

METROPOLITAN STATE UNIVERSITY OF DENVER  
UNIVERSITY OMBUDS OFFICE ANNUAL REPORT

G. Michael Kilpatrick, CO-OP<sup>SM</sup>

**2014**

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# **Metropolitan State University of Denver**

## **University Ombuds Office**

### **2014 Annual Report**

#### **INTRODUCTION**

The second annual report (hereinafter “Report”), issued from the University Ombuds Office (hereinafter “UOO”)<sup>1</sup> of Metropolitan State University of Denver (hereinafter “the University”), covers the time frame from January 01, 2014, through December 31, 2014.

This report presents data, including the number of cases opened and the nature of issues brought to the UOO along with information identifying trends and other concerns. The UOO understands that the Administration may be privy to information not available to the UOO. Therefore, it is the Administration’s choice to act, or not to act on the information presented here.

It should be noted that this report is not a report that asserts facts or presents data on complaints regarding known incidents, but rather, it is a summary of the issues and concerns brought to and explored by the UOO and its visitors.

This report is presented to the University community without prior review as to content by any office or person therein, consistent with the UOO and the International Ombudsman Association’s (hereinafter “IOA”)<sup>2</sup> principles of independence and impartiality.

#### **TERMINOLOGY**

The term “Ombudsman” is intended to be gender neutral, and is utilized as a “term of art” within the profession. Some institutions refer to the person holding this position as “Ombudsman,” “Ombudsperson,” “Ombuds,” or “Ombuds Officer.” All are acceptable and are widely used within the profession of ombudsmen. The acronym “UOO” has been explained above.

People who come to consult with the UOO are referred to as “Visitors” and those that the UOO may work with in connection with a visitor contact are “Respondents.”

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<sup>1</sup> The UOO means the office itself, the Ombuds Officer and/or any person employed within the office either as associate/assistant Ombuds, in an administrative capacity as well as those either

<sup>2</sup> The International Ombudsman Association is the preeminent service organization of Organizational Ombudsman internationally. Its Standards of Practice, Code of Ethics and Best Practices can be reviewed at <https://www.ombudsassociation.org>

## **THE ORGANIZATIONAL OMBUDSMAN AT MSU DENVER**

The UOO officially opened its doors on March 01, 2013 and is located in room 306, Central Classrooms Building.

In May 2013, the MSU Denver UOO Charter (hereinafter “Charter”) was produced, reviewed and signed by Dr. Stephen Jordan, President of the University. The Charter specifies the jurisdiction and operational boundaries of the UOO (attached as Addendum “A”).<sup>3</sup>

The UOO is an “Organizational” Ombudsman Office that adheres to the IOA Standards of Practice, Code of Ethics and Best Practices (hereinafter “Standards”). The Standards are incorporated into this report by reference and are attached as Addendums B, C and D. The Standards are described as the “four corners” of best practices (infra).

In its two years and three months of existence, the UOO has adhered to these Standards with the full and unqualified support of the administration of the University. As such, the independence and impartiality of the UOO is actively in play every day, allowing the UOO constituency (faculty, staff, student employees and interns, students<sup>4</sup> and external visitors [those external to the University but doing business with the University]), to benefit from this informal and confidential resource and without interference or inhibition.

### **Independence**

The UOO works outside of the normal lines of authority of the University, thus, it is not aligned with and is functionally independent from any and all of the University’s offices. For administrative matters, the UOO reports to Dr. Myron Anderson, Associate to the President for Diversity and has direct and full access to President Jordan. The UOO has, and exercises sole discretion over the cases it accepts and the manner in which it acts regarding these cases, whether the issue(s) are individual or systemic in nature. Because of the UOO’s strict adherence to both confidentiality (infra) and independence, the UOO is not a mandatory reporter on any matter. Additionally, contacting the UOO by any means will not and does not place the University on legal notice on any matter.

### **Neutrality and Impartiality**

The UOO makes every effort to maintain neutrality and impartiality by acting through the lens of fairness and equity. The UOO also maintains objectivity by listening, developing options, clarifying and explaining processes as well as rules and regulations, reality checking and/or facilitating communications with visitors or respondents. Its mission is not to be an advocate, except where it advocates for fairness and equitably administered processes. The UOO does not give legal advice nor does the UOO engage in counseling. It is the role of the UOO to be an early

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<sup>3</sup> The Charter may be viewed on the MSU Denver UOO website at [www.msudenver.edu/ombuds](http://www.msudenver.edu/ombuds)

<sup>4</sup> In 2014, Dr. Myron Anderson, the UOO, Dr. Laura Roth and Lisa Nelson of Student Engagement and Wellness met and agreed that the UOO could and should engage students but only where faculty, staff including student employees and interns as well as external visitors initiate the contact with the UOO.

warning system for the University in its ability to hear issues that may not be surfacing through other sources. Thus, one of its principal roles is to speak truth to power.

### Informality

The UOO is strictly informal. It does not investigate<sup>5</sup>, arbitrate, adjudicate or otherwise participate in any internal or external formal process. Utilizing the services of the UOO is not a necessary first step to initiate any formal processes internally or externally. Therefore, the UOO process is strictly voluntary.

### Confidentiality

The University supports the UOO's confidentiality, reasoning that the University's staff and faculty deserves, and should have available to them, a safe and secure place to voice and address their concerns. Safety of the Visitor is the ultimate concern of the UOO.

Although no statutory privilege exists, the IOA, the University administration and the UOO assert (see Charter), that the UOO owns the privilege of confidentiality and will not waive this privilege for any reason, except for threats of imminent harm and only where the UOO cannot address the threat by other appropriate means at that time.

The UOO will refuse to testify in any formal hearing unless ordered by a court of competent jurisdiction and only after aggressively resisting such an order. The UOO will pursue such resistance through access to independent legal counsel.

With the single exception to confidentiality stated immediately above, the UOO will not divulge the identity of any Visitor or Respondent, nor any information shared with the UOO without their express permission, and even then at the sole discretion of the UOO. Contacting the UOO does not place MSU Denver on legal notice on any issue. The UOO does not keep records for the University and destroys its notes immediately upon conclusion of a case. The UOO records trends and demographic information but deletes any identifying information.

## **THE PROCESS<sup>6</sup>**

- Makes available to all Visitors and Respondents, a safe, non-judgmental and welcoming venue to surface their issues.
- The Visitor first contacts the UOO by phone, e-mail, fax, letter, or in person.
- An initial appointment is typically scheduled for 1.5 hours.
- At the appointment, Visitors are introduced to the workings of the UOO wherein the Visitors are given an overview of the four corners of the UOO as outlined above, thus creating realistic expectations of what the UOO will and will not do.
  - Meetings may take place on or off campus, in another area of campus, or by utilizing platforms such as “Skype”, “GoToMeeting” or other platform.

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<sup>5</sup> The UOO does engage in “informal fact-finding” in order to ascertain the big picture.

<sup>6</sup> The process applies to visitors, respondents and others that may come into contact with the UOO during the course of a case.

- Visitors ask questions to clarify the UOO's role.
- Once a Visitor states there are no more questions they affirm their understanding of the role.
- Visitors explain their issues and concerns to the UOO.
- The UOO helps Visitors hone in and clarify the issues in order to better identify potential solutions that the Visitors will choose from.
- The UOO may do any or all of the following;
  - Ask for clarifications from other sources or resources, thus conducting informal fact-finding, including review of records and interviewing others
  - Clarify policies or processes
  - Reality check and/or challenge the visitor
  - Conflict coaching
  - Role plays
  - Take the Visitor through conflict diagnostics routine
  - Just listen
  - Encourage the Visitors to seek an "interest" based solution
  - Make referrals
- Allow the Visitor time to think about the best solution or approach for them.
- The Visitors choose a path forward from the options identified which may include doing nothing, entering into a formal process, having the UOO do shuttle diplomacy or direct intervention. It is strictly the Visitor's choice as to what path they want to take.
- Visitors may come to the UOO for a single appointment or choose to work with the UOO over a period of time.
- The UOO can terminate contact with any Visitor at any time if there is a perception that sessions are becoming counseling, the UOO believes that the Visitor is improperly using the office or there is a developing conflict of interest.
- The UOO will follow up with Visitor(s) when requested.
- Typically, once a visitor leaves the office and there is no further contact after two weeks, the UOO closes the case and shreds documents.

## **OUTREACH**

From January 01, 2014, through December 31, 2014, the UOO reached out to the University, offering 35 presentations to the UOO constituency, (approximately 450 attendees). In these presentations, the UOO explained the function and limitations of its role in the context of the "four-corners" of the Standards noted above, the UOO constituency and how to contact the UOO. In general, the presentations were well received and generated questions.

Additionally, the UOO participated in New Employee Orientations, delivered presentations on bullying, conflict dynamics and diagnostics, methods for responding to e-mail, assumptions and attributions and how these affect conflict. The UOO also conducted follow-up sessions to the 2014 Professional Development presentation on Crucial Conversations.

The UOO produced a smaller version of its brochure with contact information and "Tips for Resolving Conflicts."

## **OTHER ACTIVITIES OF THE UOO**

The UOO serves on two committees for the Board of Certification of IOA, namely as a member of the Eligibility Committee charged with reviewing the credentials and practice of those applying for the designation of Certified Organizational Ombudsman Practitioner (hereafter “CO-OP<sup>SM</sup>”) and as Chair of the Recertification Committee, charged with reviewing applications for recertification and approving all educational Professional Development Hours.

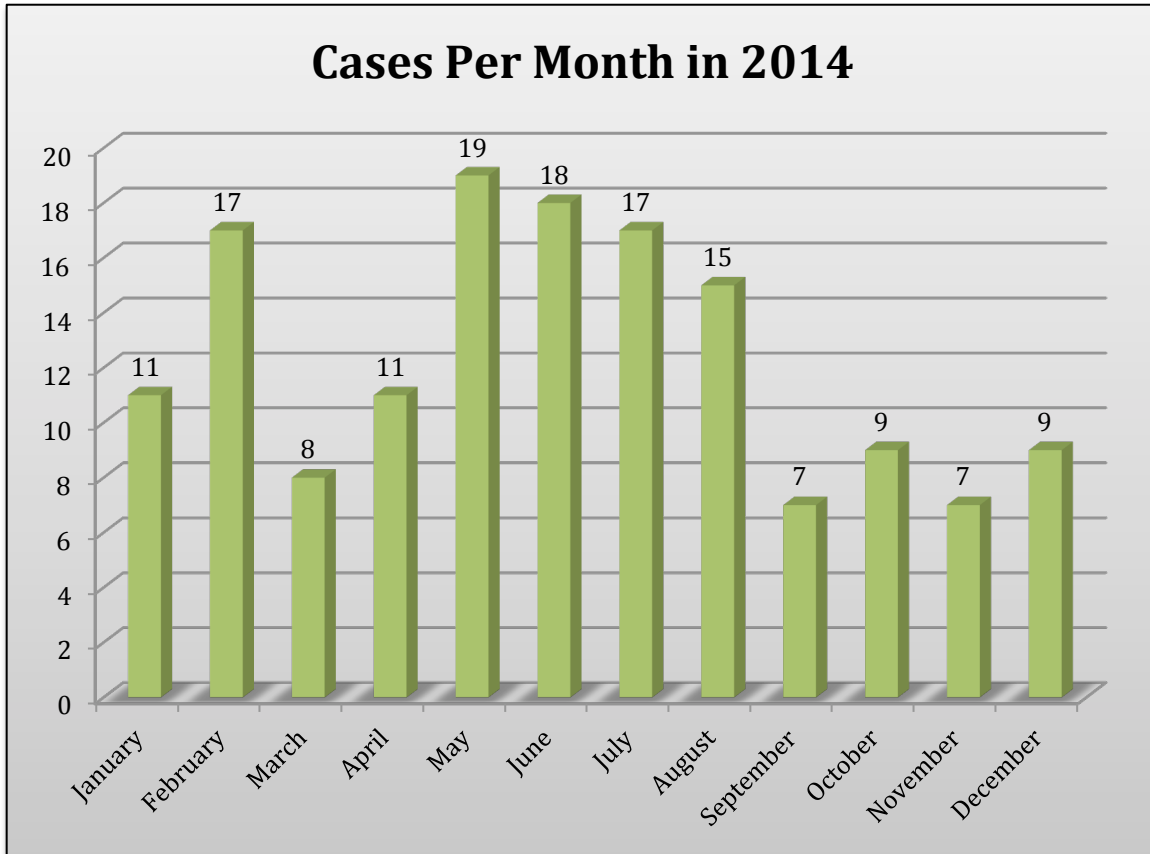
The UOO served as an ex officio member of the committee producing a policy that will define, identify and specifically prohibit bullying behaviors at the University.

The UOO attended trainings in Title IX, Abrasive Behaviors (bullying and mobbing), advanced techniques in negotiations and difficult conversations, and recognizing and dealing with high conflict personalities. These trainings were offered by organizations such as IOA, High Conflict Institute in San Diego, CA., Harvard Law School (the Harvard Negotiation Project) in Cambridge, MA, California Caucus for College and University Ombudsmen<sup>7</sup>. Finally, the 2014 IOA Annual Conference was held in Denver and offered four days of relevant trainings for Ombuds applicable to our work in mediation, facilitation and negotiation, as well as Federal Law and human resource topics.

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<sup>7</sup> Cal Caucus is the oldest organizational ombudsman organization in North America and meets annually, offering intensive classes taught by Ombuds to Ombuds.

**CASELOAD**



In 2014, open case duration ranged from one day to 93 days.



## **DEMOGRAPHIC INFORMATION**

### VISITORS BY ETHNICITY (total of 192 for 148 cases)

White, Non-Hispanic – 96

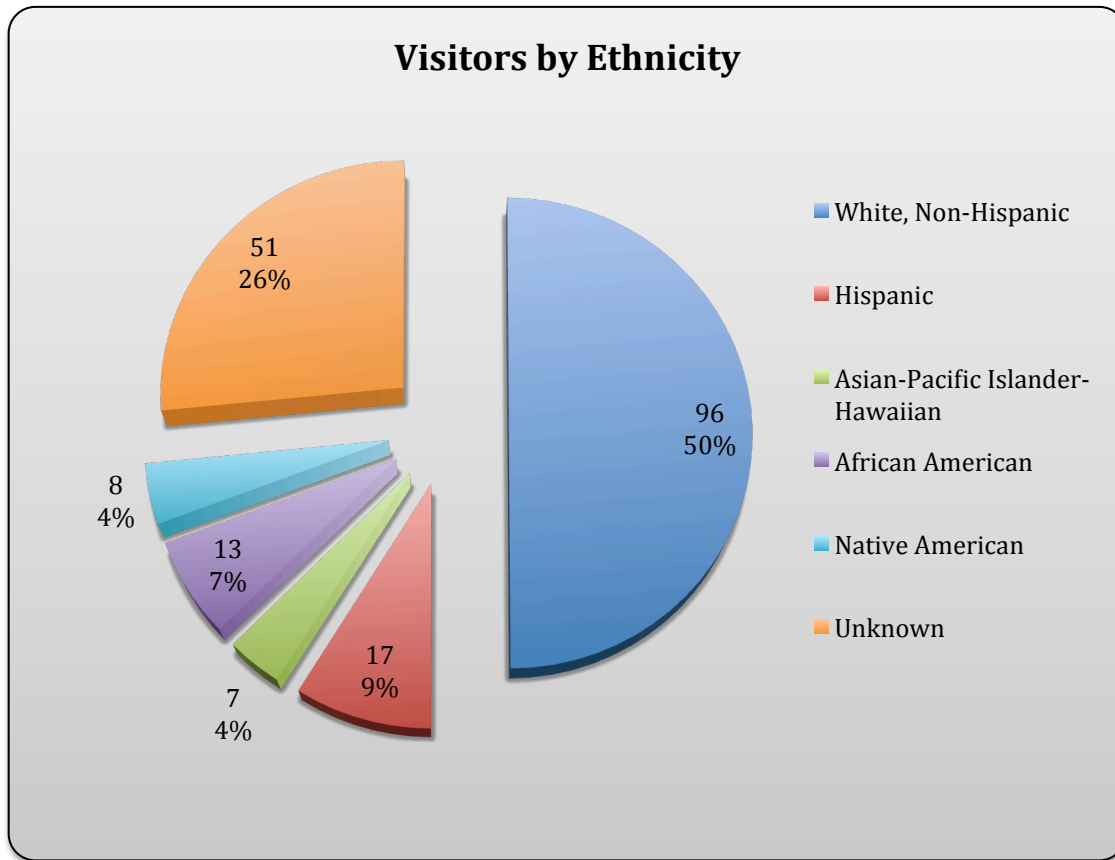
Hispanic – 17

Asian-Pacific Islander-Hawaiian – 07

African American – 13

Native American – 08

Unknown – 51



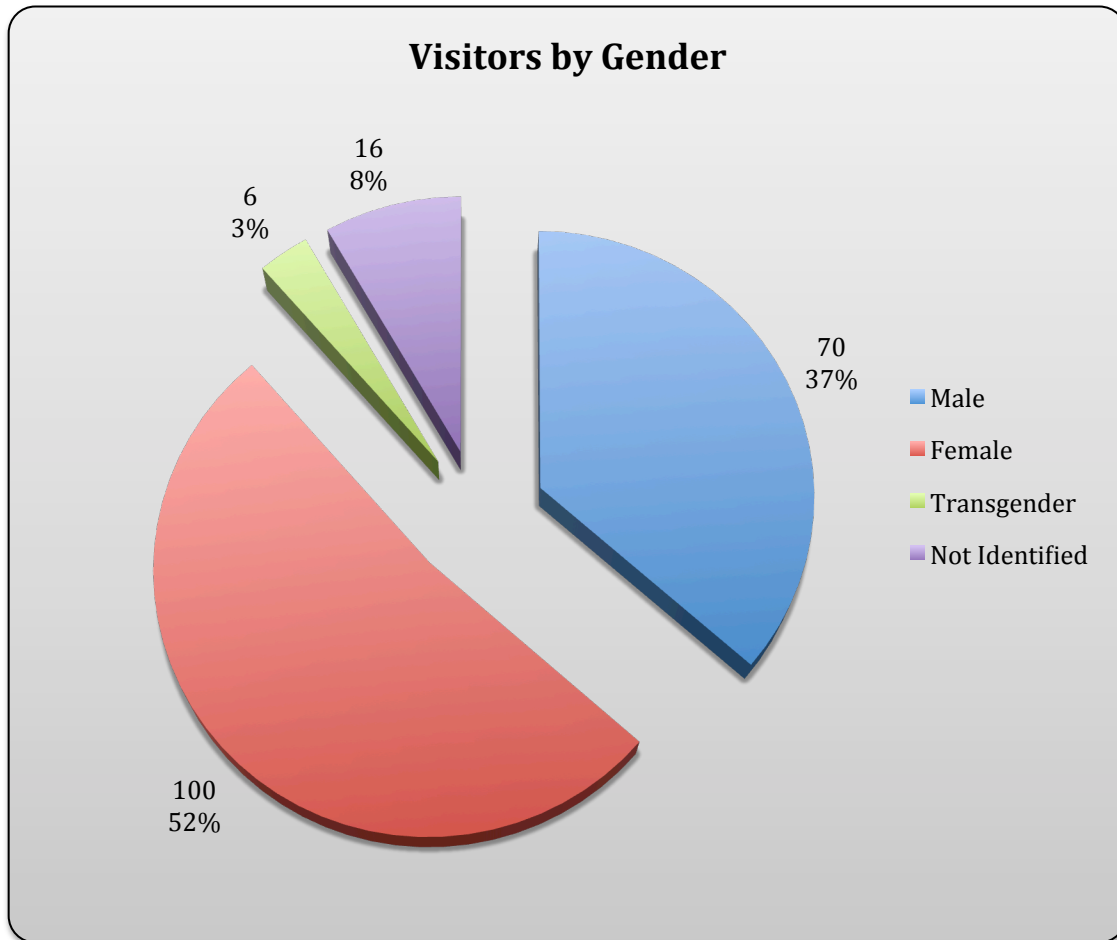
VISITORS BY GENDER (total of 192)

Male – 70

Female – 100

Transgender – 06

Not Identified – 16



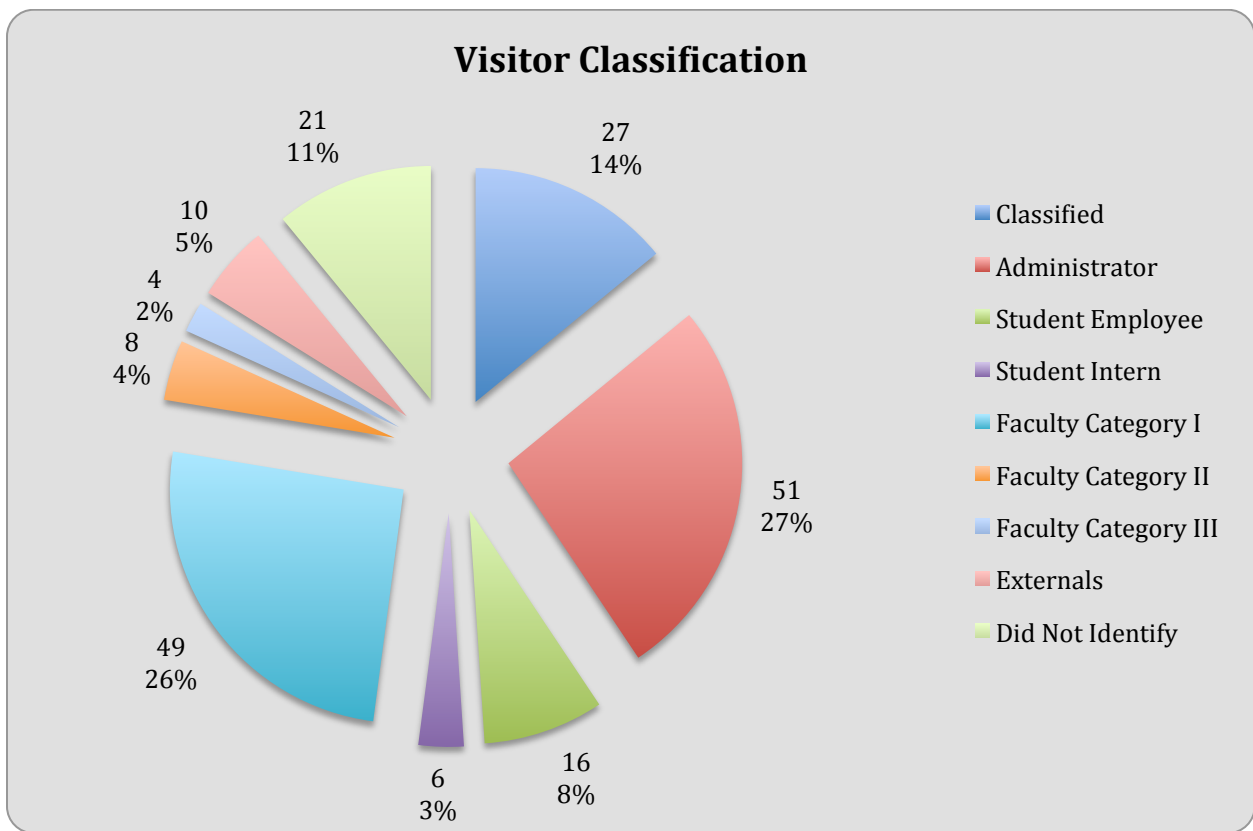
VISITOR CLASSIFICATION (total of 192)

Staff – 95  
Classified – 27  
Administrator – 51  
Student-Employee – 16  
Student-Intern – 06

Faculty – 65  
Category I – 49  
Category II – 08  
Category III – 04

Externals – 10

Did not identify 21



VISITORS BY DIVISION OR SCHOOL (total of 192)

President's Office – 02

Administration, Finance and Facilities– 15

Advancement and External Relations – 12

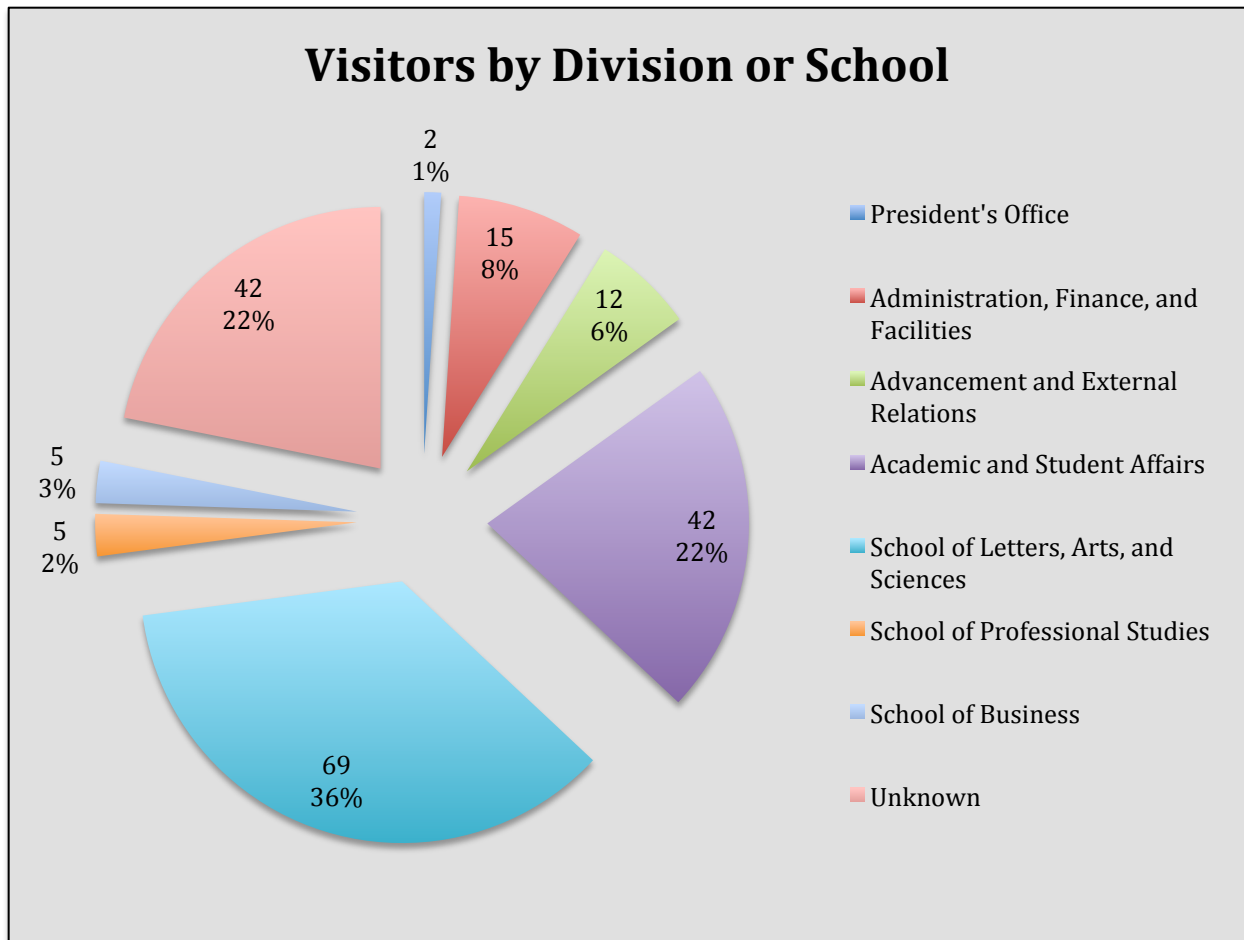
Academic and Student Affairs – 42

School of Letters, Arts and Sciences – 69

School of Professional Studies – 05

School of Business – 05

Unknown – 42



## **ISSUES PRESENTED AND RECORDED**

The UOO records issues utilizing the IOA Uniform Reporting Categories (hereinafter “URC”) that lists nine broad categories and over 80 sub-categories (attached as Addendum “E”).

In almost every case, Visitors presented multiple issues within the nine broad categories to the UOO. This is not uncommon. As Visitor concerns were being discussed, the UOO asked Visitors “focus down” their issues to the top three to four issues they wanted to address without bypassing any of their concerns. Thus, the number of issues reported for 2014, dropped considerably from the 2013 report without sacrificing critical information. For 2014, Visitors identified a total of 716 issues.

### **I. Compensation and Benefits (09 - 1.256%)**

a. Compensation	08
b. Payroll	00
c. Benefits	01
d. Retirement, Pension	00
e. Other	00

The issues and concerns raised in this category related to pay disparity where visitors complained that they were working jobs having the same titles and job descriptions yet they were being paid less than their peers for doing the same work. Gender was never raised as an issue.

### **II. Evaluative Relationships (275 – 38.407%)**

a. Priorities, Values, Beliefs	08
b. Respect, Treatment	35
c. Trust, Integrity	23
d. Reputation	07
e. Communication	27
f. Bullying, Mobbing	27
g. Diversity Related	08
h. Retaliation	18
i. Physical Violence	01
j. Assignments/Schedules	27
k. Feedback	05
l. Consultation	02
m. Performance Appraisal	14
n. Department Climate	40
o. Supervisory Effectiveness	10
p. Insubordination	00
q. Equity of Treatment	23
r. Other	00

Eight of the subcategories pertain to issues and concerns directly related to abrasive behaviors on the part of supervisory personnel such as incivility, bullying, mobbing, harassment, retaliation

and fairness. The offending supervisors generally encompassed Chairs and senior faculty, along with mid-level administrative managers.

*Assignments and Schedules* concerns were raised from the perspective of abrasive behaviors including retaliation and harassment. Where the matter concerns faculty, Visitors described events such as where faculty disagreed with a chair or those being in the chair’s “tribe” and afterward that found they received less favorable class schedules. Additionally, non-tenured faculty complained of retaliatory actions where work assignments changed almost daily and this information was not communicated to them either clearly or at all. The results were Visitors were held responsible for problems with those assignments. They felt this was unfair and were powerless to address the situation constructively.

**III. Peer and Colleague Relationships (162 - 22.625%)**

a. Priorities, Values & Beliefs	10
b. Respect/Treatment	32
c. Trust/Integrity	22
d. Reputation	03
e. Communication	31
f. Bullying/Mobbing	32
g. Diversity Related	19
h. Retaliation	06
i. Physical Violence	07
j. Other	00

In this category, four of the subcategories simply mirror the subcategories on Category II. These subcategories along with physical violence and diversity issues were raised as a part of the wider issues of abrasive behaviors. With regard to physical violence, there were seven issues raised where the Visitors expressed fear for personal safety. Generally speaking, supervising personnel (both faculty and staff) were named as the perpetrators of this abrasive behavior. As a discussion of possible options, these Visitors were referred to human resources, EEO and law enforcement.

**IV. Career Progression and Development (45 – 6.284%)**

a. Job Application/Selection	05
b. Job Classification	07
c. Involuntary transfer/change assignment	04
d. Tenure/Position Security	03
e. Career Progression	03
f. Rotation/Duration of assignment	02
g. Resignation	00
h. Termination/Non-Renewal	05
i. Re-employment of Former or Retired Staff	05
j. Position Elimination	03
k. Career Development, Coaching, and Mentoring	08
l. Other	00

In this category the Visitors talked about working “well” (their emphasis) outside of their job descriptions. They described working additional hours and having duties and responsibilities that added to their jobs that were not in their job descriptions and in their view, ought not to be a part of their jobs. They felt this was unfair to them and created unreasonable expectations that resulted in a hostile work environment. Additionally, they felt strongly that taking on additional duties in all fairness should come with additional compensation.

**V. Legal, Regulatory and Compliance (12 – 1.675%)**

a. Criminal Activity	03
b. Business and Financial Practices	00
c. Harassment	05
d. Discrimination	02
e. Disability-Temporary or Permanent Reasonable Accommodation	02
f. Accessibility	00
g. Intellectual/Property Rights	00
h. Privacy/Security of Info	00
i. Property Damage	00
j. Other	00

There were three complaints of perceived criminal activity in the form of theft. The Visitors declined to take these matters up formally because of fears of retaliation from Human Resources (see the discussion below) and the administration in general.

**VI. Safety, Health and Physical Environment (102 – 14.245%)**

a. Safety	22
b. Physical Working Conditions	20
c. Ergonomics	00
d. Cleanliness	15
e. Security	01
f. Telework/Flexplace	02
g. Safety Equipment	00
h. Environmental Policies	12
i. Work Related Stress	30
j. Other	00

Regarding safety, this number is down from a reported 40 issues in 2013. Whether this represents the issue improving remains to be seen. The UOO sees this as a refocus of issues (supra). The concerns are real and the visitors, including some respondents, talked of fear of coming to the workplace.

Visitors raising issues relating to safety did so alleging abrasive behaviors (bullying and mobbing). They described co-workers and/or supervisors yelling at them while impeding their ability to get out of a room. Several described incidents involving small objects such as pens,

pencils, paper balls and the like being either thrown at them or in their general direction. None described actual physical harm but described their perception of psychological terror. Several reported that during an actual campus emergency involving bad weather, where people were seeking shelter, a supervisor demanded and even forced these people back into an area which exposed them to perceived danger.

Visitors related issues about physical working conditions specifically naming concerns about mold and vermin in the SSB building. Additionally, under *Cleanliness and Physical Working Conditions* there were concerns directed at the condition of restroom facilities in the West and Central Classroom Buildings.

There were continued concerns raised regarding exposure to second hand smoke on the campus in general and necessity of walking through smoke when entering and exiting buildings.

Reports of work related stress remained constant with many of the visitors reporting symptoms of depression, trouble sleeping, crying, anger issues and drug and alcohol abuse. In each of these cases, the UOO made referrals to the health center, C-SEAP or other appropriate support systems. Many were considering leaving their jobs at the University even without having other opportunities identified. These visitors, and some respondents as well, named abrasive behaviors of co-workers and supervisors as the principal reason for their troubles and felt generally powerless to address the issues.

**VII. Services and Administrative Issues (47 – 6.564%)**

a. Quality of Services	12
b. Responsiveness/Timeliness	11
c. Administrative Decisions/Application of Rules	15
d. Behavior of Service Provider	09
e. Other	00

Most of these complaints related to “*Quality of Services,*” “*Responsiveness/Timeliness,*” “*Behavior of the Service Provider*” and “*Administrative Decisions/Application of Rules*” surfaced generally from external visitors and from parents of students. They expressed displeasure regarding interactions with student service departments. They felt that they were not respected, were passed around from department to department and staff were curt and rude. They complained they were given conflicting answers and when decisions were made about their issues, the rationale or rule was not explained clearly. About half of them described encounters where they were passed around between two or three departments and finally left messages but did not receive return calls. When they asked to escalate issues, they believed they were “blown off.”

**VIII. Organizational, Strategic, and Mission Related (34 – 4.748%)**

a. Strategic/Mission Related	01
b. Leadership and Management	11
c. Use of Positional Power & Authority	04
d. Communication	04



e. Restructuring and Location	03
f. Organizational Climate	04
g. Change Management	02
h. Priority Setting/Funding	02
i. Data, Methodology and Interpretation of results	01
j. Interdepartmental/Inter-organization Work/Territory	02
k. Other	00

#### **IX. Values, Ethics and Standards (30 – 4.189%)**

a. Standards of Conduct	24
b. Values and Culture	05
c. Scientific Conduct/Integrity	01
d. Policies and Procedures Not Covered in Broad Categories 1-8	00
e. Other	00

Visitors raised concerns about inappropriate behaviors in the category of *Standards of Conduct* such as incivility, bullying and allowing or leading mobbing. Management of both faculty and staff were named but with the greater number of concerns raised about faculty leadership. Example comments were “how they can get away with acting like that!” or “they ought to know better!” or “these people need to be sent to school to learn how manage people.”

**OUTCOMES**

The UOO does not approach conflict and concerns either from “agreement focused” or “rights-based” models. This means that it is not the goal of the UOO to push its visitors or respondents to agree but rather to understand one another’s issues thus the UOO focuses on “interest based” outcomes where those involved in the conflict identify options and solutions that are most satisfactory to them, work through those issues so that options and solutions are realistic as well as obtainable and are consistent with the policies and procedures of the University. Self-determination is key to the work of the UOO.

Resolved means that Visitor(s) reported that the chosen options to address the concern or issue either was satisfactorily worked out between the parties or the Visitor’s unilateral solution simply solved the problem. Partial resolution means that the situation improved from the perspective of the Visitor but was not completely solved.

The UOO does not always know the outcomes of cases. It is often the case that a Visitor contacts the UOO and after a phone conversation or meeting, there is no further contact with the Visitor.

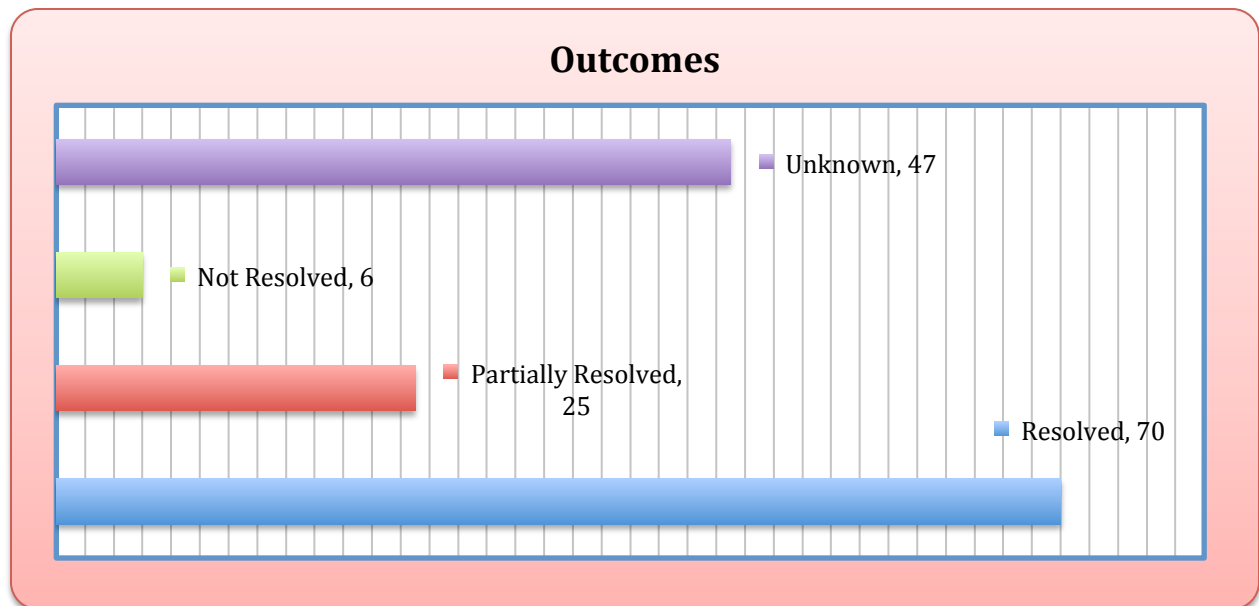
Resolved – 70

Partially Resolved – 25

Not Resolved – 06

Unknown – 47

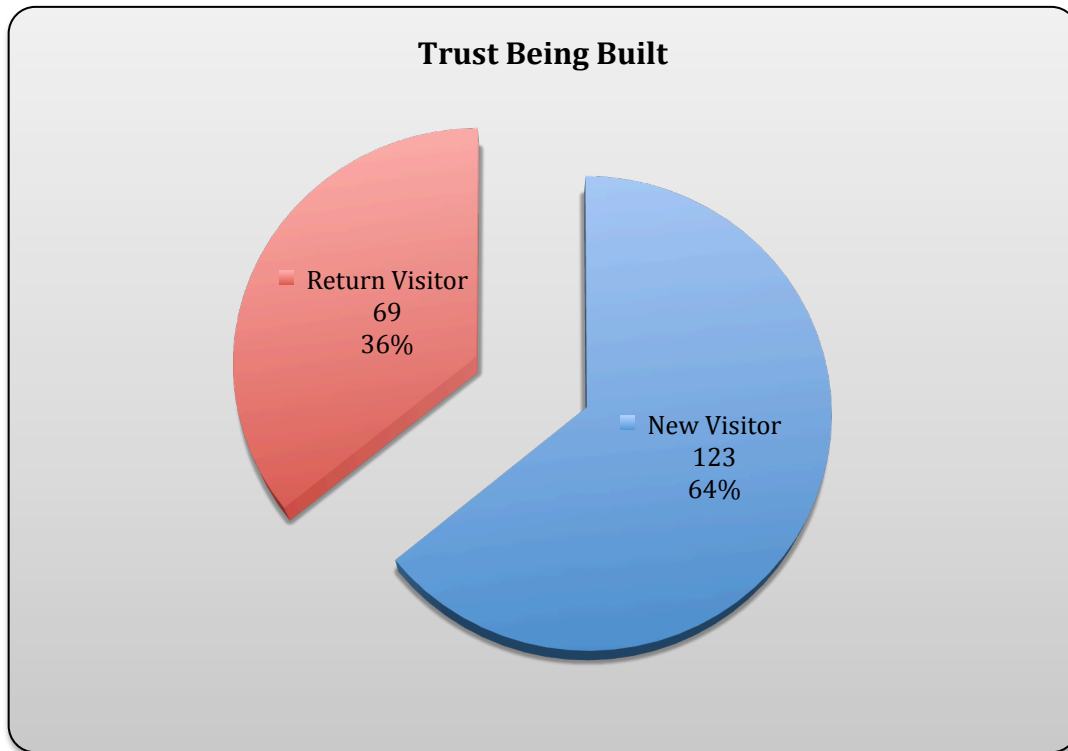
TOTAL 148



## TRUST BEING BUILT

192 visitors came to the UOO in 2014. Of these, 123 were new (64%) and 69 (36%) were return Visitors. The UOO believes that the number of returning Visitors is evidence that these Visitors found their previous experience to be worthwhile and helpful thus they returned to the UOO for further assistance.

The number of “new” Visitors indicated that UOO outreach to the University community has been successful in getting the word out about services offered by the UOO. Additionally, the UOO believes that the numbers also indicate that there is widespread trust of the UOO as a safe venue in which to talk about issues and concerns, and that identities and information are held in strict confidence. In short, the UOO believes these numbers indicate that the office operates at the high levels of professionalism and trust as advertised in its Charter.



## TRENDS AND CONCERNS

There are nine broad categories in the URC with over 80 subcategories. In 2013, there were 1,160 issues brought to the UOO. In 2014, the UOO assisted Visitors in honing in on their issues to reflect the top three or four issues most important to each Visitor without sacrificing their concerns or information. For 2014, 716 issues came to the UOO, or about 4.8 issues per case (148) and 3.7 issues per visitor (192). A small number of Visitors articulated only a single issue whereas most Visitors reported multiple issues.

### ABRASIVE BEHAVIORS: INCIVILITY, BULLYING, MOBBING AND MORE

Since 2007, a number of researchers and practitioners (psychologist, sociologist, social workers, conflict resolution practitioners, organizational behaviorist) have been using a broad-based term “Abrasive Behaviors” to describe and cover a wide range of unwanted behaviors from disrespect, incivility, bullying, retaliation, harassment and mobbing (see *infra*). As a matter of process, the UOO often uses “abrasive behavior” terminology when entering a discussion that is leading to assertions of bullying and mobbing. The UOO simply does not want to lead one down a path or influence the Visitor into going down one path over another. Thus the UOO allows the Visitor to self-identify their issue and explain why they believe certain behaviors are what they name them. It is important to name the problem; therefore what the UOO reports here is that which was reported to the UOO. If the Visitor describes the event and names it, it is so reported here.

Abrasive behavioral issues were widespread across staff and faculty. Bullying and mobbing were specific and more often identified over incivility. One definition of work related bullying is opined by Einarsen *et al* as “... repeated actions and practices that are directed against one or more workers; that are unwanted by the victim; that may be carried out deliberately or unconsciously, but clearly cause humiliation, offence, and distress; and that may interfere with work performance and/or cause an unpleasant working environment.”<sup>8</sup> Hence, what people (victim/target) typically describe are repeated and persistent exposures to negative and aggressive (abrasive) behaviors that are generally psychological in nature. There are further distinctions relating to personal bullying versus institutional bullying as well as subjective (private or perceived) versus objective (witnessed) bullying behaviors. Bullying may also be a group event (mobbing)<sup>9</sup> wherein a group of individuals band together to isolate another individual to force submission, and more often one’s resignation. This is often done with the tacit approval of management.

As it was in last year’s report, it is important to note that visitors described a wide variety of abrasive behaviors and utilized a wide variety of terminology in doing so. Terms and examples

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<sup>8</sup> *Bullying and Harassment in the Workplace: Developments in Theory, Research and Practice*, 2nd Edition, Editors; Stale Einarsen, Helge Hoel, Dieter Zapf and Cary L. Cooper, CRC Press, New York, 2011, p. 9

<sup>9</sup> See *Mobbing: Causes, Consequences and Solutions*, Maureen Duffy and Len Sperry, Oxford University Press, New York, 2012, p. 42 (“...a malicious attempt to force a person out of the workplace through unjustified allegations, humiliation, general harassment, emotional abuse and/or terror... [Quoting Davenport]” and/or “...the collective expression of the eliminative impulse in formal organizations... [Quoting Westhues].”

were used often and interchangeably, meaning most Visitors did not have in their minds a clear definition of abrasive behaviors but as conversations progressed, Visitors began to become specific in describing specific bullying and mobbing behaviors. Some admitted outside influences in defining their issue such as reading articles, or seeing news reports specifically about bullying. Some admitted that they had been targets of bullying and mobbing in elementary, middle, and high school or in former workplace settings. Visitors spoke in experiential terms rather than using clinical or academic definitions. All those describing these behaviors commented that they were the targets and/or witnessed these behaviors. In the latter group, most asserted that witnessing these behaviors affected the ability to work effectively as well as harmed relationships (destroying trust). All talked about the effect of bullying on their morale and that of their working unit as well.

Visitor descriptions of bullying and mobbing remained essentially the same for the 2014 report. This year, when visitors spoke of bullying and mobbing they seemed clearer in their descriptions of “repetitive” events. Additionally, Visitors described the events over time as in a state of “escalation,” i.e., things only seem to get worse, not better. Descriptors of these behaviors included such terminology as inappropriate, harsh, evil, mean-spirited, unkind, aggressive, embarrassing, being violated, isolating, humiliating, hurtful, frightening, betrayal, sabotage, unwanted, silence, intolerance, constant public criticism, deflating, exclusion, marginalization, denial of work, hate, overworked, locked-out, undervalued, devalued, fearful, rude, isolating, violation of norms and hostility. Visitors often described their own departments as having a climate of fear and intimidation. Of note, during 2014 the UOO heard more visitors using the word “hate” directed at supervisors and peers. Anger and frustration seemed to have intensified and the concern then, is that escalation may lead to more serious behavioral issues including the possibility of violence.

These behaviors were again described as taking place in open meetings where the bullying behavior came in the form of harsh criticism and belittling the target or by a group attacking an individual (“mobbing”). The majority again described “invisible incivility,” meaning many of these behaviors were experienced in private.

Of the 716 issues brought to the UOO, Category II, (*Evaluative Relationships*) had 275 issues presented and Category III (*Peer and Colleague Relationships*) had 162 issues presented totaling 455 issues or approximately 62.25% of all issues and concerns reported for the year. Thus, over one-half of the issues related to direct personal interactions between supervisors and employees as well as peer interactions.

In Category II, *Evaluative Relations* represents 38.40% of the total of complaints recorded. Specifically, in subcategories of Respect/Treatment, Communication, Bullying/Mobbing, Retaliation, Department Climate, Diversity-Related and Equity of Treatment accounted for 178 (64.72%) of the issues recorded in this category. Generally speaking, these concerns were voiced as abrasive behavior issues, such as people being rude, insensitive, coercive, threatening, punitive, and disrespectful. What became apparent is that the issues started with incivility and escalated over time to what the Visitor targets believe to be bullying (and mobbing) behaviors. Of note were complaints about issues surrounding fairness of assignments and schedules (27) that were related to department climate, retaliation and equity of treatment.

In Category III, *Peer and Colleague Relationships* accounted for 22.625% of the total complaints brought to the UOO. 127 of the 162 issues reported in this category (78.39% of the total for the category), related to how people perceived they were being treated by co-workers under subcategories of Respect/Treatment, Communication, Bullying/Mobbing, Diversity Related issues, Retaliation and the Threat and Fear of Physical Violence. Here, there was an increased number of “diversity related” issues relating to abrasive behaviors such as culturally insensitive and offensive language.

In these Categories, Visitors were often bringing issues to the UOO relating to both their supervisor and co-workers. The allegations were that issues taken to supervisors for assistance were either not acted upon or that the lack of action on the part of the supervisor encouraged the offending co-worker to continue the behavior in question. This view was often voiced relating to “administrative” faculty. On the strictly administrative side, Visitors seem to feel that their managers either were profoundly conflict avoidant, or were simply devoid of compassion in these matters.

From the faculty perspective, some Visitors and a number of Respondents described their engagement in abrasive behaviors as their right under “Academic Freedom” saying that when, and how they engage colleagues and staff is within their purview of freedom of expression and they do not care how the receiver perceives their words or actions. The UOO has been told directly by some senior faculty that they do not care what the other(s) think as it is their right and privilege to speak in a manner in which they feel is appropriate and others must deal with it. In many of these cases, when challenging this approach, the UOO was unable to help the Visitor see the problem with this approach. In fairness, some of these managers felt that they were under attack as well. Although this does not excuse bad behavior at any level, it does help to understand a larger issue found in some areas of the University relating to climate.

In Categories II and III alone, 305 issues recorded were directly related to abrasive behaviors such as bullying and mobbing (the majority reported bullying). That represents 69.79% of the total reporting for these two categories related to relationships with one’s supervisor or co-worker. Examples of issues reported are senior faculty accusing other faculty of being “terrorist;” non-tenured faculty having rules changed relating to job duties without those rules being communicated and suffering consequences for not getting the job done; supervisors or coworkers angrily engaging the visitor(s) in an area where they did not feel they could escape (blocking the exit); objects thrown at visitors such as pencils, pens, paper balls (none described “physical” harm); having objects thrown down on a desk or the floor during an angry confrontation; being belittled for having an idea; visitors being followed into a restroom and verbally attacked; withholding information from individuals and preventing them from completing an assignment and then being openly chastised for not completing the work; threats of termination if one reports an activity or refuses to go along; name calling including comments regarding ethnicity and race; changing times of meetings without informing a participant; threatening to terminate someone without explaining to them what the problem is in the first place; demanding that an employee falsify information; supervisors texting, e-mailing and phoning a visitor while on their personal time (after hours, on vacation).

In Category V (*Legal, Regulatory and Compliance*), there were several reports of anti-Semitic comments being made within a single department. Additionally, there were reports of process violations relating to the tenure process where members of tenure committees were discussing information that was supposed to be kept confidential, by rule, within the committee. In one incident it was reported that committee members attempted to ally with a high-level senior administrator in order to prevent a decision granting tenure.

In Category VI (*Safety, Health and Physical Environment*), 30 of the 102 (29.4%) issues reported in this category were related to work related stress.<sup>10</sup> Add to this the 22 issues reported relating to physical safety. This would represent 51% of the issues reported in this category. A number of Visitors were referred to C-SEAP, the Health Center or private resources for supportive care. Here again, no Visitors reported that they had actually been physically touched or harmed but stated they felt that escalation to imminent physical harm would have been easy achieved. These Visitors were encouraged to report these behaviors to appropriate parties such as next higher-level supervisors, Human Resources and/or Equal Opportunity.

Category VIII (*Organizational, Strategic and Mission Related*) 19 issues seem to relate to leadership, management, use of power, communications and climate. This would represent almost 60% of the issues reported in this category and again, it seems to go back to abrasive behaviors relating to bullying and to some extent, organizational mobbing. These issues were raised in the context of managers and Chairs engaging in these behaviors (sometimes with allies being present) towards subordinates both in the open and in private.

Faculty presented most of the issues relating to abrasive behaviors naming incivility, bullying and mobbing as well as harassment and retaliation from peers and managers. In some departments, these incidents were again described as happening with some frequency. In two departments, the conflict is so deeply embedded therein that the conflict(s) can only be described as “tribal warfare” where “winning” and “damaging” others seemingly have become the focus of the tribes.

The scope of the reported behaviors seems to indicate that there is much in the way of inappropriate conduct encompassing a wide range of abrasive behaviors such as incivility, harassment, retaliation, bullying and mobbing. These behaviors seem to be systemic in nature, specifically bullying and affecting the University as a whole. Many Visitors seem to be losing hope. Morale is reported to be low because of abrasive behavior issues. Many just want out of the University.

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<sup>10</sup> Visitors reporting work related stress and fear often described symptoms such as headaches, gastrointestinal issues, loss of sleep, loss of appetite, social withdrawal, and nightmares. The UOO does not diagnose but sees the need for support and asks about this. Few Visitors were aware of C-SEAP and none were aware of their rights under Workers’ Compensation. (The UOO makes Visitors aware of Workers’ Compensation as an option to be considered. Few were interested citing privacy and retaliation concerns.)

## HEALTH AND SAFETY

In 2014, a number of visitors reported specific concerns involving the SSB building and the presence of molds and vermin. In Category VI (*Safety, Health and Physical Environment*) 34 of 102 issues involved these concerns. This represents approximately 33.3% of the issues in this category.

Relating to the former, Visitors reported that the SSB building is a “sealed” building. As such, one cannot open windows to ventilate the building. The building was often described as hot and humid because the building has a “swamp” cooling system. Concerns arose when it seemed that a number of people in the building reported respiratory related illnesses that seemed to them too long in duration. Visitors believed the cause of these extended illnesses was mold growing within the ventilation system. Visitors, upon asking for this problem to be confirmed and addressed, felt that they were “blown-off” and their concerns not taken seriously. They expressed a great deal of fear and reluctance about coming to work. The UOO questioned Visitors as to how they came to believe this and most explained that they “heard” others talking about the problem (sealed building, swamp cooling) and the observation that many were sick. To these Visitors, this picture made sense to them in spite of other possibilities and therefore the fear was real to them.

On the issue of vermin, a number of these visitors reported seeing rodents running around in the office spaces and expressed concerns relating to the potential spread of diseases because of this problem. This issue was not reported as a problem in 2013 although the problem was reported to the UOO. In 2014, the numbers reporting these specific concerns increased therefore it is included in this report as a health and safety concern. Facilities advised that they also had received reports and the issue was being addressed.

A few visitors continued to report concerns relating to the lack of enforcement of the 25 foot rule where smokers are concerned, and their repeated exposure to second hand smoke when entering and exiting buildings on campus.

## UNWRITTEN PROCESSES

Classified Staff have reasonably clear processes in matters of discipline and termination. Administrative “at will” employees do not perceive this to be true for their class of workers. A number of visitors reported concerns regarding differing approaches to “progressive discipline.”<sup>11</sup>

Mathis and Jackson define “progressive discipline” simply as disciplinary measures that “...incorporate steps that become progressively more stringent and are designed to change the employee’s inappropriate behavior.”<sup>12</sup> Thus, there is a sequence of events that ensures that the

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<sup>11</sup> Here the terms Corrective actions and progressive discipline were used interchangeably by Visitors

<sup>12</sup> Human Resource Management, 11<sup>th</sup> Edition, Robert L. Mathis and John H. Jackson, Thomson/Southwestern, Mason, USA, (2006) p.515f



nature and seriousness of the offence clearly communicated to the employee giving them a chance to correct the deficiencies.

Visitors brought issues to the UOO involving “Corrective Actions” They complained there seemed to be no clear written process that they could look at and review. The second problem is that while some documentation was clear as to the problem, others neither identified the offense nor addressed any prior discussion (warning) in this regard (indeed, looking at the Visitor’s annual review, the issues raised in the corrective action were not discussed).

As a matter of background, the UOO inquired with Human Resources as to the nature and location of the process, i.e., where is the process located and is the procedure written out? The first response given was that no employee of the University would be terminated outright without the President of the University first reviewing the termination request. Thus, the UOO was informed that Administrators are generally not simply terminated outright, except in case of egregious behaviors such as violence, drug use or theft.

Still it was important for the UOO to understand the current policies and procedures so that the UOO could accurately advise its Visitors as to these policies and procedures. Certainly the UOO understands the concept of “at will.” However, in checking with Human Resources as well as division management, the UOO learned that progressive discipline within the University does not exist as a written process but does exist as an “oral tradition.” The perception is that managers and Human Resources make policies up as they go, and as such, the perception is that these procedures are wholly inconsistent and unfair.

Relating to the unwritten policy and process concerns described above are the issues of inconsistent and vague “Corrective Actions.” Here, “Corrective Actions” seemed lacking in detail. For example, informing a person that they better “conform” (I am generalizing) thus improve performance or be terminated at a time certain. The problem was that the needed corrective action was not clearly stated so that the employee could not understand what was being asked of them, thus having a chance to get it right and there should be objective criteria on which the work could be judged. There were issues of the rules being changed so that the employee could never meet the goals of the corrective action. In several cases, it was up to the employee to “guess” what they were to do, and up to the subjective opinion of the supervisor if they had met the corrective criteria. This seemed wholly unfair to the Visitors. In talking with the supervisors in question, Visitors and some supervisors were told by Human Resources that this was an appropriate practice.

The UOO’s concern is that these ambiguous processes can only lead to inconsistent application of rules and regulations and real or perceived lack of equity and justice.

## **HUMAN RESOURCES AND THE EQUAL OPPORTUNITY OFFICE: TRUST AND CONFIDENTIALITY**

The UOO recognizes that members of the University community go to Human Resources and Equal Opportunity because something, in their thinking, is wrong and they go to the offices seeking assistance, clarity and guidance. The UOO also understands that employees may sometimes have unrealistic expectations of processes. They may not understand processes or appreciate subtle differences in processes and policies. Employees may be so deeply entrenched in their own positions that nothing short of “winning” will be acceptable. Whether the issue is lack of understanding generating fear, unrealistic expectations or not getting their way, people may articulate an issue of unfairness or injustice from their point of view. The UOO assumes good faith until something to the contrary is shown and does so without judgment.

### **HUMAN RESOURCES**

Concerns relating to Human Resources (hereinafter “HR”) were raised by the UOO in 2013. In 2013, there had been a great deal of unrest and unhappiness within the department and some changes were made relating to new leadership both in the Division and the department itself. In short, a rebuilding process began. Unfortunately, issues surrounding distrust of Human Resources continue to be reported.

There are two concerns raised by visitors (and some respondents) aside from those raised above. The first relates to “confidentiality” wherein it is reported that information shared with HR thought to be “confidential” was not kept as such. Several visitors reported that upon sharing information with a member of the HR staff, they returned to their offices only to learn that the supervisor or co-worker that the Visitor had concerns about, was already aware of the Visitor’s contact with HR and the subject matter of the conversation between the Visitor and HR. Typically, the Visitor reported that there was an immediate response that was perceived by them to be harassing and retaliatory. Most of the issues involved related to issues of not getting along, perception of duties, fairness, incivility, bullying and harassment.

The second issue speaks to perceived concerns about trust as it relates to HR. While the UOO does not refer every visitor or respondent to HR, the option is often discussed. In 2014, the UOO suggested utilization of HR to 64 Visitors and 42 (approximately 67%) either resisted or declined outright to consider approaching HR. This suggests a high level of distrust of certain functions within HR.

### **EQUAL OPPORTUNITY**

In 2013, the UOO reported issues relating to trust of the Office of Equal Opportunity (“EO”). The UOO questioned visitors about this issue and learned that the principal reason for this distrust was the perception that because the EO office was “housed” in the President’s suite, the President could and would control outcomes of these investigations. Therefore, the proximity of the EO office to the President himself led to this perception of inherent unfairness.

In 2014, a number of new issues surfaced relating to the process of investigations. Specifically, there were allegations that complainants and respondent witnesses once identified, were not interviewed, yet findings and decisions were made based on incomplete information. There were

also a number to reports of breaches in confidentiality related to EO staff, that Visitors, while in the office area, overheard talk about cases (or at least what they thought to be case information). This seems to relate to “loose talk” rather than “intentional” breaches of confidentiality.

A third issue, again relating EO and trust is that the UOO suggested to 72 Visitors and respondents as a viable option that they potentially use EO services and 56 (approximately 78%) of these declined outright to utilize EO citing distrust relating to confidentiality, lack of empathy, being judged before all the facts were explored, and perception that the investigation was not conducted fairly or completely. Certainly this indicates experience with EO.

The UOO often explained the process in possibly more detail to its Visitors than they had heard previously. As an example, the UOO explained the vetting process for jurisdictional issues. It was explained that the findings of the EO office are independently reviewed by an Associate Attorney General to ensure that EO itself has followed the guidelines in order or prove/defend the case. Visitors are generally surprised by this information and some, I believe, saw them differently at that point.

### **CUSTOMER SERVICE AND ACCURACY OF INFORMATION**

A number of parents contacted the UOO relating to the lack of appropriate customer service. They described experiences of calling an office within the University and asking for explanations, clarifications or rationales for decisions. Our employee (in most instances it was unknown whether the person was a regular or student employee) did not know the answer, and then transferred the caller to another person or department where they again encountered the same problem. Several visitors described being transferred multiple times, including as a last resort, being transferred by a staff person to the UOO. Visitors also described staff being frustrated with them and becoming curt/disrespectful and all described a total lack of empathy for their issue. These issues involved registration issues such as transfer credits and enrollment, insurance issues and financial aid questions. The Visitors described themselves as “customers” and because of this behavior, threatened to withdraw the student from the University, go to the press and talk to friends about the poor customer service. The UOO intervened directly in these matters and obtained explanations and clarifications for these visitors. Obviously the answers were not to everyone’s liking, but the visitors seemed satisfied that they had some closure in this regard.

### **LOOKING TO 2015**

The UOO hopes to tackle the following in 2015:

- Continue seeing visitors and respondents and assisting them in working through issues and concerns,
- Continue to keep awareness of the UOO role in the forefront of all divisions, departments and internal organizations at the University,
- Strive to engage the University faculty and staff in an increased number of conflict management trainings,
- Restart attendance in various meetings around campus such as COA, Classified Staff Council, Faculty Senate and so on,

- Ask to be allowed to sit in more institutional committee meetings as ex officio to increase awareness of campus issues and climate,
- Become more proactive in speaking truth to power,
- Continue to serve and lead committees in IOA, The Association for Conflict Resolution (ACR), the American Bar Association (ABA) promoting the work of the Organizational Ombudsman
- Host the quarterly Colorado Ombuds Group at the University
- Hire an administrative assistant full time,
- Revisit taking on students,
- Produce a peer-reviewed article if time permits,
- Host an intern in Conflict Resolution,
- Continue to engage in professional development to maintain and improve conflict engagement skills.

## **CONCLUSION**

All organizations have their issues and conflict. This is natural. People will disagree, even fight. Without conflict, organizations could not and would not learn how to improve and grow. Conflict is a real opportunity to learn and improve. Max Lucado stated, “Conflict is inevitable but combat is optional.” There is much in the way of combat within the University. This is the real challenge: to get our staff and faculty to consider the options of reasoned and appropriate response to conflict versus reacting to it.

Abrasive behaviors in the form of bullying among leadership and peer relationships seem to be consistent with the 2013 reporting and are not improving. Here, these abrasive behaviors encompass issues surrounding methods of communication, trust, lack of respect, incivility and organizational environment where power is perceived by the Visitors to be misused or abused. Allegations of rampant incivility, bullying and mobbing have led to further allegations of harassment and retaliation. Supporting this is the increase in reporting of work-related stress along with physical illnesses and fear for personal safety.

The atmosphere of distrust seems to be generated not only from issues surrounding abrasive behaviors but also the lack of appropriate supervisory engagement in known conflict. Many concerns related repeated avoidance of these issues, thus the perceived lack of support for the Visitor’s well being. Another reason noted is the expectation of confidentiality within certain processes where one’s personal information is getting out into the open or the perceived belief that those charged with keeping information “under their hat” are speaking too freely and in the open with disregard to what is perceived to be “sensitive” information.

Last year, the UOO reported a statistic that nationally, supervisors and managers spend upwards of 60% of their time dealing with conflict. This continues to be a drain on the University in money, time and energy. Managers and supervisors coming to the UOO with specific issues describe an inordinate amount of time being spent on dealing with their issue(s) within their departments. The physical and emotional issues that are given life because of these behaviors are costly to any organization in turnovers, Workers’ Compensation claims, litigation and more importantly, the reputation of the University.

One of the institutional goals articulated to the UOO when the office opened was that the University wanted to improve the institutional climate to make it (the University) one of the best, if not *the* best places to work and have a career. Many Visitors talk of leaving the University because of abrasive behaviors they endure yet always with a note of regret because they love the mission of the University. They love helping students reach their goal of learning, exploring, and graduating. They want to see the University grow and reach into and change more lives, but not at the cost of their own well-being. These folks articulate hopelessness and a need to save themselves because they feel powerless to change the climate yet express profound sadness because they believe in the University and its work. The UOO continues to hear stories around the area about how this University has changed a life, given hope, or given someone another chance of changing theirs. This is a good thing and it is what our faculty and staff believe to be true as well.

Conflict is inevitable. Combat is optional. Conflict is the real occasion for the institution to ask questions, explore, learn, find solutions, make changes and improve. The UOO intends to make every effort to continue to work with Visitors individually and in groups to help change how we address conflict thus improve the climate. With the continued education of faculty and staff on the issues addressed in this report and with the commitment of the University Community to work together, many of these conflicts that exist now, as well as those that will undoubtedly surface in the future, can be engaged constructively leading to a better understanding of ourselves and hopefully resolutions for the good of all.

Respectfully submitted,

G. Michael Kilpatrick, BSL, MS, MTh, CO-OP<sup>SM</sup>  
Director/University Ombuds Officer  
Metropolitan State University of Denver