



HARVARD UNIVERSITY
Office for Dispute Resolution

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ABOUT THE OFFICE FOR DISPUTE RESOLUTION



Message from William (“Bill”) McCants, Director of the Office for Dispute Resolution (ODR)



ODR’s sixth fiscal year of operation, FY20, drew to a close on June 30, 2020, with a total of 218 complaints received since September 2014. ODR, staffed by three impartial and experienced investigators and a senior associate,²¹ supported by two fellows, continued

to note the broad use of our services across the University community. Cumulatively over the six-year period, complaints were filed by and against undergraduates, graduate/professional school students, faculty, staff, and third parties, at a rate of approximately 10% or more for each category.²² Complaints over the six-year period have involved School programs or activities overseen by all ten Harvard faculties, as well as nine units. Using gender self-identification by parties, ODR also noted that over the six-year period, about 65% of complaints were filed by females against males, 12% by males against females, 10% by males against males, and 6% by females against females. In approximately 10% of complaints filed over the six-year period, at least one party self-identified as BGLTQ.

ODR in FY20 in seven complaints, in FY19 in four complaints, and in FY18 in seven complaints, at the request of Schools or units, investigated related allegations that fell outside the scope of the Policy, and under other University or local policies.²³

The ODR team continued to field requests from the Harvard community for information or advice about the steps involved in pursuing an informal resolution or filing a formal complaint under the Policy. In response to feedback from stakeholders such as parties and witnesses involved in investigations and other interested individuals at the various Schools and units, as well as input from the University’s Title IX Policy Review Advisory Committee, ODR continued to work on improving the format and readability of its final reports of investigation (FRIs) in FY20. FRIs issued to date for cases originating in FY20 averaged under 25 pages in length,²⁴ for example, compared to an average of almost 47 pages in FY15, ODR’s first year of operation. In addition, ODR continued its ongoing communications and consultation with important allied service providers at Harvard such as HUHS (including OSAPR), HUPD, and the Office of the General Counsel.

21 Eric Jordan was promoted from ODR Associate to ODR Senior Associate effective January 10, 2021.

22 The one exception was complaints filed against, rather than by, third parties, constituting 4.1% of the complaints filed over the six-year period, but this percentage is reasonably expected to be lower than other categories. By contrast, complaints filed by, or on behalf of, third parties constituted 16.5% of the complaints filed over the six-year period.

23 ODR in FY20 handled one complaint, and in FY18 handled two complaints, entirely under University or local policies other than the Policy; these three complaints are not included in the data and charts contained in this Report. ODR only accepts such complaints from Schools and units when the size of ODR’s caseload of complaints filed under the Policy allows.

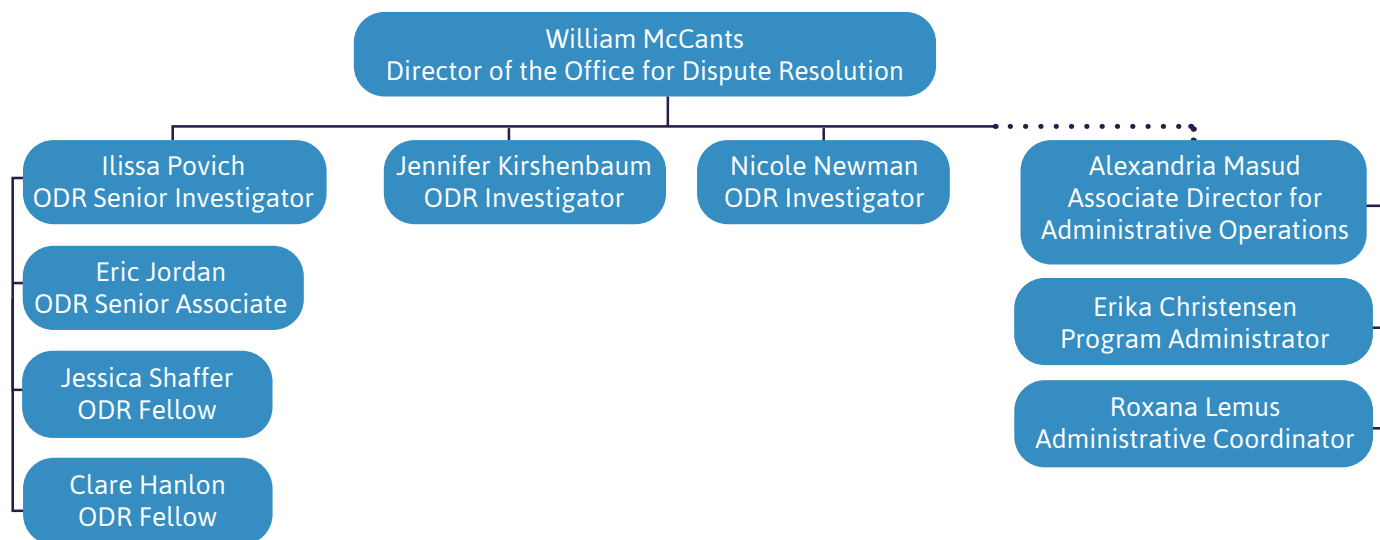
24 In calculating this average, ODR considers the same factors, as applicable, considered in calculating the length of investigations, described below. Complaint investigations vary greatly in, e.g., scope, evidence volume, and complexity, and this is predictably reflected in the length of the resulting FRI, to ensure that each party’s account is properly described and analyzed in its totality.

ODR's investigative efforts continued to be supported by working jointly with trained investigative designees, for those Schools and units that use that model, or by regularly communicating with liaisons who provide valuable information from their Schools and units to ODR, while also relying on ODR to keep the liaisons current on investigative status and progress. In all cases, communication between ODR and the local Title IX Coordinators,²⁵ as well as when appropriate the Title IX Office, also helped ensure proper attention to the support needs of the parties involved in our investigations. In addition, when a formal complaint is filed, and ODR finds there is a hostile environment for one or multiple members of our community, the ODR Investigative Team, relying on the expertise of the involved School or unit, propose tailored recommended measures. This holistic approach works to improve outcomes both for individuals and the broader community.

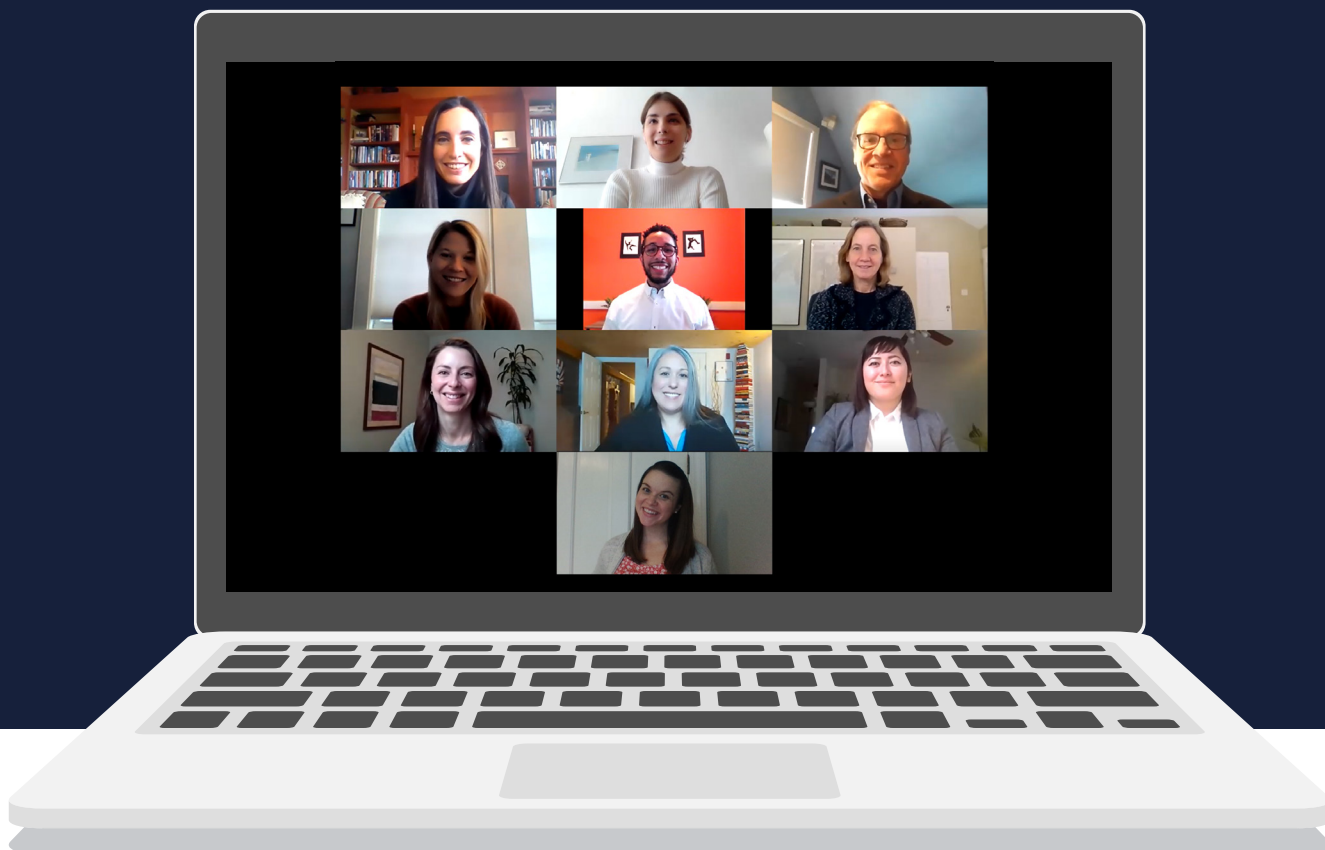
As part of our mission, ODR staff was involved in delivering over 30 audience-tailored trainings and presentations, which included attendees from across Harvard. ODR staff members also continued to hone and advance their skills base, receiving as applicable more than 50 hours of professional development training in subjects such as investigation, confidentiality, fair process, the neurobiology of trauma, and multiple trainings on the extensive, then-pending changes to the Title IX regulations.

ODR staff remains at all times keenly aware that we have been entrusted with investigating for all members of the Harvard community, in a prompt and fair manner, one of the most sensitive areas of human interaction, while protecting the privacy of those who interact with our office. We continue to be grateful for the efforts of our many partners to assist us in this important task.

About the ODR Office



²⁵ This annual report does not reflect interim changes in Harvard's relevant policies and procedures brought about by the new Title IX regulations, effective August 14, 2020 (i.e., in FY21), including the name change to "Title IX Resource Coordinators."



Bill McCants, Director of the Office for Dispute Resolution

Bill supervises the ODR staff, ensures timely and high-quality complaint resolution processes, and develops and delivers extensive University-wide training. He came to the Office in August 2014 with over 12 years of experience in civil rights investigations on the federal and state levels, in various protected class statuses, including sex, race, color, national origin, disability, and age. A graduate of Harvard Law School (HLS) and a licensed attorney, Bill has master's degrees in psychology (FAS/DCE) and criminal justice (Northeastern University). He holds a bachelor's degree from UCLA in History with a minor in Economics. A secondary schoolteacher for eight years, Bill taught U.S. and European History and Psychology, the latter two subjects at the advanced placement (AP) level. He also served as a co-Head of House in MIT undergraduate and graduate housing for 16 years. Bill is an avid ocean sailor and environmentalist, having previously served for several years as a municipal Conservation Commissioner.



Ilissa Povich, ODR Senior Investigator

Ilissa has conducted investigations and facilitated trainings with ODR since its inception in the fall of 2014. A graduate of HLS and a licensed attorney, Ilissa previously worked at a major Boston law firm and as General Counsel of a Boston area company. She holds a bachelor's degree from Duke University in Public Policy Studies and Economics. Ilissa has taught legal writing to new lawyers and summer associates. She is also an active volunteer in her local community, serving in leadership roles in numerous education-related non-profits, and previously served as the Chair of her town's School Committee.



Nicole Newman, ODR Investigator

Nicole has conducted ODR investigations and facilitated trainings as an Investigator since 2017. Nicole is a licensed attorney who came to the Office with over six years of experience in civil rights investigations at federal and state enforcement agencies, where cases involved all protected class statuses in education, employment, housing, and places of public accommodation. In addition, she previously worked as a civil litigator at a major Boston law firm. Nicole holds a B.A. from Duke University in Political Science and Spanish Studies, and a J.D. from Boston College Law School.



Jennifer Kirshenbaum, J.D., ODR Investigator

Jen has conducted ODR investigations and facilitated trainings as an Investigator since February of 2020. She is a licensed attorney who earned a J.D. from Boston University School of Law and a B.A. from the University of Pennsylvania in European History. Prior to joining the Office, Jen worked as an Assistant District Attorney with the Essex County District Attorney's Office for fourteen years, and has extensive experience in litigation and in conducting criminal investigations. In addition, she previously worked as a civil litigator at a Boston law firm.



Eric Jordan, ODR Senior Associate

Eric is a licensed attorney with a J.D. from Harvard Law School in 2014 and a B.A. in Architecture from Princeton University in 2009. Prior to joining ODR, Eric worked as both a litigation and a transactional associate for a major New York law firm, representing clients ranging from multinational corporations to refugees. Eric is also an alumnus of Harvard's Administrative Fellowship Program.



Jessica L. Shaffer, J.D., ODR Fellow

Jessica is an ODR Fellow and a licensed attorney. She earned a J.D. from the University of Michigan Law School and a B.A. from the University of Notre Dame. Before joining ODR, Jessica served as an Assistant District Attorney for Suffolk County and an Assistant Attorney General for the Commonwealth of Massachusetts. She has experience in criminal prosecution, civil litigation, appellate advocacy, environmental law, and civil rights.



Clare Hanlon, J.D., ODR Fellow

Clare is an ODR Fellow and a licensed attorney. Prior to joining ODR, Clare served as a law clerk to the Honorable Peter K. Killough for the Seventh Judicial Circuit of Maryland and worked as an Associate in the Organized Crime Unit of the Maryland Office of the Attorney General. She earned a B.A. in English from Tulane University and a J.D. from Boston College Law School, where she served as Articles Editor for the Boston College Law Review. During law school, Clare interned with the United States Attorney's Office for the District of Columbia and with the Middlesex District Attorney's Office. She also participated in the Boston College Innocence Program Clinic.



Alexandria Masud, Associate Director for Administrative Operations

Alex joined the staff in 2014 and now oversees the operations of the Title IX Office and the Office for Dispute Resolution, evaluates ongoing projects for adherence to long-term strategic and multi-year financial plans, and assesses and mitigates areas of risk. She received her B.A. in Philosophy of Law from Albion College. Prior to joining Harvard, she worked for three years in institutional equity trading and ten years as a client service analyst in institutional asset management with a focus on endowments and foundations.



Erika Christensen, Program Administrator

Erika provides support to the Office for Dispute Resolution by developing informational content in digital formats. She also assists with casework as needed. Erika has a B.A. in the Studies of Women, Gender, & Sexuality from Harvard College. Prior to joining our Office, she worked to support at-risk communities by developing suicide mitigation strategies. She also worked as a national campaign recruiter during the 2016 presidential primaries.



Roxana Lemus, Administrative Coordinator

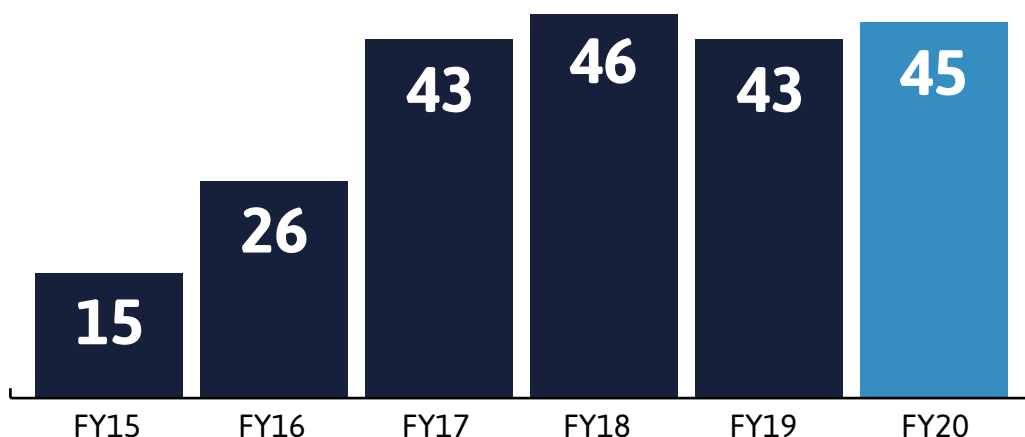
Roxana provides administrative support to the Office for Dispute Resolution and Title IX Office and contributes to the improvement of departmental processes and procedures. Prior to joining Harvard, she worked for four years as a paralegal and Spanish/English interpreter for a law firm specializing in immigration law. She has her certifications in community, medical, and legal interpreting from the BU Center for Professional Education and is completing her Associate's Degree in liberal arts at Bunker Hill Community College. Roxana is also a community organizer and volunteer doula.

ODR – DISPUTE RESOLUTION DATA & ANALYSIS

As in prior years, each case ODR investigated in FY20 was unique, and many were highly complex. A summary of ODR complaint information in FY20, with comparisons to complaint information in the five previous years of ODR operations, is provided below:

- ODR received 45 new complaints in FY20, compared to 43 in FY19, 46 in FY18, 43 in FY17, 26 in FY16, and 15 in FY15.
- Approximately 52% of the complaints over the six-year period were resolved before progressing to the investigative stage (i.e., through withdrawal, referral, or by administrative closure after initial review).

Figure 1. Year-Over-Year Trends in Number of Formal Complaints Filed with ODR



Timing: In FY20, ODR staff continued to keep the average length of investigations to approximately 3 ½ months (2019-2020, ranging from 2.7 to 4.5 months),²⁶ down from over 5 months in FY15, its first year of operation. ODR ensures that its investigators are as thorough as possible, and we continue to work to make the process move more quickly while maintaining the same quality, fairness, and sensitivity, regardless of, e.g., the size and complexity of a matter, or the roles of the principals in the Harvard community.

²⁶ In estimating the average length of investigation for the purposes of this annual report, ODR did not include, e.g., staff cases requiring interpretation and translation services, cases with special circumstances requiring very few interviews, cases involving delays due to documented medical or related circumstances, cases that are cross-complaints or part of a group of related complaints, cases with more than twice as many allegations as the ODR average of three (two cases, with over eight times as many allegations as the average of three, were, along with two single-allegation cases, dropped from the summary data to avoid skewing the average in a misleading manner), and cases more than twice the average case evidence volume measure for FY18-FY20. The case evidence volume measure was obtained, for cases not otherwise atypical (e.g., cross-complaints), by adding the number of pages of documentation submitted by parties and witnesses to the number of pages of interview records for parties and witnesses. Case evidence volume measures for the three-year period ranged from a low of under 100 pages to a high of over 1,400 pages. In calculating the average for all cases, the very highest and very lowest case figures were dropped from the data, to avoid skewing the average in a misleading manner. The resulting average case evidence volume measure for all cases was just over 500 pages.

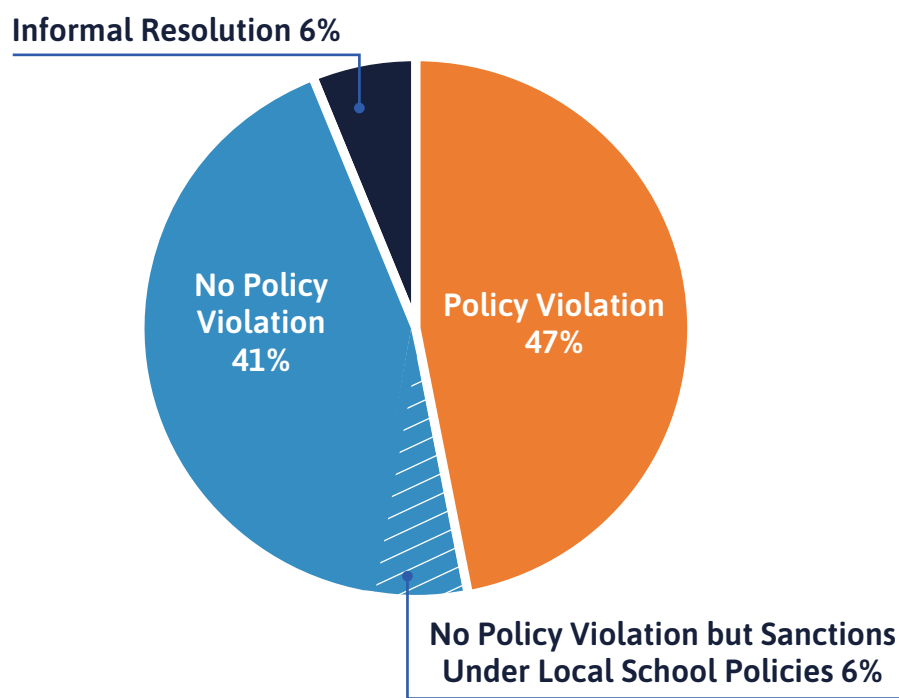
Many factors affect the length of the investigation in a particular case, for example:

- The type and total number of allegations per complaint.
- The nature and volume of the documentation submitted as evidence;
- The number and length of interviews requested by the parties;
- The number of witnesses interviewed and the length of those interviews;
- Whether a complaint is a cross-complaint, or part of a group of related complaints;
- Scheduling challenges, such as: special academic obligations (e.g., exams, final projects, inflexible grant deadlines); University holidays; and parties' and/or witnesses' travel abroad; and
- Extensions in time granted to parties to designate their respective personal advisors, who may include attorneys.

Every year, ODR handles some complaints containing allegations that include a constellation of conduct such as sexual assault, stalking (including through electronic means), and a pattern of comments targeting an individual based on sex-stereotyping, sexual orientation, and/or gender identity. The Policy takes into account that an individual may have experienced multiple types of prohibited behavior, during one or more incidents. This standard allows us to be responsive to the broader array of conduct that may be negatively affecting someone's life at Harvard. Accordingly, a single complaint against one respondent may contain multiple allegations. In addition, under the Policy, we also assess whether a hostile environment has been created.

Of the total number of complaints from FY15-20 that went through a completed investigation (N = 96), approximately 6% were informally resolved, 47% were found to involve violations of the Policy, and 47% were found not to involve violations of the Policy, with approximately 13% of the latter/6% of the total resulting in factual findings that subsequently supported sanctioning under local School rules. (Figure 2).

Figure 2. Outcomes of Complaints Proceeding to Investigation²⁷, FY15-20 (N = 96)

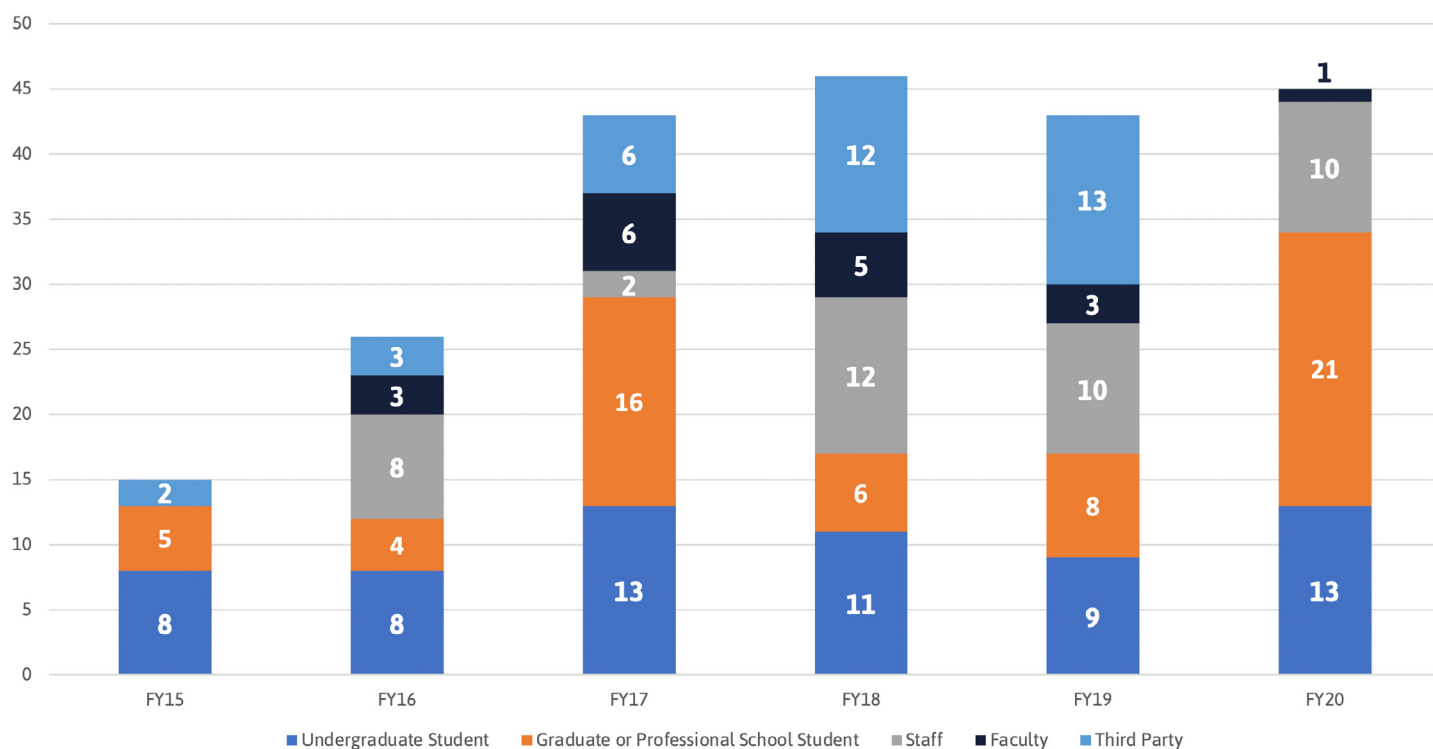


²⁷ Many complaints contain more than one allegation. Policy violation determinations must be made separately for each allegation. If one or more allegations in a complaint result(s) in the finding of a Policy violation, this is counted as a single "Policy Violation."

Case Demographics FY15-20:

- For each of the six fiscal years, the largest proportion of complaints was filed by or on behalf of students (including both undergraduate students and graduate or professional school students). The number of complaints filed by or on behalf of students doubled between the fifth and sixth fiscal years. (Figure 3)
- In five of the six fiscal years, the largest proportion of complaints was filed against students (including both undergraduate and graduate or professional school students). The number of complaints filed against faculty increased significantly between FY19 and FY20 (by 7). (Figure 4)

Figure 3. University Status²⁸ of Complainants²⁹, FY15-FY20 (N=218)



²⁸ A party is categorized based on their University status at the time of the alleged conduct. Thus, for example, a former student who is alleging harassment that occurred while they were a student is counted as a student and not, for the purposes of this data, as a “third party.”

²⁹ As noted in “Case Demographics 2015-2020” on the previous page, a complaint may be filed by or on behalf of students, faculty, staff, or third parties (emphasis added).

Figure 4. University Status of Respondents, FY15-20 (N = 218)

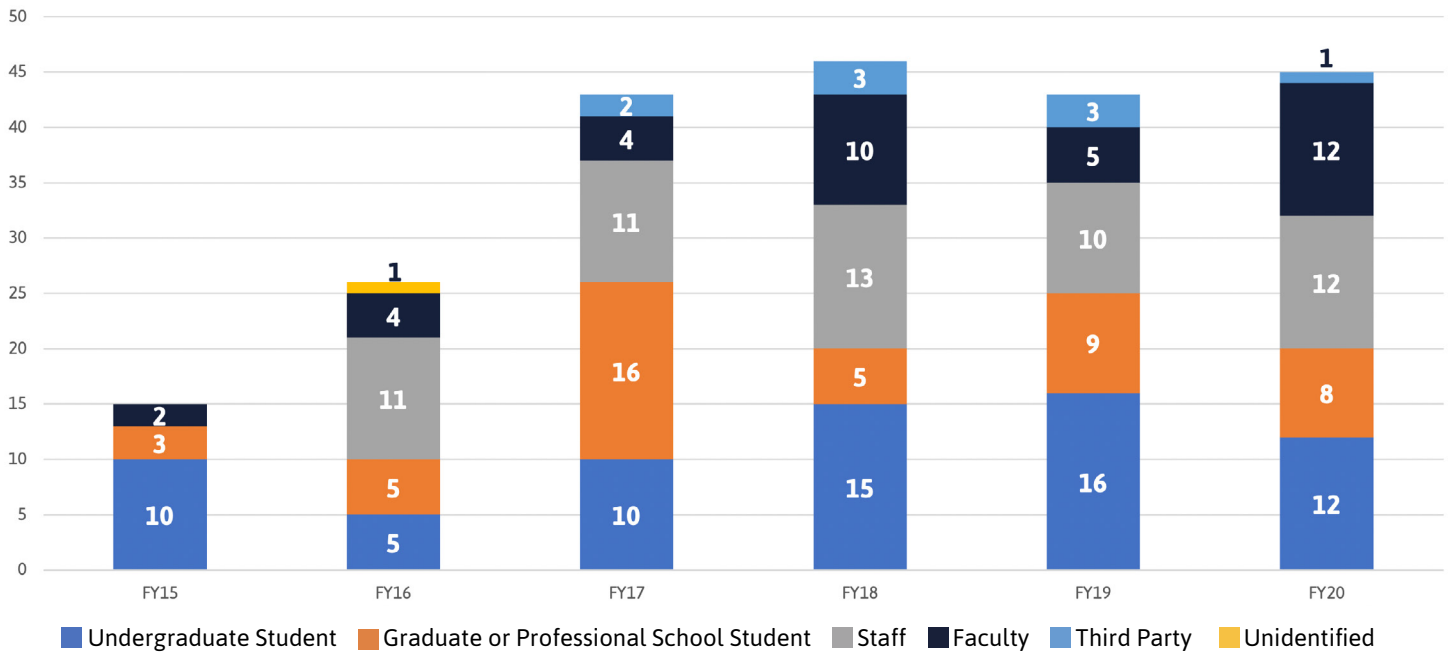


Figure 5. Complaint Allegations by Category, FY15-20 (N = 308)

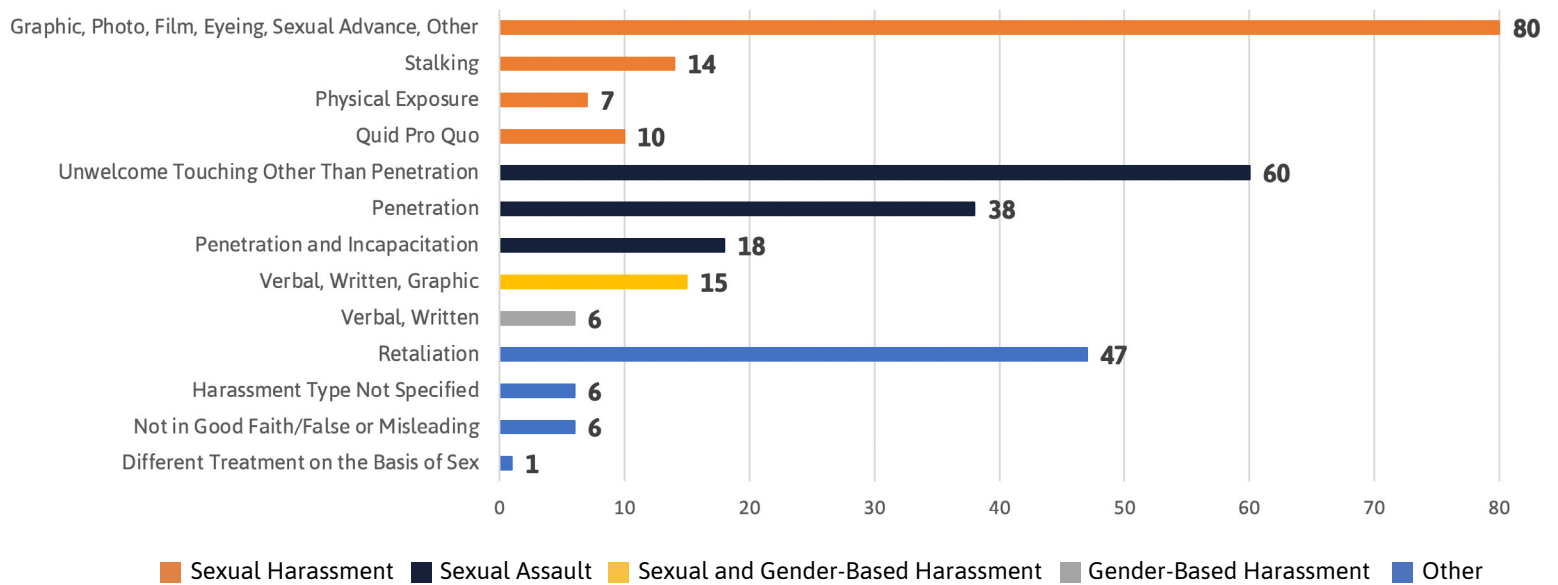


Figure 6. Complainant Status, Focusing on Allegations of Sexual Assault, FY15-FY20 (N=116)³⁰

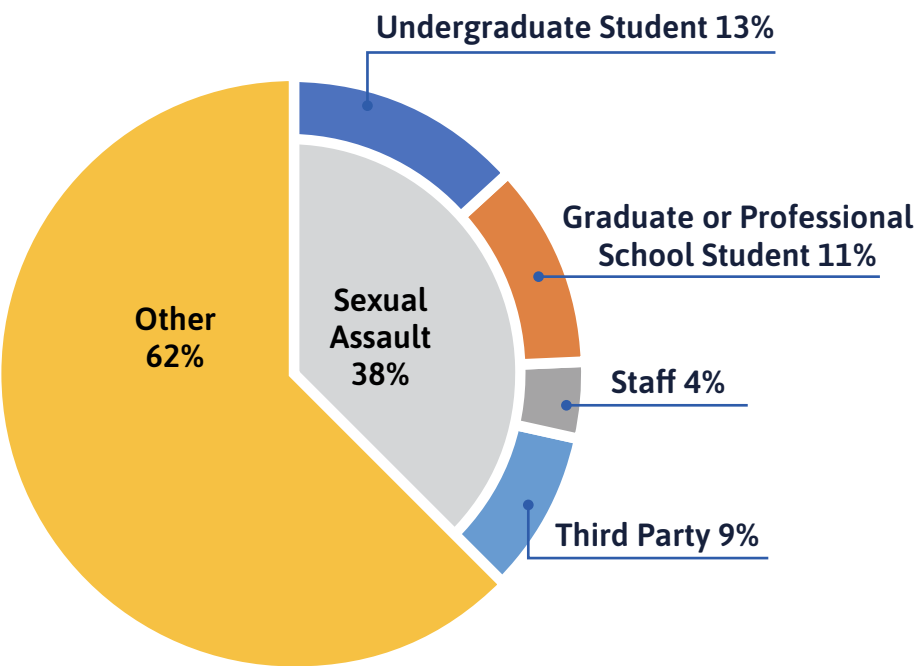
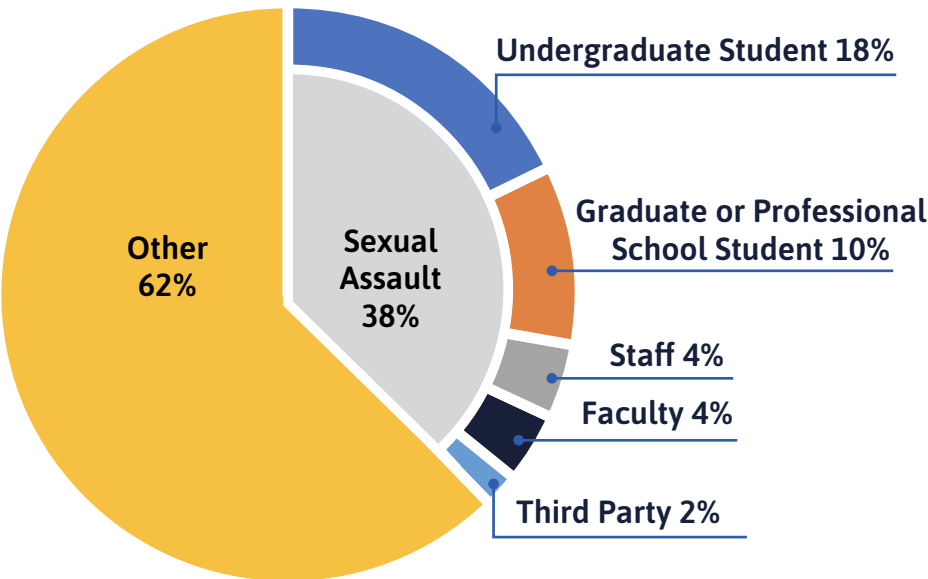


Figure 7. Respondent Status, Focusing on Allegations of Sexual Assault, FY15-FY20 (N=116)



30 Percentages have been rounded and may not sum to 100%.

Figure 8. Sexual and/or Gender-Based Harassment Allegations (Not Including Sexual Assault) by Complainant Status, FY15-FY20 (N=132)³¹

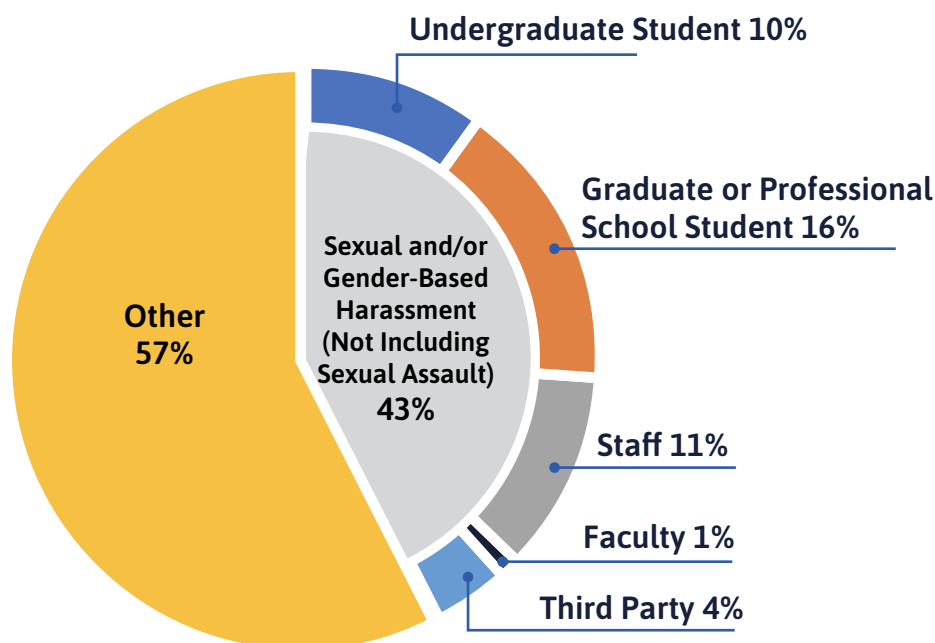
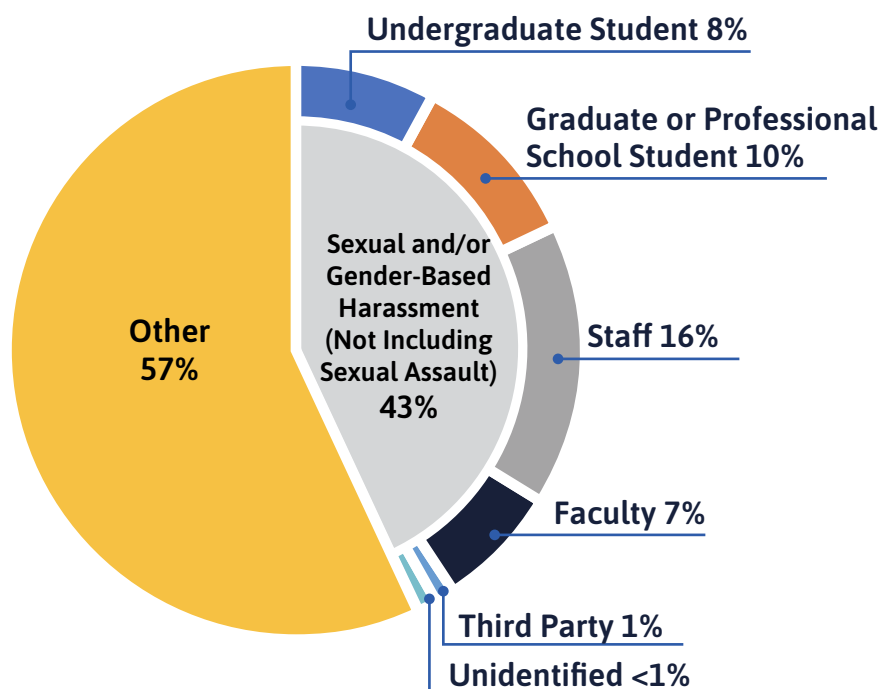


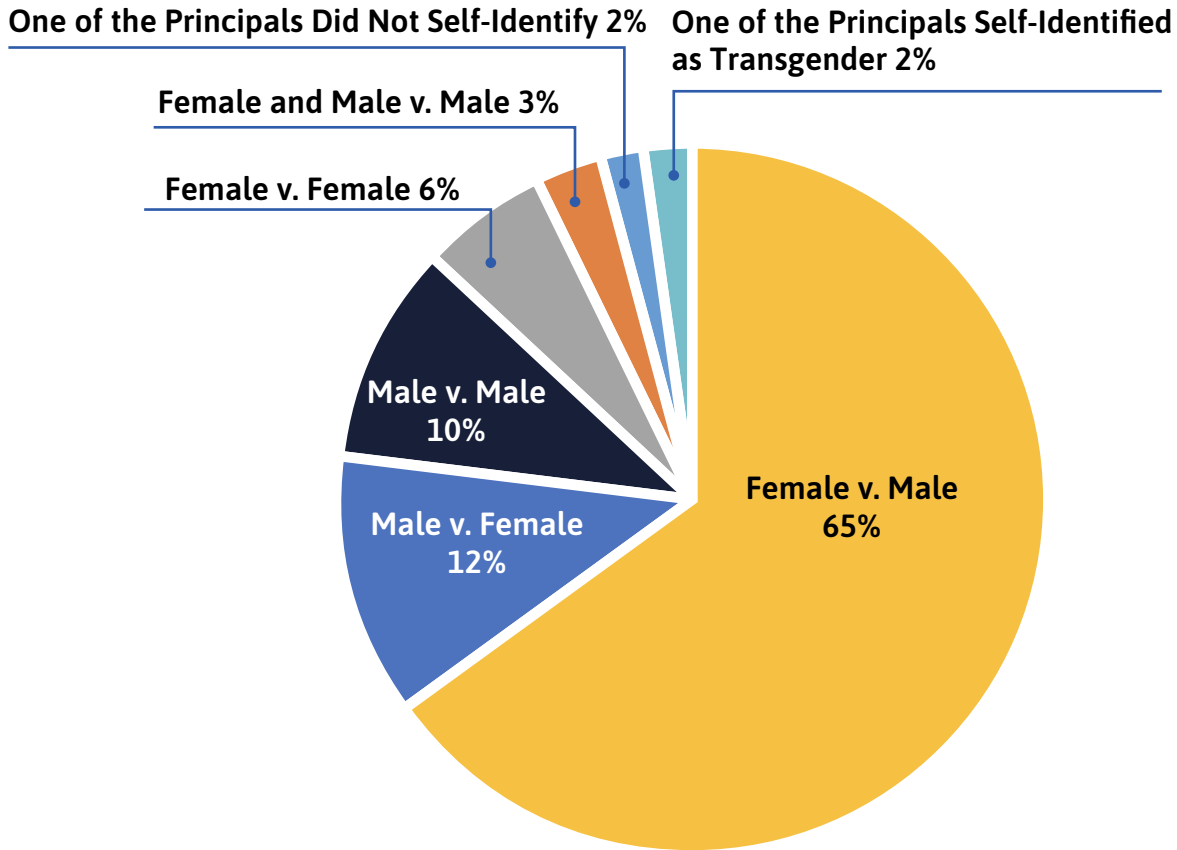
Figure 9. Sexual and/or Gender-Based Harassment Allegations (Not Including Sexual Assault) by Respondent Status, FY15-FY20 (N=132)³²



³¹ Percentages have been rounded and may not sum to 100%.

³² Ibid.

Figure 10. Gender³³ of the Principals
Complainant v. Respondent, FY15-FY20 (N=216)



33 Using self-identification.

