



OFFICE OF EQUAL OPPORTUNITY (OEO)



**ANNUAL REPORT
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Submitted by:

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Director of OEO

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EXECUTIVE SUMMARY

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 of New Mexico is committed to providing equal access to educational and employment opportunities for all individuals. The university considers the following protected statuses¹:

- 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

¹ 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

The Office of Equal Opportunity envisions the University of New Mexico 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.

OEO STAFF

In 2015-2016, the OEO was completely transformed to include the following staff:

- Francie Cordova, Esq. (Director)
- Heather Cowan, MA (Title IX Coordinator)
- Rob Burford, MA (Clery Act Compliance Officer)

Additionally, OEO has five Civil Rights Investigators/Compliance Specialists:

- Susan Finke, BS and Former HR Professional
- Aaron D. Jim Jr., JD
- Matthew Suazo, BS and Retired APD Commander
- Melissa Valdez-Lopez, BA and Former Probation Officer
- Laura Vele Buchs, MA/JD

One Compliance Specialist w/ Main Campus Compliance Office:

- Eileen Sanchez, CCEP

One Compliance Assistant:

- Robert Tafoya, BS

One Admin III (Currently Vacant)

Two Student Employees

- Brittaney Beller
- Luc Moulson

What OEO Does

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).

COMPILES the annual Clery report for the University, trains Campus Security Authorities and creates safety initiatives such as alerts and timely warnings.

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.

AUDITS 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.

2016 ACCOMPLISHMENTS

I. Created and Revised Internal Process Documents

Over the course of a year, the OEO revised and created numerous process documents in order to provide more timely, and equitable processes. This included a complete revision of the OEO Discrimination Claims Procedure which had not been updated since February 27, 2012. The new DCP, which governs the process for informal, formal and departmental investigations was adopted in June 2016. The new DCP includes clear definitions and process explanations, makes the process similar and equitable for all participants, and shortens investigative timeline to ensure that claims are timely and judicious.

The OEO developed several internal process documents to improve consistency, accountability to timelines, response to parties involved, and documentation of processes among investigators. These documents include investigative checklists and step-by-step instructions for processing and investigating cases. These internal documents not only ensure consistency and proper file documentation, but also assure continuity in process and procedure and improved service to the parties involved.

II. 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.

In 2016, OEO staff attended the following conferences and trainings:

- Clery Act Compliance Training (January 2016)
- Job Accommodation Network (JAN) Monthly Webcast Series (January-December 2016)
- National Center for Student Life, Essentials of Title IX Workshop and Title IX Advanced Workshop (February 2016)
- EEOC Technical Assistance (Multi-Issue) Seminar (June 2016)
- 2016 National ADA 3-Day Symposium (June 2016)
- National Organization for Women's 50th Anniversary Conference; presented on Title IX and LGBTQ
- Advocacy Training (July 2016)
- Title IX Fraternal and Student Conduct Institute; presented on Compliant Policies and Procedures for Sexual Misconduct
- NACCOP Conference (July 2016)
- Legal Issues in Higher Education Conference (October 2016)
- Bystander Intervention Training (December 2016)
- Forensic Experiential Trauma Interview(FETI) and Neurobiology Trauma: Strategies for Investigation of Sexual Assault Cases Training (April 2016 & January 2017)

In addition, senior staff and management have made staff development a priority and have trained staff on the EEOC credibility factors, Title IX, Title VII, ADA, elements of a civil rights case, the Clery Act, investigative techniques and research regarding power differential and civil rights issues.

III. 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 the OEO and provide information about the services and resources the OEO offers. In the last year, OEO staff has made a concerted effort to provide training and outreach to the university community and the community at large. The OEO provides training and outreach via individual consultation and guidance, group training and activities, on-line training, training for Spanish speakers, information tabling at student orientation and other gatherings, open houses and other many other forums. The OEO also collaborates with other campus departments including UNM Police Department, Dean of Students, Diversity and Inclusion and Human Resources to provide targeted training and co-sponsored events that promote civil rights and inclusivity at UNM.

The OEO also spearheaded and created training for faculty, staff and students on sexual assault, sexual misconduct, and intimate partner violence, responsible employee reporting obligations and Title IX laws and regulations. OEO has also provided training on the options that victims of sexual misconduct have, the reporting and investigative process, and their rights pursuant to law and policy.

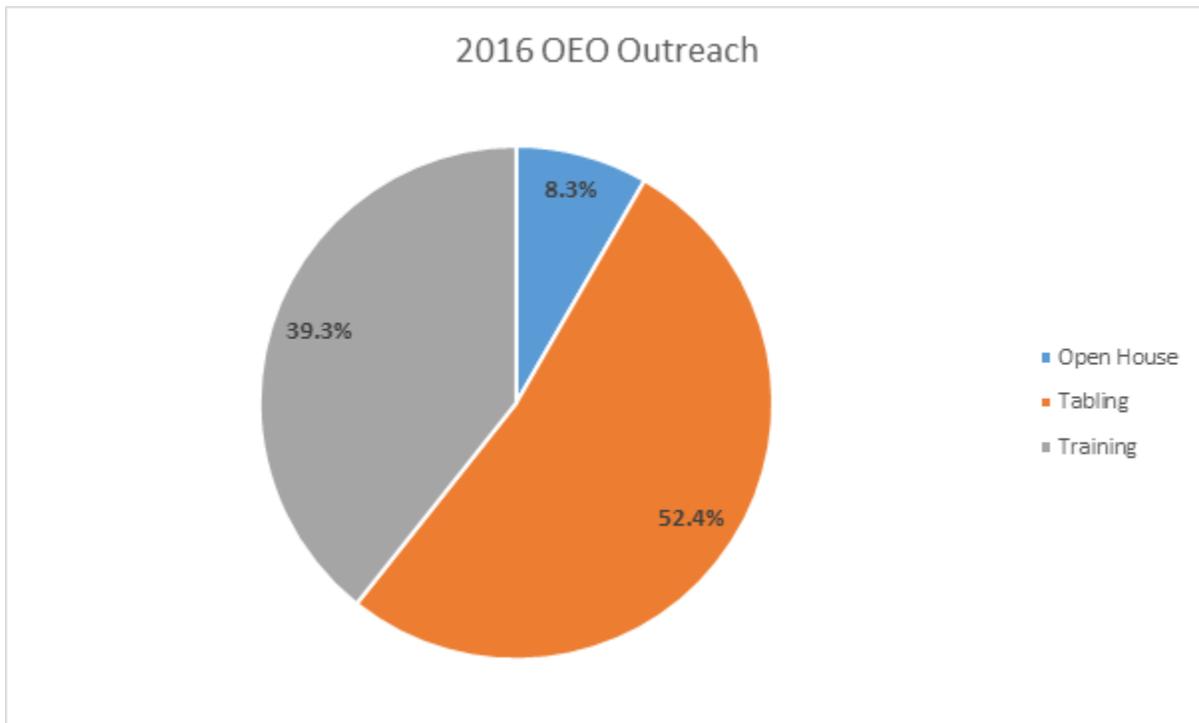


Figure 1: Outreach to UNM Community Members

<u>Trainings</u>	
Year	Count
2014	124
2015	130
2016	109

Table 1 - Outreach done by OEO Staff (Information not tracked prior to 2014)

IV. OEO Allegation Processing

The 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. The OEO labels these concerns as “inquiries” and reviews each and every one of them to determine jurisdiction. As you can see from the chart below (Figure 4 – Overall Inquiries), in 2016 OEO reviewed 479 inquiries and 212 of them were related to Title IX (Figure 3 and Table I).

After the OEO reviews an inquiry and determines it is jurisdictional (meaning it is civil rights related and if true, could violate a civil rights policy at UNM), that inquiry becomes an “intake.” An intake is 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) or an informal process (educational conference). Sometimes, the allegations are so severe that the OEO decides that a formal process must occur. As you can see from the chart below, OEO processed 114 cases in 2016. Additionally, Figure 5 shows all the case allegation types in 2016.

If an inquiry is not jurisdictional the OEO will refer the case 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 provost. The attached flowchart shows the entire OEO processing of allegations.

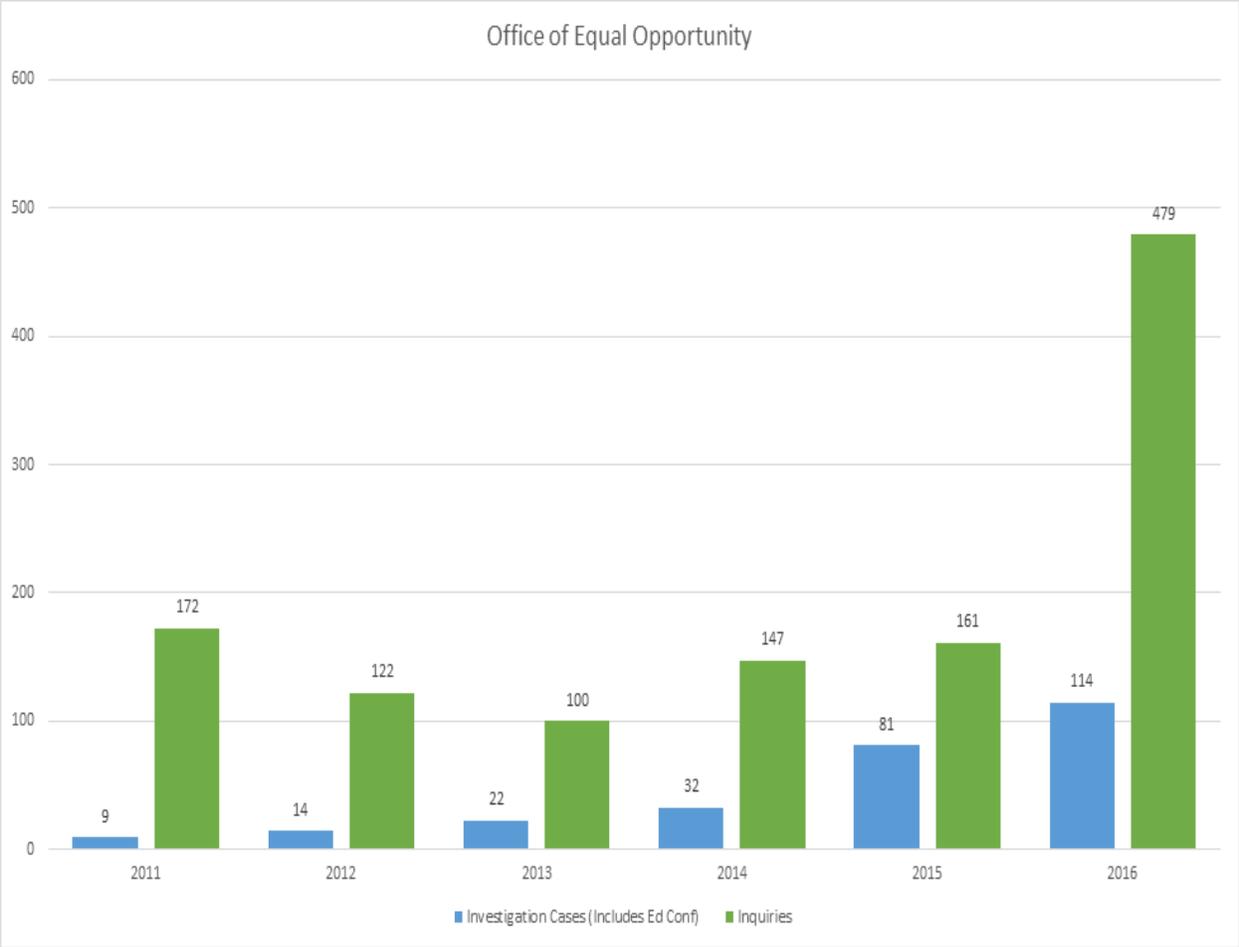


Figure 2- Overall Inquiries with OEO

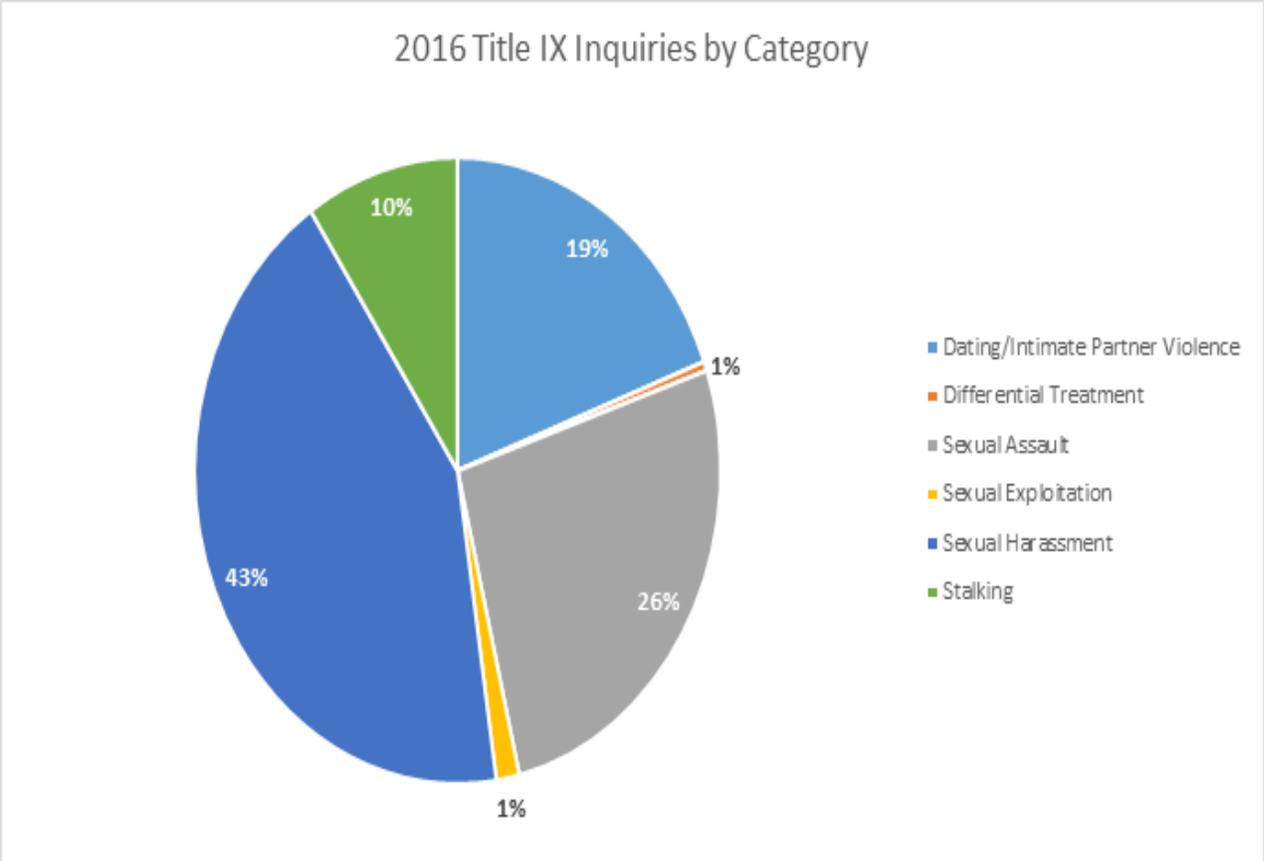


Figure 3- 2016 Title IX Inquiries by Category

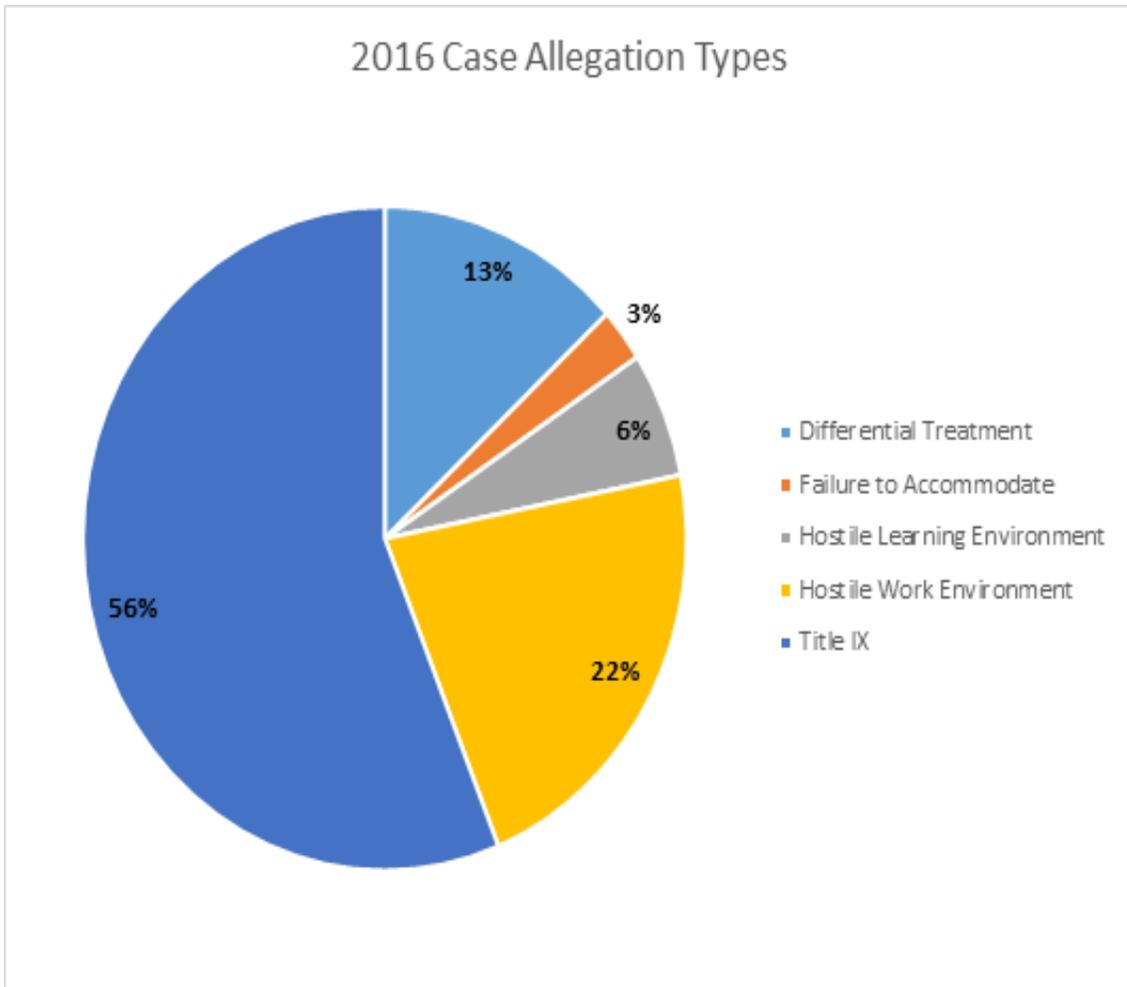
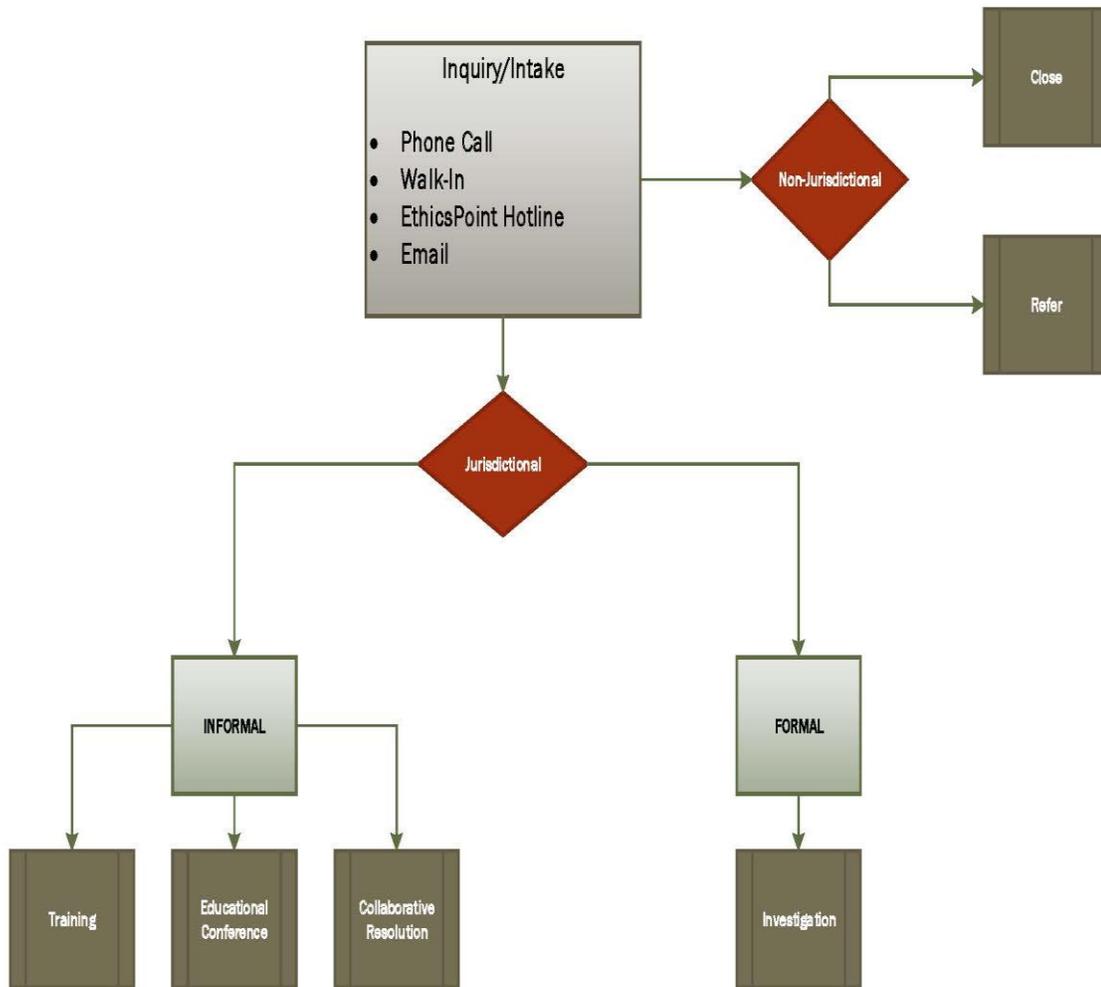


Figure 4: Cases by Category Investigated by OEO

OFFICE OF EQUAL OPPORTUNITY WORKFLOW



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Figure 5- OEO Workflow

V. Investigation Timeliness

The OEO strives for a timely and prompt investigative process and strives to complete investigations within 60-90 days depending on the complexity of the case and uncontrollable factors such as the absence of witnesses or a pending criminal investigation. These factors may require the OEO to delay or suspend their investigation, until a witness returns or a criminal investigation is not compromised. Additionally, the OEO has an aggressive outreach and collaboration campaign that markets our services to the various UNM campus communities at Main and branch campuses.

Outreach and training create an educated university campus, and conveys the message that UNM is concerned about safety, access and inclusivity for faculty, staff and students in their working and learning environment. Research is clear that when people are aware of civil rights policies and reporting processes, that they will utilize them. As a result, the OEO has experienced a swell in the number of inquiries to and complaints file with the OEO.

OEO has worked diligently to speed up the process for completing an investigation, despite the continued increase in the number and the increase in complexity of its cases. The OEO improved timeliness by an average of 97 days since 2011 an average of 62 days from 2014. Timeliness decreased by 23 days in 2016 but attributes this delay to increased caseload and process improvement requirements at the early stages of the process. As the two (2) newly hired investigators become fully trained, the OEO expects process time to continue to improve, absent further spikes in caseload.

Investigations	
Year	AVG Time to Close
2011	197
2012	182
2013	216
2014	166
2015	104
2016	134

Title IX	
Year	Avg. Time to Close
2014	168
2015	106
2016	125

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

VI. Case Management System

In 2015, the OEO became a partner in the EthicsPoint system. In 2016, the OEO modified the system to utilize it as a case management system (as a back-end user in addition to a complaint

filing partner). The modification included adding fields to track civil rights, Title IX and Clery allegations and geography, and create drop down fields unique to our process. This new case management system allows the OEO to maintain a more robust tracking system that will alert staff to trends and case timelines. It also allows the OEO to run a variety of reports and data that can provide useful information about problem areas on campus, allegation trends and training needs.

The OEO is moving and inputting all cases from an access database to the Ethics Point Case Management System and will be utilizing the new Administrative Assistant III to assist with this cumbersome process.

VII. Title IX Compliance

One of the bigger challenges to UNM and to our office in 2016 was the Department of Justice (DOJ) review of UNM policy and procedures that found that UNM was not in compliance with Title IX and Title IV. Many of the issues that DOJ pointed out in their report were problems that OEO had already identified as being out of compliance or not in line with best practices. The key areas DOJ identified in April 2016 were policy, investigative procedure, training for investigators and the broader campus community and internal communications as it relates to reports of sexual misconduct.

During 2014, a new policy on sexual violence and sexual misconduct was drafted and went into effect in May 2015 – this new policy rectified multiple areas where UNM policy was not in compliance with Title IX. During 2015, OEO drafted a new Discrimination Claims Procedure (as mentioned above in section I). This new claims procedure both rectifies areas not in compliance with Title IX, but also ensures equal due process for parties during an investigation and shortens timelines. The OEO also created many internal documents on investigative procedure (as mentioned in section I) to ensure compliance, consistency and timeliness. In addition, OEO began intense collaboration with several departments across campus to ensure timely and consistent communication on reports of and response to discrimination. Stronger collaboration will ensure that no report ‘falls through the cracks’ and the campus is responding to issues of sexual misconduct from a unified approach. These efforts include the development of MOUs and SOPs related to police reports, sanctioning, interim safety measures, and trainings and the creation of a process for sharing information campus wide with the Title IX Coordinator.

We anticipate that in early 2017, we will receive favorable feedback from DOJ’s complete review of our updated policies, procedures and internal materials (that they did not review during the course of their review of UNM).

The Title IX Committee meets monthly and includes faculty and staff from multiple disciplines across campus. Representatives from student government, faculty governance and staff council have also been invited and occasionally send representatives. The committee’s purpose is twofold; to solicit feedback from various campus partners on Title IX related procedures and policies and to inform these partners of the work UNM is currently engaged in on Title IX related concerns and issues. This committee directly informs OEO investigators and informs

potential solutions to Title IX related issues. The work of the Title IX Committee has resulted in the following improvements: creation of internal process for soliciting and reviewing victim impact statements prior to implementation of sanctioning/discipline, clarification of the appeals process, troubleshooting mandatory training issues, and conducting case studies of OEO investigations to reveal gaps in process and improve internal communication and support for reporting students. The committee also frequently discusses academic freedom and free speech as it relates to Title IX and sexual misconduct. The OEO and the Title IX Coordinator are deeply committed to maintaining academic freedom and freedom of speech at UNM.

OEO also facilitated UNM's first campus wide climate survey on sexual misconduct in spring 2016. The results of the survey were made public and can be found here:

http://oio.unm.edu/title-ix/campus_climate_survey.html

VIII. DOJ Compliance Review

On October 17, 2016, the University of New Mexico entered into an agreement with the Department of Justice as to how the university addresses allegations of sexual harassment and sexual misconduct. The agreement is comprehensive and implicates investigations, training and campus climate. The OEO is a key player in ensuring that UNM complies with the agreement. This includes ensuring that all staff and faculty take the Intersections training on Learning Central, all students receive face-to-face training on sexual misconduct and all key campus partners are adequately trained on all aspects of Title IX. The OEO is also responsible for conducting the annual climate survey that provides robust data on sexual assault and student knowledge on resources and reporting, and must create training assessment methodologies to measure and analyze training success.

IX. Clery Compliance

In 2016, the Clery Act Compliance Officer (CACO) worked diligently on getting UNM to be Clery compliant and the following is a brief highlight of the year's accomplishments. The CACO completed all of UNM Internal Audit Department's recommendations for Clery compliance, which required collaboration with several departments across campus. The CACO also revamped the Annual Safety and Security Report <https://police.unm.edu/files/DDF/2016CleryReport.pdf>, reconciling crime statistics, conducting a safety program and crime prevention inventory and placing several UNM policies within the report. These efforts assisted in bringing the report into further compliance with federal regulations. Additionally, the CACO provided training to several hundred Campus Security Authorities (CSA's) across the UNM Campus and all of the point people for Clery Compliance at the UNM Branch Campuses.

The CACO also worked to get the Campus Safety Committee functional again and spearheaded the first annual Campus Safety Week in September to make the UNM campus community more

aware of campus safety prevention programs/resources. The CACO conducted the Annual Safety Walk during Campus Safety Week, and as a result of the walk, over 100 work orders were placed to remedy lighting issues around campus.

IX. Affirmative Action Plan

Executive Order 11246 requires federal contractors to create a written report (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 2016, the OEO worked with data stewards and campus partners to obtain workforce data on faculty and staff to create the AAP, run statistical analysis and prepare the voluminous report in compliance with federal law. The 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.

X. Americans with Disabilities Act (ADA)

The Director of the OEO is the ADA coordinator for UNM. This role includes ensuring the OEO worked with data stewards and campus partners 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. The OEO also worked with data areas to create comparator groups Popejoy Hall. The OEO Director also considers, assists and tracks all workplace requests for reasonable accommodation pursuant to UNM Policy 3000.

In 2016, the OEO updated and revamped every ADA related form to reflect updates to law and to make the forms more user accessible and understandable. The OEO also created companion flowcharts and checklists for both supervisors and employees to better understand university ADA policy, request for accommodation and rights and responsibilities of employees and the university.

OEO PROFESSIONAL INVOLVEMENT AND SERVICE TO CAMPUS

Professional Involvement:

ADA
Clery Center Collaborative
NACCOP Member
Southwest Women's Law Center Board
UNM Staff Council Executive Committee

Service to Campus:

Campus Safety Week (Includes Campus Safety Walk)
ENABL Advisor (UNM Student Group)
Freshman Convocation Volunteer
Mentor 2.0 Program
National Student Exchange Coordinator
UNM Success Coach

University Committees:

Campus Safety Committee
Campus Violence Policy Committee
Compliance Committee
Diversity and Inclusion
Employee Life Staff Council Sub-Committee
Employment Area Leads
Facilities Access Committee
LoboRESPECT Steering Committee
Minors on Campus Committee
Sexual Harassment and Sexual Misconduct Policy Committee
SMART (Co-Chair)
Social Media Users Group
Staff Council Ethics Committee
Talent Management System Design
Title IX Committee (Chair)
Tobacco Free Campus Committee
Universal Restrooms Committee
Whistleblower Policy Committee

OEO ORGANIZATION CHART

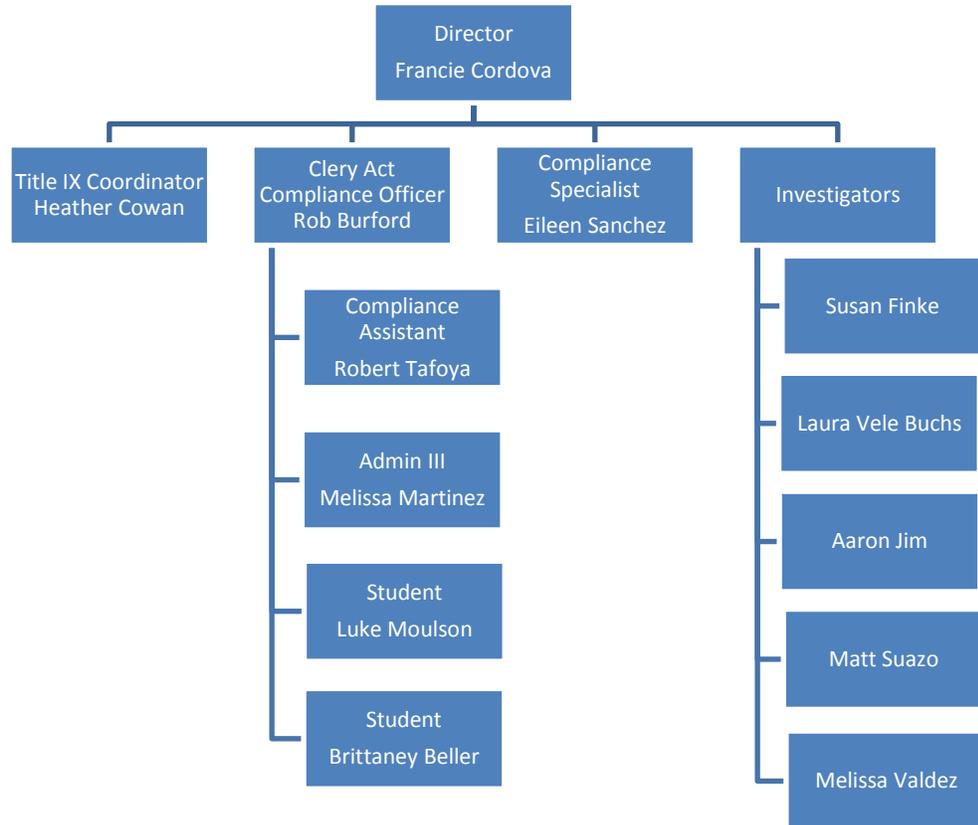


Figure 6 - OEO Organization Chart