. Consequently, even as we start to focus on one type of capacity, all four types of capacity must be aligned and addressed if the City is to make any effective lasting changes.
 - a. *Human capacity:* includes both intellectual capacity (knowledge/skills) and the political will (sustained support from senior level management) needed to implement effective changes.
 - b. *Organizational capacity:* involves interaction, collaboration, and the health of working relationships among City employees.
 - c. *Structural capacity:* this is independent of the employees; it comprises policies, procedures and practices.



- d. *Material capacity*: covers budgetary allocations, materials, and equipment that are needed to meet organizational goals.
2. **Levels of capacity**: To encourage smooth transition in between different stages of capacity, new information needs to be shared and additional skills, different structures, and processes are needed to yield the required results. Examples of the different levels of capacity are:
- a. *Information*: posters, communications from senior offices that show support for culture change initiatives.
 - b. *Skills*: workshops, trainings.
 - c. *Structures*: technological and physical structures to support growth targets.
 - d. *Processes*: investigation, disciplinary and hiring practices.

These different levels of capacity need to correspond appropriately to movement or changes in stages of capacity building discussed below.

3. **Stages of Capacity Building**: The OEO situates any capacity building activity in one of three stages: Exploration, Emerging Implementation and Sustained Implementation.
- A. *Exploration*: At the exploratory stage, key actors identify the need for change; determine the desired capacity; and identify the knowledge, skills, structures, and processes that need to be in place to achieve that desired capacity. One crucial consideration during this stage is to assess the current capacity of the organization. This may include the number of staff, relevant staff skills, computer and other systems, infrastructure, and other resources already present. The “capacity gap” is the difference between existing capacity and needed capacity.
 - B. *Emerging Implementation*: This is where we begin to apply and integrate the new information and new skills obtained from a capacity building intervention. During this stage, evaluations of the capacity building activities can help to clarify the innovation’s impact and consequences. As a result, the OEO may make recommendations to modify existing approaches in order to fully realize desired changes.
 - C. *Sustained Implementation*: The final stage of implementation involves persistent and consistent use of the refined skills and practices. For any capacity building effort to succeed, we will need to plan for continuous assessment of practices and be ready to make improvements in tandem with evolving needs.

To successfully build capacity, the City needs to align its practices, daily working relationships, and governance, to its stated mission and desired goals. Moving beyond just training employees--our capacity building work includes recommendations to improve City Personnel Rules, physical structures, investigation and complaints’ systems, and standard operating procedures. To be effective, all capacity building efforts that we undertake are deliberate, long-term and embrace a multi-tiered approach.



2020 Priorities

Priority #1: Create a 5 day Inclusive Excellence leadership retreat for City leaders in collaboration with SDHR

- This will be an opportunity to reinforce best practices in leadership from top management down and to introduce the Inclusive Excellence model into leadership practices throughout the City .

Priority #2: Reinforce a network of DEI leads in each department and train them to mitigate conflict

- Our city-wide work has highlighted how identity plays a role in most conflict. We will consider how to sustain a model with a Diversity, Equity, and Inclusion Lead in each unit who is trained to understand how identity impacts conflict and how to help mitigate conflict directly.

Priority #3: Present city-wide trends in a transparent manner

- Beginning with our 2019-2020 Annual Report, the OEO will provide quarterly reports to City leadership and staff to highlight trends and ongoing issues. In our ongoing outreach to units we continually assess whether their concerns align with the concerns we've heard in our cases.

Priority #4: Trainings via Cornerstone

- Bystander Intervention
- Responding to Discrimination and Harassment
- Cultural Intelligence
- Conflict De-escalation
- Cultivating a Respectful Workplace

Priority #5: Tour 192 city locations

- Our hope in 2020 is to get to all 192 city locations where City staff work. We have already been to approximately 20 sites and done outreach to many units. We know that seeing a unit's location helps us develop a better understanding of context and culture within that unit.



Conclusion

Our office is a newly erected safe space for City employees. Yet the problems we are attempting to eradicate are decades old. We believe in the power of transformation and the City of Seattle is a great place to attempt that endeavor; but it will require patience, perseverance, and good faith. As our nation gets mired into uncharted realms of reprehensible public conduct, our greatest fear is the normalizing of hate and a consequent thirst for vengeance. We are setting forth our most earnest vision for responding to and preventing conflict; but our only chance of prevailing is if most of us believe in the power of reform.

Our Capacity Building unit is continuing to develop more trainings and posting them on Cornerstone. Our Case Management and Operations unit will focus on expanding our outreach efforts, particularly to individuals who do not have computer access or are not at our downtown locations, and will also focus on developing a public-facing website to make it easier for all staff to find information about our office. We are aware that our InWeb through SharePoint is not easily searchable for folks; an outward facing website would rectify that situation.

Our doors are open for all city employees who are having a difficult moment, time, or phase in their professional life. Persuasion is our preferred method of correction instead of shaming. It is our sincere hope that we serve as catalysts in changing the City's culture for the better.

