

# OFFICE OF EQUAL OPPORTUNITY



## **2019-2020 REPORT**

January 19, 2021

Submitted by: Francie Cordova, Director

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## EXECUTIVE SUMMARY

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The University of New Mexico (University) is committed to creating and maintaining a community that is free from all forms of discrimination, including harassment, differential treatment, failure to accommodate, retaliation because of participation in civil rights protected activity, and disparate impact. The Office of Equal Opportunity is the neutral campus entity designated to ensure compliance with all University policies that apply to civil rights including investigations of civil rights violations. The University has policies that prohibit all forms of discrimination and retaliation, to include sexual harassment, a form of gender discrimination that is prohibited by state and federal law (including, but not limited to Title IX of the Education Amendments of 1972). The prohibition includes sexual violence, which is considered a severe form of sexual harassment.

The University is committed to providing equal access to educational and employment opportunities for all individuals. The university considers the following protected statuses:<sup>1</sup>

- Age
- Ancestry
- Color
- Ethnicity
- Gender Identity
- Gender/Sex
- Genetic Information
- Medical Condition
- National Origin
- Physical or Mental Disability
- Pregnancy
- Race
- Religion
- Sexual Orientation
- Spousal Affiliation
- Veteran Status

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<sup>1</sup> Title VII of the Civil Rights Act of 1964 prohibits discrimination on the basis of race, religion, sex (gender), color, or national origin. The Pregnancy Discrimination Act (PDA) is an amendment to Title VII of the Civil Rights Act of 1964. Discrimination on the basis of pregnancy, childbirth, or related medical conditions constitutes unlawful sex discrimination under Title VII. Title IX of the Educational Amendments of 1972 prohibits discrimination on the basis of sex (gender) in any educational program or activity receiving federal financial assistance. Both Section 503 / 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act of 1990 prohibit discrimination against qualified individuals with disabilities. Title IV of the Civil Rights Act of 1964 prohibits discrimination on the basis of sex in public schools and colleges. The New Mexico Human Rights Act of 1978 and its amendments prohibit discrimination in employment on the basis of race, age, religion, national origin, sexual orientation, gender identity, spousal affiliation, ancestry, sex, physical or mental disability and serious medical condition. The Age Discrimination in Employment Act of 1974 (as amended in 1986) abolished mandatory retirement based on age and prohibits discrimination in employment against individuals age 40 and above. Title VI of the Civil Rights Act of 1964 prohibits discrimination in student programs on the basis of race, color, and national origin. The Equal Pay Act of 1983 prohibits discrimination in salary and wages on the basis of sex (gender). The Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA) is a federal law that establishes rights and responsibilities for uniformed service members and their civilian employers. Vietnam Era Veterans' Readjustment Assistance Act, as amended (VEVRAA) at 41 CFR Part 60-300. VEVRAA prohibits federal contractors and subcontractors from discriminating in employment against protected veterans, and requires employers to take affirmative action to recruit, hire, promote, and retain these veterans.

## MISSION AND VISION STATEMENT

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The Office of Equal Opportunity envisions the University as a community where the value of diversity is recognized and where equal opportunity is afforded to all.

The mission of the Office of Equal Opportunity is to promote equal access and treatment of all and to promote a safe environment free from discrimination and inequity in accordance with University values and policies and federal and state equal opportunity and affirmative action statutes and regulations.

## WHAT OEO DOES

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INVESTIGATES complaints of discrimination on the basis of a protected status, including sexual misconduct and failure to accommodate.

MAINTAINS neutrality in all formal and informal processes that address claims of discrimination.

PROVIDES guidance and training to the campus and community partners on affirmative action and civil rights, to include Title IX and the Americans with Disabilities Act (ADA).

ADVISES campus leadership and upper administration on best practices as it relates to civil rights compliance.

ENSURES all University policies and procedures are compliant with federal and state civil rights laws and regulations.

ADVOCATES for a diverse and inclusive campus environment.

COMPILES the annual affirmative action plan (AAP) for the University.

REVIEWS employment hiring practices to ensure compliance with EEO and AA benchmarks and goals.

ACTS as the University ADA Coordinator to provide reasonable accommodation to those living with disabilities and ensure compliance with ADA laws.

COLLABORATES with campus partners to ensure a commitment to a fair, equitable, and safe environment for individuals to pursue their academic and professional endeavors.

## OEO STAFF

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In 2019-20, the OEO worked to attract and retain staff:

- Francie Cordova, Esq. (Director)
- Heather Jaramillo, JD (Associate Director)
- Angela Catena, Ph.D. (Title IX Coordinator)
- Matthew Suazo, BS (Compliance Manager)
- TBA (Compliance Manager)

Civil Rights Investigations/Compliance Specialists:

- Beckham Rivera, JD
- Michael Medrano, BAS
- Andria Torrez, BA
- Melissa Valdez-Lopez, BA

Data Manager:

- Rob Tafoya, M.Ed.

Administrative Assistant III

- Melissa Martinez, BA

Student Employee Office Assistant

- Julio Chavez

# OEO ORGANIZATION CHART

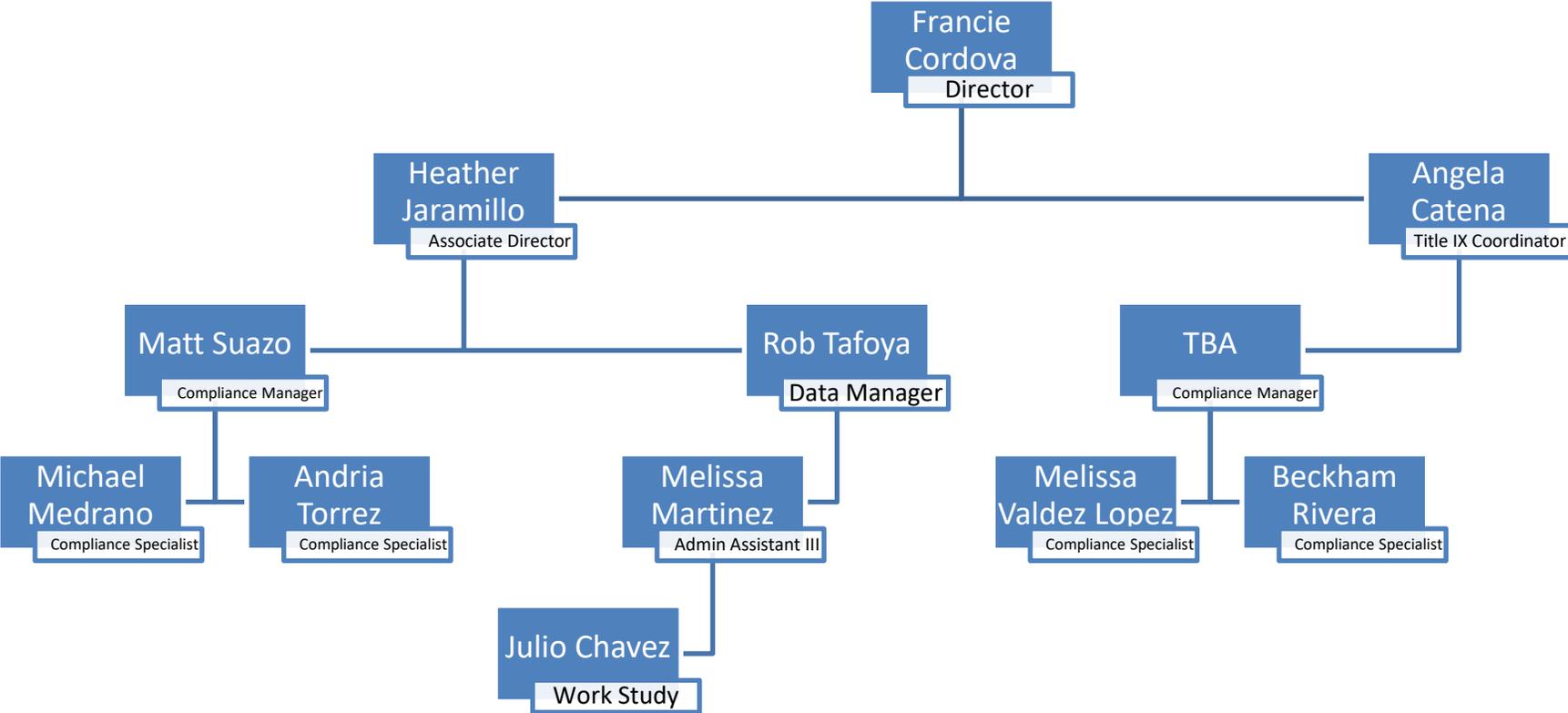


Figure 6 - OEO Organization Chart

## 2019-20 ACCOMPLISHMENTS

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### I. SUCCESSFUL COMPLETION OF THE DEPARTMENT OF JUSTICE AGREEMENT

In 2016, UNM entered into a three-year agreement with the Department of Justice (DOJ) in regard to processing of complaints regarding sexual harassment and sexual misconduct. OEO took the lead in ensuring compliance with the Agreement.

For the past three years, nearly 37,000 students received in-person sexual misconduct awareness training in accordance with the Agreement. This student training effort alone reflects approximately 1,066 hours of student and staff time and involved 711 separate mandatory training sessions. During this period, UNM also required all its individual employees to participate in an annual online training to learn how to respond effectively to sexual misconduct—a training completed more than 21,000 times over the three-year period, with an annual employee participation rate of approximately 98%.

OEO also revised its policies and procedures for addressing sexual misconduct on and off campus and has conducted six climate surveys on the main and branch campuses so we can ensure we continue to make necessary further improvements. Beyond the requirements of the Agreement with DOJ, UNM also contracted with outside specialists to conduct numerous trainings for employees engaged in preventing campus violence and hosted countless events and activities that were not required under the Agreement.

Working closely with the DOJ, OEO and the UNM Compliance Office submitted 13 formal status reports and provided more than 10,000 pages of data and information to the Department of Justice during this time period.

UNM discrimination and investigation policies are clearer and more consistent. UNM employees and the student body are better educated on the processes and where to go for assistance. OEO investigations into sexual misconduct are much stronger, making our responses more effective and transparent. We have seen a substantial increase in people reporting misconduct and/or seeking assistance and support. Our staff and faculty are also playing a greater role in monitoring trends and proactively responding to prevent additional sexual misconduct.

The DOJ formally, and successfully, concluded its monitoring of UNM in December 2019. The final report on the University's Agreement can be found on the [UNM Compliance Office website](#).

### II. UPDATES AS A RESULT OF THE TITLE IX FINAL RULE

On May 6, 2020, the Department of Education released its much-anticipated changes to Title IX, focusing specifically on sexual harassment. The changes were 2,083 pages in length and had more than 50 substantive changes from the 2018 Notice of Proposed Rule Making (NPRM). The Department of Education allotted institutions 100 days to comply with the New Rule, with an

effective date of August 14, 2020.

#### A. Policy and Process Updates

Complying with the new regulation changes by the deadline required a concerted effort by countless partners across campus. University Administrative Policies 2720 and 2740 were updated to align with the new regulations. Additionally, D175 and D176, the policies governing student grievance procedures, were updated to reflect the changes in the regulations as well as other University policies and procedures. The UNM School of Law updated its Bulletin to reflect the new Title IX process as well. The Student Discipline Procedure (SDP) is currently being updated to expand prohibited conduct that is no longer within Title IX's authority. OEO is also working with campus partners to update University Policy 3215, governing staff discipline, and Regents' Policy 1.5: Appeals to the Board of Regents, to align with the recently updated policies and procedures.

OEO rewrote its [Discrimination Grievance Procedure](#) (DGP) outlining its new investigative process. Attending documents, such as investigative forms and templates, supportive measure request forms, case checklists, and visual diagrams of each new process, were developed to supplement the new process. The New Rule requires recipients to track supportive measures that are requested, denied, and effectuated. This will enable OEO to identify areas with sufficient capacity to effectuate supportive measures as well as gaps in the services offered to the UNM community.

Prior to the New Rule, OEO utilized the single-investigator model, a method of investigation whereby the investigator acts as the factfinder and decision-maker. The regulation changes, as well as a decision made by a New Mexico federal judge, now require UNM to implement a hearing process to decide cases. OEO investigators will now act solely as a factfinder in the investigative process. OEO assisted in creating the new UNM Hearing Office, which reports directly to the Office of the President. The Hearing Office staff includes a Hearing Officer, Hearing Coordinator, and two Hearing Advisors: one for Complainants and one for Respondents.

This new process deviates significantly from OEO's past practices and requires in-depth training of OEO staff, as well as advocates and support persons. OEO has developed training specific to its new process, changes to jurisdiction, party rights and responsibilities, the investigation and informal resolution options, referral for hearing, and sanctioning process. Given the truncated implementation time, OEO staff were trained as the process was actively being updated to comply with the regulations.

#### B. Campus Collaboration and Education

The Title IX Coordinator collaborated with UNM Advance to create a video summarizing the relevant changes to Title IX. "Five Things to Know About Changes to Title IX in 2020" was published online on July 24, 2020. The five topics included: Changes to Title IX jurisdiction; UNM Responsible Employee

Policy is unchanged; the preponderance of the evidence remains as the standard of proof; the grievance procedure requires a live hearing to determine responsibility and sanction, as well as allow for cross-examination by the parties' advisor; and UNM will continue to address misconduct that falls outside of Title IX's new sexual harassment definition under other policies and codes of conduct.

On August 21, 2020, OEO hosted a virtual Title IX townhall yielding just under 300 attendees. The 90-minute townhall included general regulation changes, an overview of the new OEO grievance process, including live hearings, followed by a panel comprised of advocates, faculty, and student affairs staff, followed by a Q&A session. The recording of the Town Hall and subsequent Q&A document can be found on [OEO's website](#).

On October 28, 2020, the Title IX Coordinator met with the Associated Students of The University of New Mexico (ASUNM) full senate to provide UNM's student leaders with an overview of the Final Rule and what that means for Lobo students. During this meeting, it was determined that ASUNM and the Title IX Coordinator would co-host a virtual forum, providing students with an opportunity to learn more about the regulation changes and ask questions.

The virtual ASUNM Title IX Forum was held on November 19, 2020. Those who attended the event and had the opportunity to learn about the recent changes to Title IX, including their rights and responsibilities, and how the New Rule impacts UNM students. Students had an opportunity to ask the Title IX Coordinator questions about the changes, including ways to hold students accountable for conduct that falls outside of Title IX's jurisdiction and the ways to access supportive measures.

Communicating these changes to the UNM community remains a priority. The Title IX Coordinator conducted 22 presentations between May 6 and October 29. These included presentations to the Board of Regents, Health Sciences Center Leadership, Branch Campus Directors of Student Affairs, Academic Deans, the Sexual Misconduct and Assault Response Team (SMART), Health Sciences Center Academic Deans, and student advocacy centers. In addition to presentations to various departments across campus, OEO also posts updates to our website and social media platforms.

Full details about the changes to Title IX at UNM are available on [OEO's website](#).

### C. Required Training for Title IX Personnel

Recipients of Title IX funding are required to train their Title IX personnel regularly. Title IX personnel include, but may not be limited to: the Title IX Coordinator, Deputy Title IX Coordinators, Investigators, Decision-Makers, Sanctioners, individuals conducting informal resolutions, and those in the appellate line. In May of 2020, UNM partnered with State University of New York (SUNY) to become a member of their Student Conduct Institute (SCI). SUNY's SCI is

an online platform (with live training options) that trains staff at institutions of higher education on how to fairly and equitably investigate and adjudicate conduct violations, including sexual misconduct cases. Topics include weighing evidence, due process, and trauma-informed investigations.

The SCI platform has been updated to meet the training requirements of the Title IX Final Rule. As a SUNY SCI participating institution, our staff has access to regular training on how to fairly and equitably investigate and adjudicate misconduct cases. Given the substantial changes to Title IX and short implementation window, the SUNY SCI is an invaluable resource to ensure our staff are well-trained and knowledgeable.

To make compliance reporting more efficient, the SUNY SCI offers a tracking system to easily pull training credentials for each participant. OEO remains dedicated to providing the UNM community with a fair and equitable process, therefore it is essential to ensure Title IX personnel maintain their training requirements. The SUNY SCI platforms allows an option to identify Title IX personnel so that the federally mandated training areas are covered.

Title IX personnel are required to receive training in the following areas:

- The scope of the UNM's University Administrative Policies 2740 and 2720 and OEO's Discrimination Grievance Procedure
- Trauma-informed interviewing
- How to connect parties with support persons
- Information about the intersection of OEO process and legal proceedings
- Supportive measures/remedies
- Medical advocacy
- Advisor rights
- Title IX and OCR reporting options
- Formal complaints
- Responsible employee reporting protocols
- How to conduct investigations and hearings that protect the safety of Complainants and Respondents, and promote accountability
- Implicit bias
- Disparate treatment and impact
- Reporting, confidentiality, and privacy requirements
- Applicable laws, regulations, and federal regulatory guidance
- How to implement appropriate and situation-specific remedies
- How to investigate in a thorough, reliable, timely, and impartial manner by individuals who receive annual training in conducting investigations of sexual harassment, trauma-informed

- practices, and impartiality,
- How to uphold fairness, equity, and due process
  - How to weigh evidence
  - How to conduct questioning
  - How to assess credibility
  - Impartiality and objectivity
  - How to render findings and generate clear, concise, evidence-based rationales
  - The definitions of all offenses
  - How to apply UNM's affirmative consent definition consistently, impartially, and per policy
  - How to conduct an investigation and grievance process including hearings, appeals, and informal resolution processes
  - How to serve impartially by avoiding prejudgment of the facts at issue, conflicts of interest, and bias
  - Use of any technology to be used at a live hearing
  - Issues of relevance of questions and evidence
  - Issues of relevance to create an investigation report that fairly summarizes relevant evidence
  - How to determine appropriate sanctions for all forms of harassment, discrimination, and/or retaliation allegations
  - Recordkeeping

### **III. COVID-19 RESPONSE**

In March of 2020, OEO pivoted its operations in response to the COVID-19 pandemic and aligned with the University's efforts to stop the spread of the virus while still providing much needed services to the campus community. Investigators continued to meet with parties and witnesses, but through virtual and telephonic means. Intakes and reports continued to be accepted through all normal channels except for walk-in visits.

In response to the pandemic and entering limited operations, OEO developed several [Q&A sheets](#) to help the UNM community navigate different civil rights concerns, including ADA accommodations.

OEO ensured compliance with UNM's "Bring Back the Pack" initiative, which ensured the provision of protective personal equipment for both staff and visitors, sufficient sanitation products and equipment, signage on proper protocols, Plexiglas in public areas, and internal protocols for both working from home and for working on site during the pandemic.

Additionally, OEO conducted its first live virtual trainings with groups both on and off campus, including a Title IX Town Hall to address concerns arising from the implementation of the Department of Education's new regulations which went into effect on August 14, 2020. OEO also sponsored or co-sponsored training on conducting hearings with vendor Grand River and on conducting investigations with attorney and former UNM law professor Norman Bay.

#### **IV. OEO RESPONSE TO SOCIAL AND CIVIL INJUSTICE**

##### **A. Racial Injustice**

The spring and summer of 2020 included many incidents of racism against individuals of Asian descent due to misconceptions and misinformation about the COVID-19 pandemic. It also saw recorded incidents of civilian and police brutality against Black people in the U.S. The murders of Breonna Taylor, Ahmaud Arbery, and George Floyd, to name only a few, were horrific incidents that sparked protests across the country as American society is beginning to realize these are not isolated events.

OEO has always worked with our campus community to combat acts of hate and racism, but this year's events shone a light on the specific needs of our Black community and also enhanced our awareness of and responsiveness to virtual and online hate incidents for all marginalized communities.

##### **B. LGBTQIA+ Injustice**

In addition to racial injustice, 2020 marks the deadliest year on record for transgender and gender non-conforming people, surpassing 2017's reported 31 murders. As of November 19, 2020, the Human Rights Campaign (HRC) tracked the violent killings of 37 transgender and gender non-conforming individuals. A majority of those murdered were Black and Latinx transgender women, keeping with the unfortunate trend of violence against trans women of color. OEO is dedicated to supporting our LGBTQIA+ community.

Fortunately, the United States Supreme Court released the *Bostock* opinion, which determined that Title VII protections extend to gay and transgender individuals in the workplace. Regardless of legal changes at the federal level, OEO also recognizes protected statuses that are codified in state law, which includes protections for transgender people. In addition, OEO's entire staff is Safe Zone trained by UNM's LGBTQ Resource Center.

##### **C. UNM Efforts**

On September 24, the UNM Police Department and the Division of Equity and Inclusion hosted a virtual Town Hall entitled "Promising Practices in U.S. and UNM Campus Policing and Public Safety," which Francie Cordova, Chief Compliance Officer, took part in. Additionally, as part of

University efforts to encourage people to report incidents of hate and/or bias on campus, the Hate/Bias Reporting Form was moved from the UNMPD website to the OEO website.

Interim UNMPD Chief Joseph Silva and Deputy Chief Christine Chester tapped Angela Catena, Title IX Coordinator, to form a committee of UNM representatives to provide feedback on Lieutenant applicants. The committee consisted of members from the Office of Equal Opportunity, Women's Resource Center, Accessibility Resource Center, African American Student Services, American Indian Student Services, El Centro de la Raza, LGBTQ Resource Center/DEI, and ASUNM. This marks the first time UNMPD solicited feedback from the University for a lieutenant position.

In addition, changes were made to the University's collection of hate/bias incidents. OEO began receiving and documenting all allegations of hate-bias incidents and hate crimes in 2017. When a person filed a [hate/bias complaint](#), the form was received by both OEO and UNMPD. OEO would reach out to the affected party and offer supportive measures and the ability to utilize UNM's internal civil rights administrative process. UNMPD would evaluate to determine if the hate bias incident constituted a crime. In September 2020, the reporting process was restructured so that a report comes only to OEO. This change was made in response to concerns raised by the campus community about reporting hate-bias incidents directly to the police. OEO now receives the hate-bias report, reaches out to the affected party, and lets them decide if they want to be contacted by UNMPD.

Finally, in response to escalating virtual attacks and working with UNM's Division for Equity and Inclusion, Information Technologies, Information Security Office, and the Compliance Office, OEO helped to develop guidelines and protocols for virtual conferencing to prevent and combat discriminatory and hate incidents that can occur in virtual conferencing spaces, such as Zoom. The guidelines for the University community are at [webmeetings.unm.edu](#). The UNM Compliance office also spearheaded creation of a panel video that discusses trolling and doxing and its impact on communities of color and LGBTQ communities. The video was featured as the opening forum during Compliance Week in November 2020.

## **V. INCREASED USE OF INFORMAL RESOLUTION**

OEO has increased its usage of informal resolution for complaints of discrimination and reports of hate-bias incidences. In cases where allegations are less severe or where a Complainant's safety is not at issue, OEO has used informal resolution methods. Informal resolutions are non-punitive ways of discussing allegations of discrimination or hate-bias incidences and educating or dialoguing with the parties involved. Informal resolutions include education conferences,

facilitated dialogues, and other training and methods. OEO monitors the environment after utilizing informal resolutions to ensure that climate has improved, and the alleged behavior has stopped. OEO data indicates that informal methods have been effective in remedying the concerns in more than 90% of cases.

OEO has successfully partnered with the Accessibility Resource Center, OMBUDS, and the Division for Diversity, Equity and Inclusion in facilitated dialogues with parties. This partnership has proven to be highly successful in optimizing informal resolutions.

## **VI. STAFF DEVELOPMENT**

OEO is committed to obtaining and maintaining competency and fluency in civil rights laws. OEO has sought out and hired individuals with education and experience in law, education, law enforcement and civil rights investigation. Specifically, OEO staff attended many trainings and conferences in 2019-20 that focused on civil rights, customer service, hate-bias reporting, Clery Act reporting, sexual assault, investigation techniques, advocacy, and active listening skills to further develop civil rights competencies.

### **A. 2019 Trainings**

#### **ADA and Accessibility**

- Accessibility Resource Center Update, UNM Accessibility Resource Center
- Accommodating Motor Impairments in Office, Industrial and Healthcare Setting, Job Accommodation Network (JAN)
- Accommodations in the Balance: Practical Solutions for Complex Needs, JAN
- ADA Basics: Competence Builds Confidence, JAN
- ADA Coordinator Certification Training
- ADA Coordinator Council Meetings
- ADA Update, JAN
- Assistive Technology Basics, JAN
- Autism Awareness, UNM Center for Developmental Disabilities
- Big Organization Accessibility (webinar)
- Current Events in Accommodations, JAN
- FMLA/ADA Reasonable Accommodations, ISS
- How to Get Buy-In for Accessibility
- Interactive Analysis of Common Scenarios under the FMLA and ADA
- Introduction to Accessible College
- Managing Accommodations Using a Third-Party Vendor, JAN

- Service and Emotional Support Animals: Managing the Menagerie
- Veterans with TBI and Co-occurring Conditions, JAN
- Wearables, JAN
- Website Accessibility Laws: Why the Number of Lawsuits Nearly Tripled in 2018

#### Title VII and Diversity

- Annual Higher Education Labor and Employment Law Update
- Dream Zone Training, DREAM Team
- Microaggressions, Bias, and How to Deal with Racism in this New Era
- Regional Town Hall, Equal Employment Opportunity Commission
- Safe Zone Training, UNM LGBTQ Resource Center

#### Title IX, Clery, and VAWA

- APA Regional Conference on Child Abuse
- Clery Training, UNM Compliance
- A Data-Driven Approach to Sexual Violence Prevention Training
- Increasing Equity in Sexual Misconduct Response Procedures, Clery Partnership Webinar Series
- Mindfulness in Domestic Violence Work
- Raped, Then Jailed: The Risks of Prosecution for Falsely Reporting Sexual Assault
- Remaining Trauma-Informed in an Era of Changing Title IX Regulations
- Sexual Misconduct in Academic Medical Programs: Institutional Risks and Responsibilities

#### General and Professional Development

- Active Listening, UNM Ombuds
- College Life 101: Conflict Resolution
- CPR and First-Aid Training
- Crisis Intervention, UNMPD
- Dealing with Difficult, Disturbing or Dangerous Students
- De-escalation Training
- Conducting Fair Investigations, Norman Bay, Esq.
- Mediation Training, NM State Personnel Office
- STEM Cultural Colloquium
- Student Conduct Process, UNM Dean of Students
- Suicide Prevention and Intervention for Public Safety Personnel

#### B. 2020 Training Received by OEO Staff

## ADA and Accessibility

- ADA 30<sup>th</sup> Anniversary: Effective Communication and Hearing Loss Awareness
- ADA 30<sup>th</sup> Anniversary: Service Animals
- ADA 30<sup>th</sup> Anniversary: Sociological View of Disability
- ADA and EOHS Recommendations: Remote Work
- ADA Compliant Bathrooms, SWADA
- ADA Public Rights of Way
- ADA Update, JAN
- Back to Basics: An Introduction to Hearing-Related Accommodations, JAN
- COVID and the ADA (webinar)
- COVID-19 In-Person or Virtual Requests for Accommodations: What You Need to Know
- COVID-19: Labor & Employment Issues in Higher Education
- Current Events in Accommodation, JAN
- Employee Qualification, Performance and Conduct Standards, HR ADA Series
- Ergonomics for Teleworkers
- Get to Work! Leveraging Workplace Flexibility to Improve Employee Presence, JAN
- Intentional Inclusion: Increasing Access & Opportunity
- Medical Inquiries and COVID-19: What Every Applicant and Employee Should Know, SWADA
- Mobile Assistive Technology Overview
- Return to Work and Stay at Work Programs, JAN
- Using a Third Party Vendor to Manage Workplace Accommodations, JAN
- Winning the “Bring Me a Rock” Game: Requesting ADA Information, JAN

## Title VII and Diversity

- Affirmative Action 101: Everything You Need to Know to Be in Compliance
- Calling Out Xenophobia, Racism and Intolerance during COVID-19 Crisis
- Culture, Inclusion and Bias in the Workplace
- Demystifying Free Speech and Advancing Racial Justice
- Developing Women as Leaders: Evidence-Based Insight and Solutions for Recruiting, Retaining and Developing Women Leaders
- Focus on Diversity: Building Equitable and Inclusive Organizations
- Green Zone Training, UNM Veteran Resource Center
- Implementing the Executive Order on Combating Race and Sex Stereotyping
- Investigations Involving LGBTQIA2SP+ Parties
- Safe Zone Training, UNM LGBTQ Resource Center

- SPECTRUM Conference
- Summer Institute on Education, Equity, and Justice
- Title VII Employment Discrimination: What Justice Professionals Need to Know
- Addressing Anti-Blackness at UNM, UNM Diversity Equity and Inclusion
- Transgender Cultural Fluency, 2020 NM ADR Symposium
- Understanding Implicit Bias: Research and Reality
- WCAG 2.1 and Mobile Accessibility

### Title IX, Clery, and VAWA

- 2020 Public Summit of the Action Collaborative on Preventing Sexual Harassment in Higher Education
- A Conversation on the Role of ADR in Resolving Issues of Gender Based Violence, The Ohio State University Journal on Dispute Resolution 2020 Symposium
- Advisors in Title IX Investigations: Legal, Regulatory, and Public Policy Considerations
- Baseline Expectations for a Title IX Compliant Athletics Program: Athletics Equity and Sexual Harassment Prevention
- Before the New Title IX Rules Drop
- Clery in Light of COVID-19
- Courts' Response to Violence Against Women during COVID-19
- Decoding Digital Abuse
- Enhancing Campus Sexual Assault Prevention Efforts through Situational Interventions
- Final Title IX Regulations and Their Effect on Your Campus
- First Do No Harm: Implementing Trauma Informed Practice
- Giving Voice and Choice to Survivors in Title IX Reporting Policies
- How to Meet Title IX Training Requirements in 2020
- Intersection between Domestic Violence, Child Sexual Abuse and COVID-19
- Intimate Partner Violence During COVID-19: Cope Now, Plan for the Future
- Keep Focus: Reviewing Clery Act Requirements in Light of New Title IX Regulations
- Massive Changes to Title IX Mean Massive Changes to Our Approach to Violence and Harassment! Or Do They?
- Misconduct Complaints: The First 48 Hours
- New Title IX Regulations and Academic Medicine, AAMC
- New Title IX Regulations: Nine Key Takeaways for Fall Planning
- Restorative Justice Training
- Sexual Misconduct Prevention: Virtual Training for Students
- The New Title IX Regulations: Balancing Compliance with Care
- Title IX Coordinator Training, NACUA

- Title IX Hearings: Ten Potential Challenges to Anticipate, Dan Schorr LLC
- Title IX Hearings: Ten MORE Potential Challenges to Anticipate, Dan Schorr LLC
- Title IX Investigator Training, SCI Live@Distance
- Title IX: Where are We Now, Where Might We Go?
- Trauma-Informed Interviewing During the COVID Pandemic
- Trauma-Informed Practices: What Really Works?, ATIXA
- VAWA Confidentiality: Empowering Survivors and Protecting Information
- Working with Immigrant Survivors of Domestic and Sexual Violence
- Working with Perpetrators During COVID-19: U.S. Guidelines
- Working with Sexual Assault Survivors with Disabilities

### General and Professional Development

- Charting the Uncharted: Moving Investigations and Adjudications into a Digital Environment
- Climate in COVID-19: Parenting in a Pandemic
- Commitment Beyond Compliant for Colleges and Universities
- Conducting Climate Investigations: Challenges and Best Practices
- Conducting Fair Investigations, Norman Bay, Esq.
- How to Conduct Live Hearings, Grand River
- Leading with Wisdom: Helping Organizations Adapt to Change and Uncertainty, Mark D. Bennett
- New Mexico NASPA Symposium
- Non-Reactive Communication Skills for ADR Professionals
- Pioneering Online Mediation: A New Way
- Post-Interview Report Writing: How to Document Your Investigative Interview
- Returning to Campus: Staying Healthy in a Changing Environment
- SUNY Student Conduct Institute
- Tech Advantage Data Conference
- The Art of Listening
- The New Normal for Arbitrators and Hearing Officers
- The Role of Human Dynamics in ADR, Dr. Gena Jones
- Time Management Training, UNM Employee & Organizational Development
- Virtual Hearing Best Practices: Tips from Practitioners

## **VII. OUTREACH AND TRAINING**

OEO believes that a critical component to a successful civil rights program is training and outreach to the campus community. Training and outreach create trust and collaboration with OEO and provides information about the services and resources OEO offers. In the last two years, OEO has made a concerted effort to provide training and outreach to UNM and the community at large. OEO provides training and outreach via individual consultation and guidance, group training and activities, online training, training for Spanish speakers, information tabling at student orientation and other gatherings, open houses, and many other forums. OEO also collaborates with other campus departments including UNM Police Department, Dean of Students, Diversity, Equity and Inclusion, and Human Resources to provide targeted training and co-sponsored events that promote civil rights and inclusivity at UNM.

In 2019-2020, OEO collaborated with the City of Albuquerque Civil Rights Office, New Mexico Highlands University, New Mexico Tech, and Eastern New Mexico University to share best practices and civil rights outreach models. OEO also hosted a national sexual assault prevention conference in conjunction with the U.S. Department of the Navy Sexual Assault Prevention and Response Office and several universities from California, New York, Texas, Colorado, and Arizona more fully referenced in Section X.

In 2019-20, OEO created several trainings specific to campus issues. These included best practices and civil rights trainings for all summer camp counselors at UNM programs, customer service and civil rights, responding to Title IX complaints, Title IX training and townhalls, facilitating difficult discussions in the classroom, supervisor ADA training, training on invisible disabilities, Clery training, campus climate, bystander intervention, and Spanish speaking sexual harassment training. OEO also provided an etiquette and ADA accommodation training to the federal government, sponsored by the Department of the Interior.

## **VIII. OEO CASE TRENDS**

OEO reviews all allegations of civil rights violations that come to our office. These concerns are brought in a variety of ways by a variety of people. OEO labels these concerns as “inquiries/complaints” and reviews each one of them to determine jurisdiction. After OEO reviews a complaint/inquiry and determines it is jurisdictional (meaning it is civil rights related and, if true, could violate a UNM civil rights policy), that complaint becomes an “intake.” An intake occurs when OEO meets with the Complainant to get more information on their allegations and reviews OEO procedures with them. Typically, the Complainant decides if they want to follow a formal process (an investigation), an informal process (educational conference

or other informal resolution), or take no action against the Respondent. Sometimes, the allegations are so severe that OEO decides that a formal process must occur.<sup>1</sup>

As shown in Figure 2 below (Overall Inquiries), in 2019 OEO received and reviewed 897 complaints/inquiries and 480 of them were related to Title IX (Figure 3). In 2020, OEO received 659 complaints and 320 of them were related to Title IX (Figure 3.1). While the total number of complaints receive decreased during in 2020, the rates of Title IX cases lightly increased from 2019 to 2020. In 2019, 53.5% of complaints fell within the jurisdiction of Title IX, while 56.2% of complaints in 2020 were Title IX complaints. This incremental increase is consistent with the trends in OEO data.

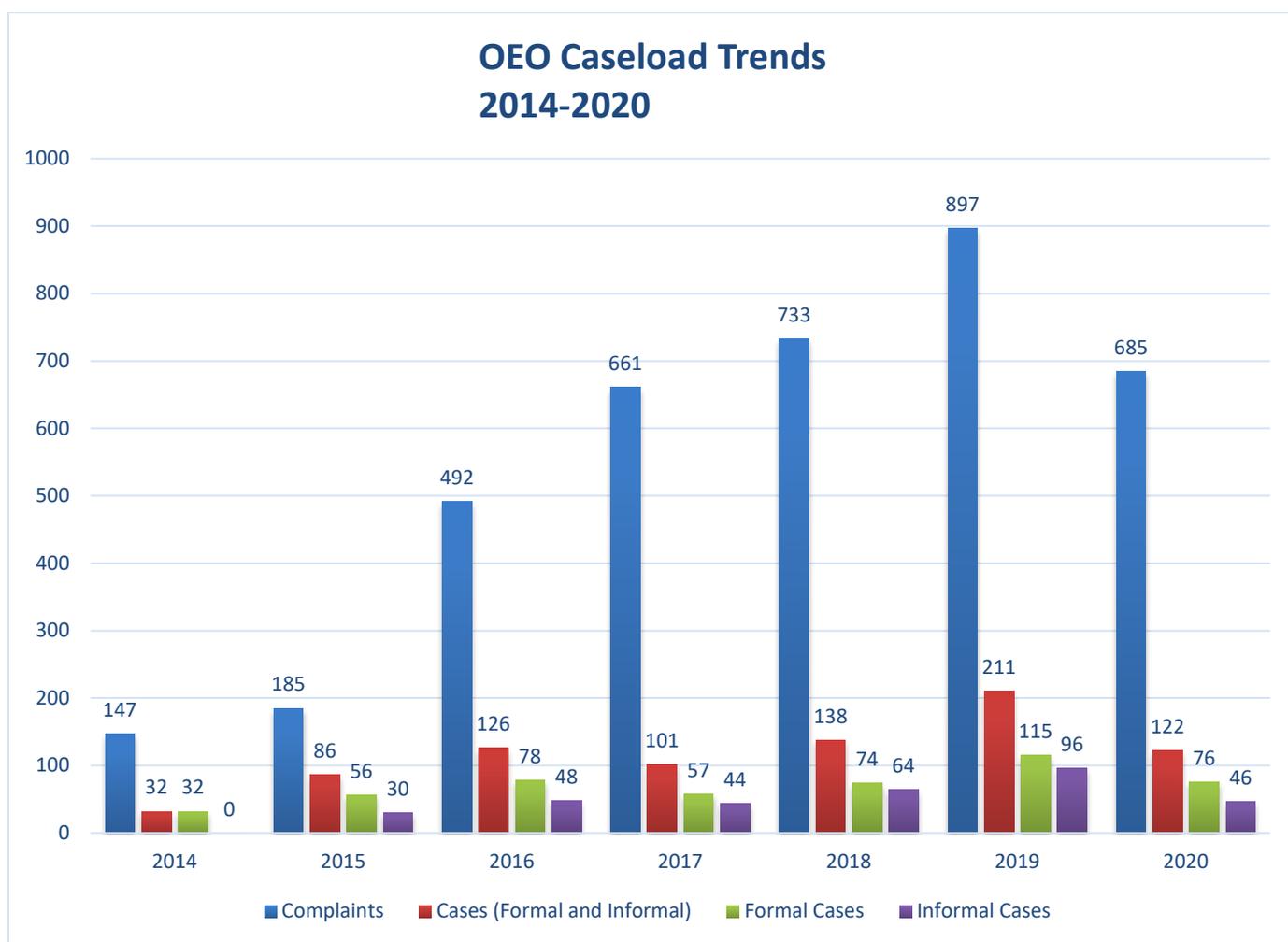


Figure 2- Overall Inquiries with OEO

<sup>1</sup> This process changed with reports received after August 14, 2020. OEO will make provide the data trends as a result of those changes in its 2021 Annual Report. In the meantime, the new [Discrimination Grievance Procedure](#) outlines the new process.

### 2019 TITLE IX BY ALLEGATION TYPE

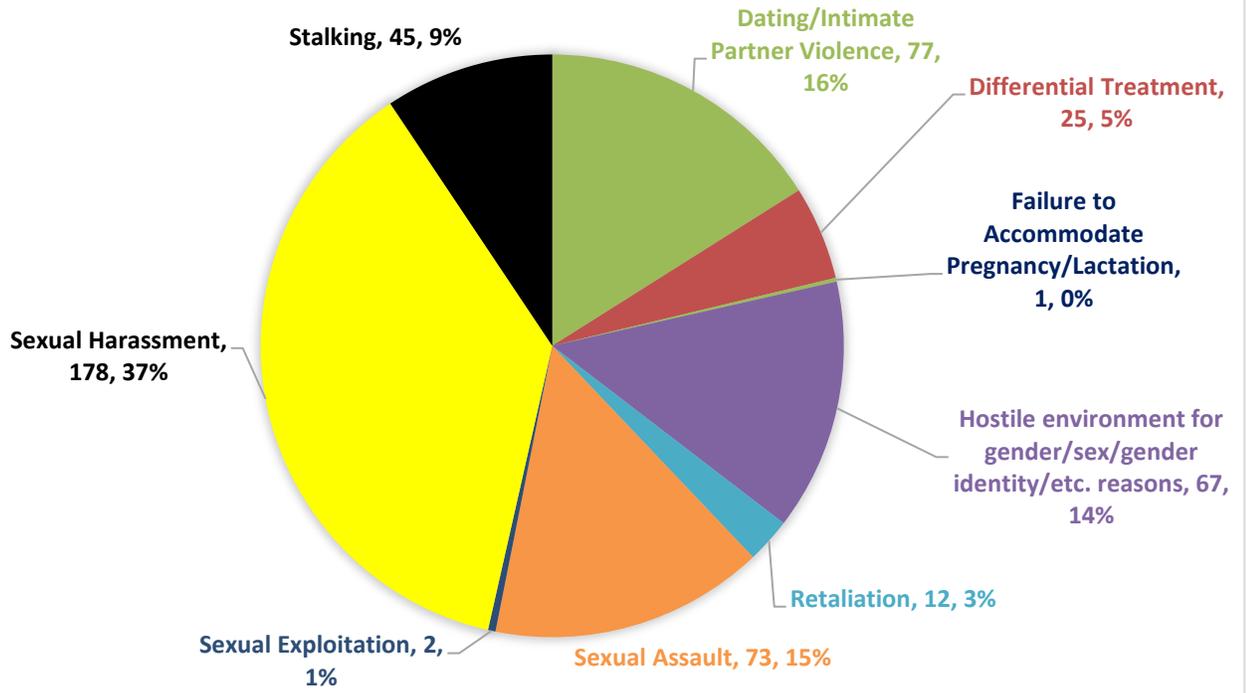


Figure 3- 2019 Title IX Inquiries by Category

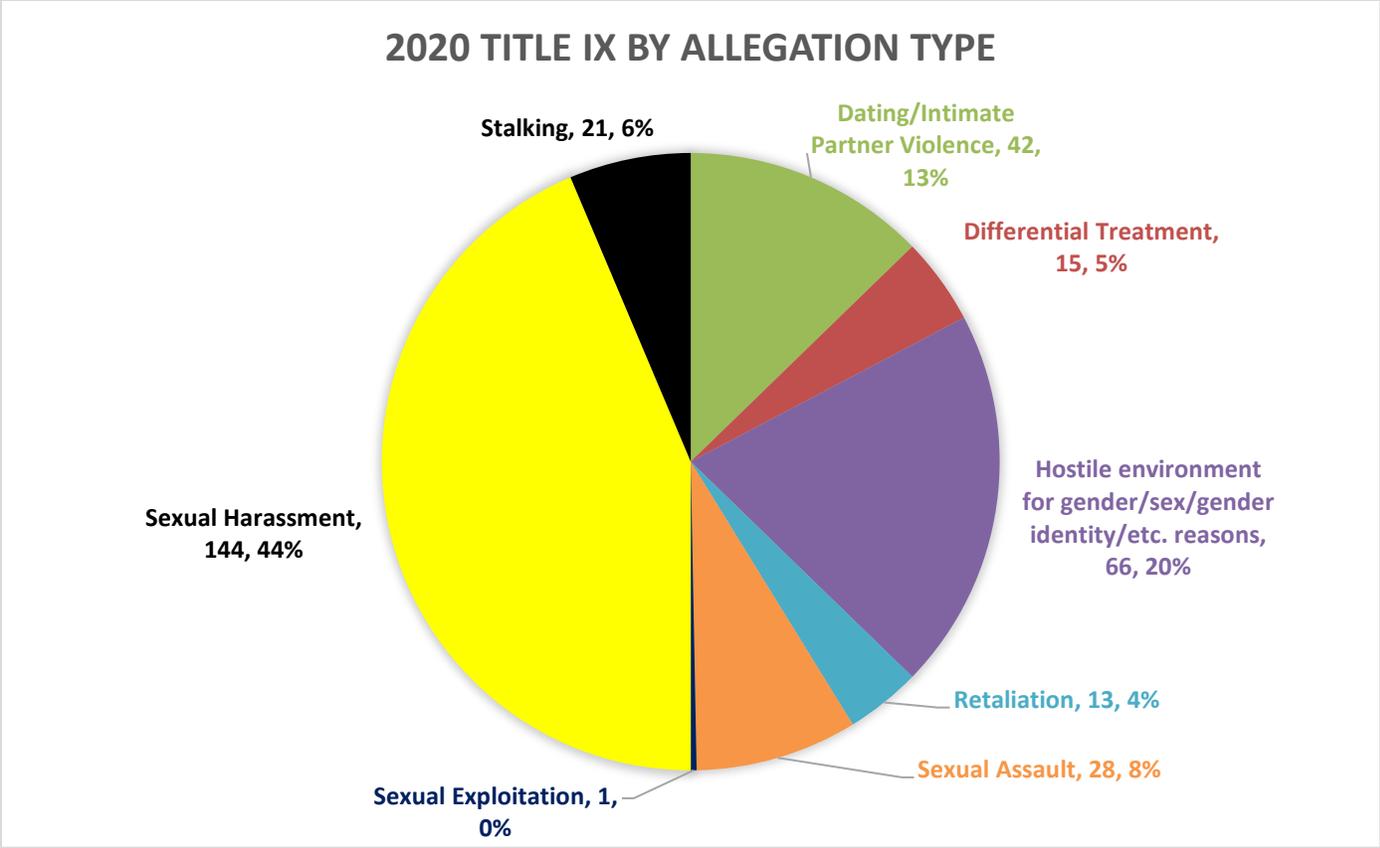


Figure 3.1- 2020 Title IX Inquiries by Category

OEO investigated or informally resolved 211 cases in 2019. Additionally, Figure 4 reflects all case allegation types in 2019. In 2020, OEO investigated or informally resolved 122 cases, with Figure 4.1 showing case allegation types for 2020. If an inquiry is not jurisdictional, OEO will refer the matter to the department with appropriate authority to address the issues. For example, employee issues not related to civil rights are sent to Human Resources, and issues involving academics are sent to the Office of the Provost. Most allegations contain issues that implicate a variety of UNM polices and jurisdictions.

## 2019 FORMAL INVESTIGATIONS BY TYPE

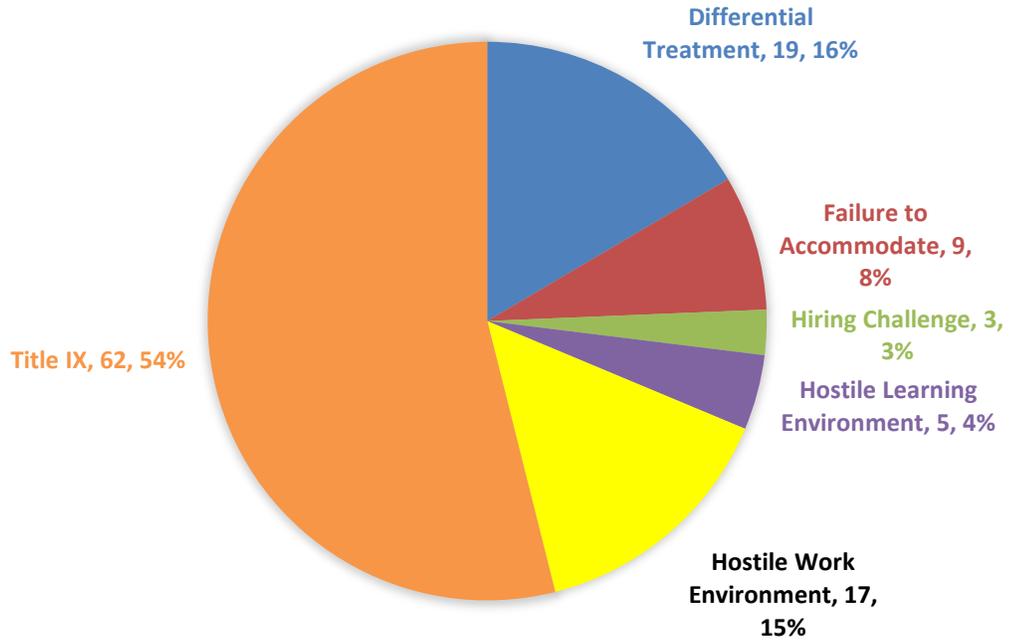


Figure 4: Cases by Category Investigated by OEO

## 2020 FORMAL INVESTIGATIONS BY TYPE

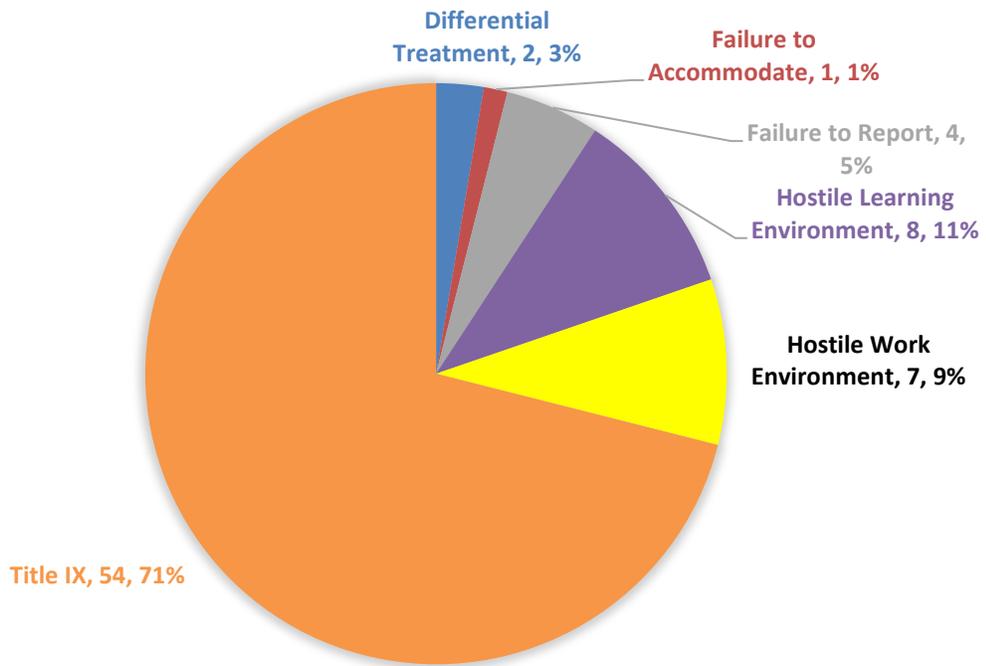


Figure 4.1: Cases by Category Investigated by OEO

C. Hate Bias Trends

As discussed above in this report, the University saw a marked increase in hate/bias incidents in 2020, which coincided with increased discrimination against persons of Asian descent in relation to the COVID-19 pandemic, as well as the civil unrest related to the murders of unarmed Black people by both police and civilians.

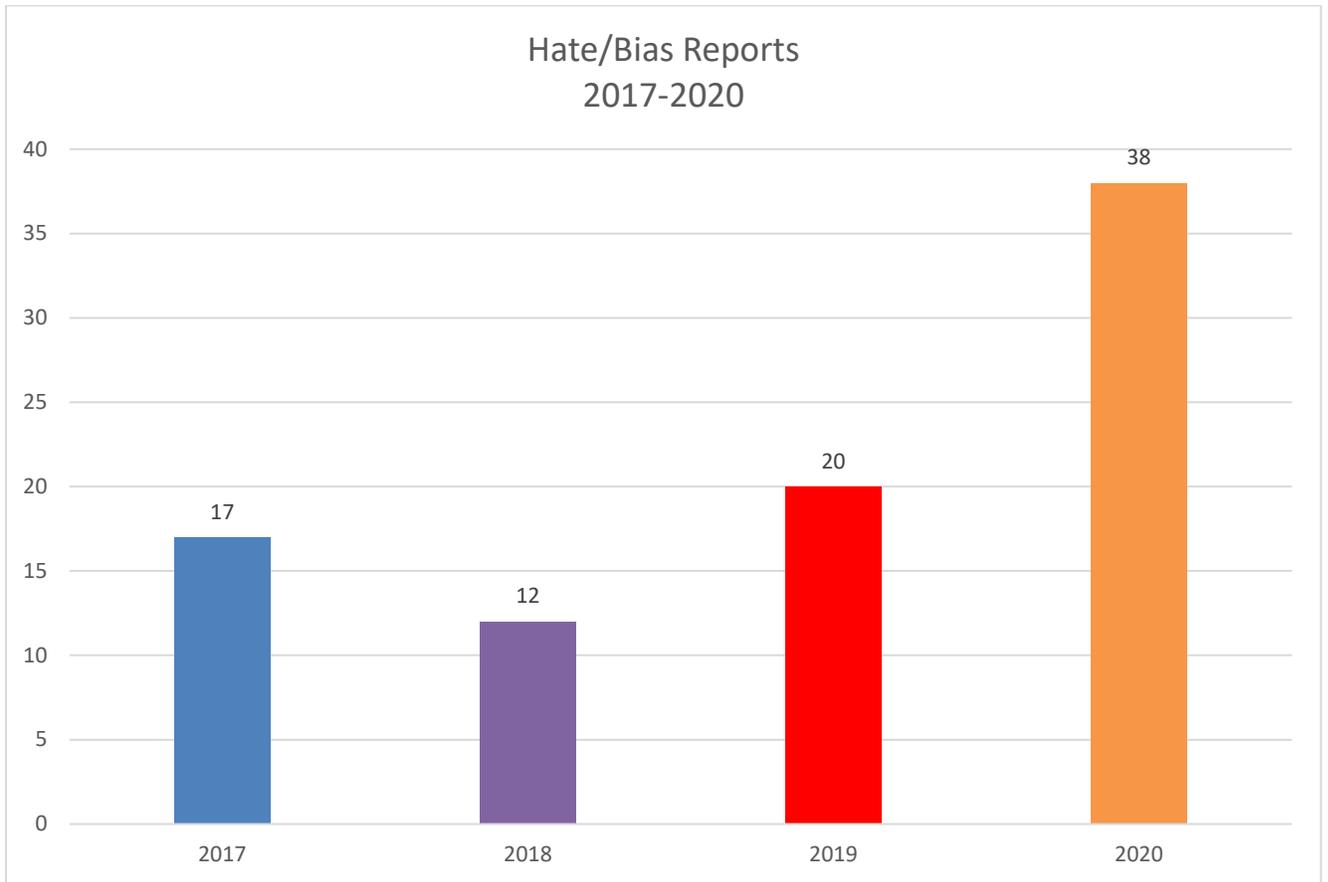


Figure 5- Hate/Bias Reports and Accommodations reported to OEO

This graph depicts the OEO intake and complaint process

# OFFICE OF EQUAL OPPORTUNITY WORKFLOW

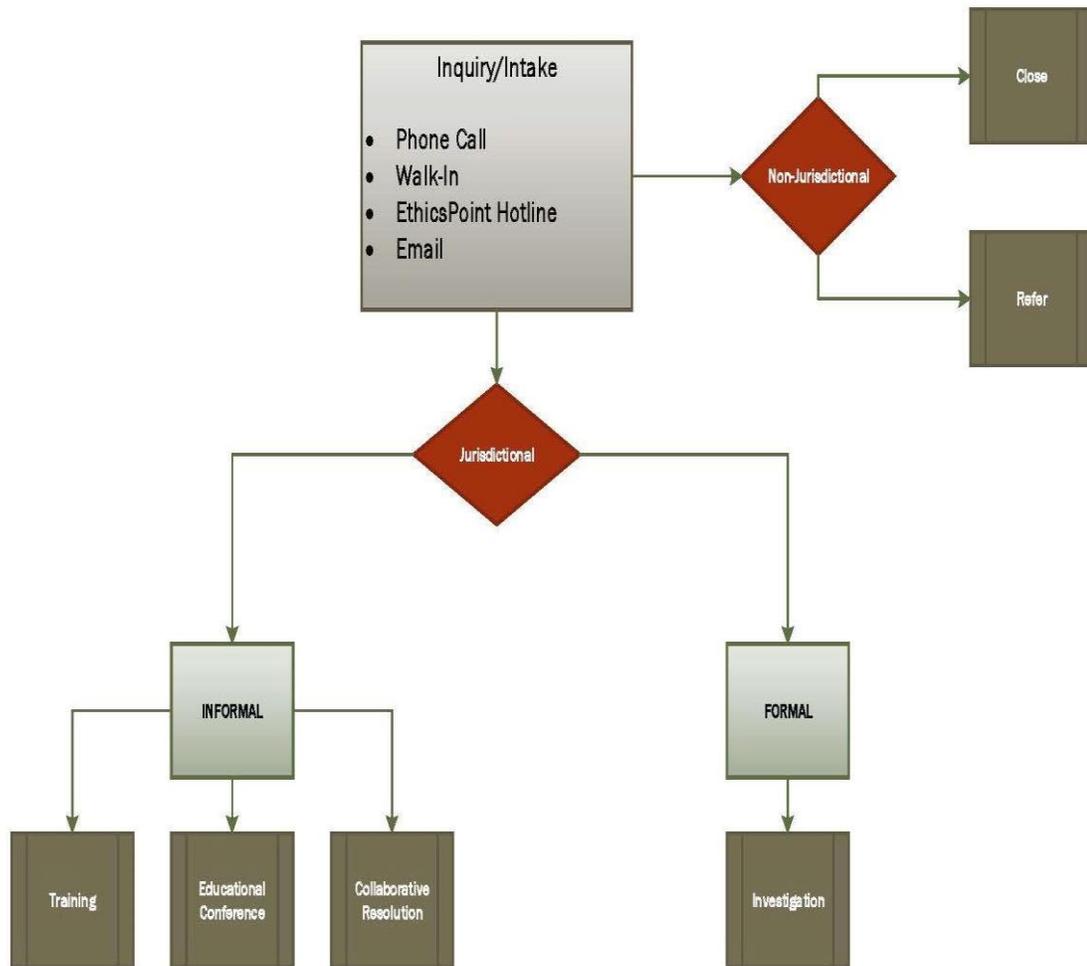


Figure 6- OEO Workflow

## IX. INVESTIGATIVE TIMELINES

OEO strives for a timely and prompt investigative process despite limited staffing and an ever-increasing caseload.

In 2019, OEO average case closure was 181 days (about 6 months) for all cases, and 174 days (about 5 and a half months) for Title IX cases. Closure time increased due to continued uptick of complaints and investigator vacancies. Filling two investigator vacancies improved timelines in 2020. In 2020, OEO averaged a case closure time of 117 days (about 3 and a half months) for all cases and 134 days (about 4 months) for Title IX cases.

### Investigations

Year	AVG Time to Close
2011	197
2012	182
2013	216
2014	166
2015	104
2016	134
2017	98
2018	139
2019	181
2020	117

### Title IX

Year	Avg. Time to Close
2014	168
2015	106
2016	125
2017	107
2018	151
2019	174
2020	134

Table(s) 2 - Average Time to Close all Investigations, with Title IX Cases broken out of this

## X. TITLE IX ACCOMPLISHMENTS

In December of 2019, the University of New Mexico successfully ended its three-year agreement with the Department of Justice over its handling of sexual misconduct cases. While the demanding work has paid off, that does not mean continued work is no longer necessary. Given the invaluable tools and resources acquired during our agreement with the Department of Justice, the UNM is well positioned to expand its positive impact beyond the University-community.

### A. Collaboration

In April of 2019, UNM was contacted by the Department of the Navy Sexual Assault Prevention and Response Office (SAPRO) to co-host their second regional conference. *A Regional Discussion on Sexual Assault & Sexual Harassment at America's Colleges, Universities, and Service Academies* was hosted on February 6, 2020 in the UNM Student Union Building Ballrooms. The conference agenda focused on data, culture and climate, prevention, leadership, and included special sessions, such as

“Federal Grant Funding Agencies” and “Sexual Violence and Indigenous Communities.”

Approximately 300 people attended the one-day event, with 200 more watching via livestream. Attendees represented 18 different U.S. states and Ontario, Canada. The conference drew attendance from members of the Pentagon, Department of National Defence in Ottawa and Vice Chief of Defence staff, U.S. military leaders, researchers, advocacy groups, university and military academy students, and included a keynote address by Dr. Elizabeth Hillman, President of Mills College.

#### B. Advocacy

In May, the Title IX Coordinator submitted a declaration on behalf of a multistate lawsuit against the Department of Education in attempts to postpone the effective date of the Title IX New Rule. This declaration, in collaboration with the New Mexico Attorney’s General Office, hoped to provide institutions added time to adequately make the necessary changes, instead of the 100 day deadline that the Department imposed. From the UNM perspective, we were able to provide insight into the heavy lift that is required to make significant changes to a University process. Judge Nichols of the District of Columbia Circuit Court heard the case and ultimately denied the injunction and delay request.

#### C. Campus Partnerships

In 2018, UNM was awarded the Grant to Reduce Sexual Assault, Domestic Violence, Dating Violence, and Stalking on Campus (referred to as the “Campus Grant”) by the U.S. Department of Justice’s Office on Violence Against Women for 2019-2021. The \$300,000 3-year grant focuses on an institution’s prevention and education efforts. The Title IX Coordinator co-chairs the Student Conduct Committee with the Conduct Officer from the Dean of Students and is also a member of SMART and the Prevention Education committee.

The SMART brochure is currently being updated to reflect the expansion of resources and supportive measures available to those impacted by sexual misconduct. This brochure includes UNM and community resources available to students, staff, and faculty. The brochure will also include information on reporting options, accessing supportive measures, an overview of the administrative process, and rights of the parties. This brochure will be made available electronically and in print form.

A supportive response to a disclosure of sexual misconduct is important to fostering a safe environment. In collaboration with Ombuds, SMART, Faculty SAFE, and the Title IX Coordinator, a 1-page document was developed to guide the reader through a supportive response and next steps following a disclosure. This includes connecting the impacted individual to a supportive person and

report to OEO to implement supportive measures.

In addition to the collaborative work to create the disclosure guide, OEO is currently developing material to guide responsible employees through a supportive response to potential disclosures. The guide uses the acronym “SILVER” to assist in providing a supportive response. The SILVER acronym stands for: Safety, Informing of your role as a responsible employee, Listening without judgment, Validating feelings and reactions, Empowering with choices, and Refer and Report. These are the key steps we urge our Lobo community to utilize when confronted with a disclosure of sexual misconduct.

In order to ensure Title IX Compliance, best practices in gendered/sexual violence prevention and response, and to assist all members of our campus community who have been affected by sex discrimination, OEO works closely to establish and maintain cross campus collaborations. We work closely with UNMPD, the Dean of Students Office, LoboRESPECT Advocacy Center, the Women’s Resource Center, LGBTQ Resource Center, El Centro de la Raza, African American Student Services, American Indian Student Services, the Learning Environment Office, the Veteran and Military Resource Center, Ombuds for Staff, Athletics, Residence Life and Student Housing, Faculty SAFE, Human Resources, the Office of the Provost, University Communication and Marketing, Main Compliance Office, and the President’s Office. In 2017, OEO created deputy Title IX Coordinators in Athletics, Human Resources, the Office of the Provost, Health Sciences Center, and Residence Life and Student Housing. In 2019, OEO designated the Director of the Learning Environment Office (LEO) as a confidential reporter for the School of Medicine learners. The Women’s Resource Center and the Accessibility Resource Center partnered to offer services to the Health Sciences Center with the opening of the Vassar House.

#### D. Climate Surveys

In spring 2019, OEO conducted a climate survey for Graduate and Professional Students, including graduate students and students in health professions and law programs. For results of the climate surveys, please visit the [Title IX section](#) of OEO’s website.

## **XI. AFFIRMATIVE ACTION PLAN**

Executive Order 11246 requires federal contractors to create a written Affirmative Action Plan (AAP) that measures whether women, minorities, veterans, and individuals with disabilities are being employed at the expected rate given their composition of the contractor’s workforce. In 2019, OEO worked with data stewards and campus partners, particularly Human Resources and the Office of the Provost, to obtain workforce data on faculty and staff to create the AAP, run statistical analyses, and prepare the voluminous report in compliance with federal law. OEO also

worked with data areas to create comparator groups that are similar in duties and pay. The AAP is published on an annual basis.

OEO has also worked with campus partners on issues of diversity, hiring best practices, AAP responsibilities, and how to address underutilization. Each year OEO researches priorities set forth by the Office of Federal Contract Compliance Programs (OFCCP), the agency that oversees the affirmative action plan. In 2019-20 OFCCP priorities were on the hiring of Individuals with Disabilities and Veterans. OEO worked with Human Resources to focus on promoting hiring opportunities for both categories of employees.

## **XII. CAMPUS ACCESSIBILITY**

The OEO Director serves as the UNM ADA Coordinator, responsible for accessibility and accommodation issues on campus.

### **A. ADA Transition Plan**

In 2020, Accessology, the vendor hired by UNM to review accessibility finished their review and created a plan for prioritizing accessibility needs on campus. The plan identified path of travel and web accessibility as UNM's most urgent accessibility needs.

Due in part to Accessology's report, OEO successfully obtained funding from the UNM Board of Regents to begin a transition plan for path of travel and web accessibility. OEO worked with procurement specialists to draft Requests for Proposals (RFPs), and the selected vendors will begin work in 2021. This work will consist of identifying accessibility barriers in paths of travel to buildings, conduct building reviews, and identify barriers to web accessibility. They will also provide cost estimates priorities. These reports will be used to seek state and federal funding for removing barriers and improving accessibility.

### **B. Accessibility Collaboration**

OEO is working to create and expand the ADA accessibility team to include campus partners such as IT, HR, Facilities Management, Construction and Design, ARC and to include members of the community with disabilities or accessibility knowledge. OEO also provided several ADA specific trainings to leadership, managers and to the greater community, including a national training sponsored by the Department of the Interior.

### **C. Workplace Accommodations**

In 2020, COVID posed new and novel accessibility issues to the UNM campus. Some of these issues were related to telework. Many of the issues were related to accommodation needs from employees with underlying medical conditions exacerbated by COVID. OEO created and

published several FAQ's on telework, COVID and the ADA and COVID and pregnancy. OEO also created a "one stop form" for all UNM staff and faculty to seek information about COVID and accommodation. OEO evaluates the forms and determines if the form is related to ADA accommodation. If so, OEO provides the accommodation. If not, OEO connects the staff or faculty to HR or other resources to address their needs.

In 2019, OEO assisted and facilitated 77 ADA accommodations for staff and faculty at the University. The number was 60 in 2020.

### **XIII. OEO PROFESSIONAL INVOLVEMENT AND SERVICE TO CAMPUS**

OEO encourages its staff to contribute to both the UNM and wider New Mexico communities. OEO is proud to demonstrate its staff's commitment to the following organizations, both on and off campus.

#### **A. Professional Involvement**

- ADA Coordinator Program
- Clery Center Collaborative NACCOP Member
- Gene Franchini High School Mock Trial Program
- National Association of Colleges and Universities
- NM Hispanic Bar Association
- NM Women's Bar Association
- Partners for Employment
- Society of Corporate Compliance and Ethics
- Southwest Women's Law Center Board

#### **B. Service to Campus**

- Lobo Food Pantry
- Mentor 2.0 Program
- Protect the Pack Rally
- Safety Week Committee

#### **C. University Committees and Councils**

- Campus Assessment Response Education (CARE Team) – member
- Campus Safety Committee Campus Violence Policy Committee
- Compliance Committee Diversity and Inclusion Diversity Taskforce
- Diversity Council
- Employee Life Staff Council Sub-Committee Employment Area Leads
- Ethics Committee
- Facilities Access Committee (Chair)
- LoboRESPECT Steering Committee
- Minors on Campus Committee (Chair)
- Office of Violence Against Women's Campus Grant Prevention Education Committee (member)

- Office of Violence Against Women's Campus Grant Student Conduct Committee (Co-Chair)
- Preferred Name Committee
- Presidential Task Force on Reporting Sexual Misconduct and Harassment
- SMART (Co-Chair)
- Social Media Users Group
- Staff Council
- Threat Assessment Team (TAT) (member)
- Title IX Committee (Chair)
- Tobacco Free Campus
- Whistleblower Policy Committee