

ABOUT THE OFFICE FOR DISPUTE RESOLUTION

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



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Office for Dispute Resolution

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ODR's fifth fiscal year of operation, FY19, drew to a close on June 30, 2019, with a total of 173 complaints received since September 2014. ODR, staffed by three impartial and experienced investigators and an associate, supported by two fellows, continued

to note the broad use of our services across the university community. Cumulatively over the five-year period, complaints were filed by and against undergraduates, graduate/professional school students, faculty, staff, and third parties, at a rate of no less than approximately 10% for each category.¹⁰ Complaints over the five-year period have involved School programs or activities overseen by all ten Harvard faculties, as well as seven Units. Using gender self-identification by parties, ODR also noted that over the five-year period, about 65% of complaints were filed by females against males, 11% by males against females, 9% by males against males, and 7% by females against females. In approximately 10% of complaints filed over the five-year period, at least one party self-identified as BGLTQ.

ODR, in FY19 in four complaints, and in FY18 in seven complaints, at the request of Schools or Units, investigated related allegations that fell outside the scope of the Policy, such as alleged harassment based on race, color, or national origin.¹¹

The ODR team continued to field requests from the Harvard community for information or advice about the steps involved in pursuing an informal resolution or filing a formal complaint under the Policy. In response to feedback from stakeholders such as parties and witnesses involved in investigations and other interested individuals at the various Schools and Units, as well as input from the University's Title IX Policy Review Advisory Committee, ODR continued to work on improving the format and readability of its final reports of investigation (FRIs) in FY19. FRIs issued to date for cases originating in FY19 averaged under 22 pages in length, for example, compared to an average of almost 47 pages in FY15. In addition, ODR continued its ongoing communications and consultation with important allied service providers at Harvard such as HUHS (including OSAPR), HUPD, and the Office of the General Counsel.

ODR's investigative efforts continued to be supported by working jointly with trained investigative designees, for those Schools and Units that use that model, or by regularly communicating with liaisons who provide valuable information from their Schools and Units to ODR, while also relying on ODR to keep the liaisons current on investigative status and progress. In all cases, communication between ODR and the local Title IX Coordinators, as well as when appropriate the Title IX Office, also helped ensure proper attention to the support needs of the parties involved in our investigations. In addition, when a formal complaint is filed,

¹⁰ The one exception was complaints filed against, rather than by, third parties, at a rate of about 7% in FY19 and 4.6% over the five-year period, but this percentage is reasonably expected to be lower than other categories.

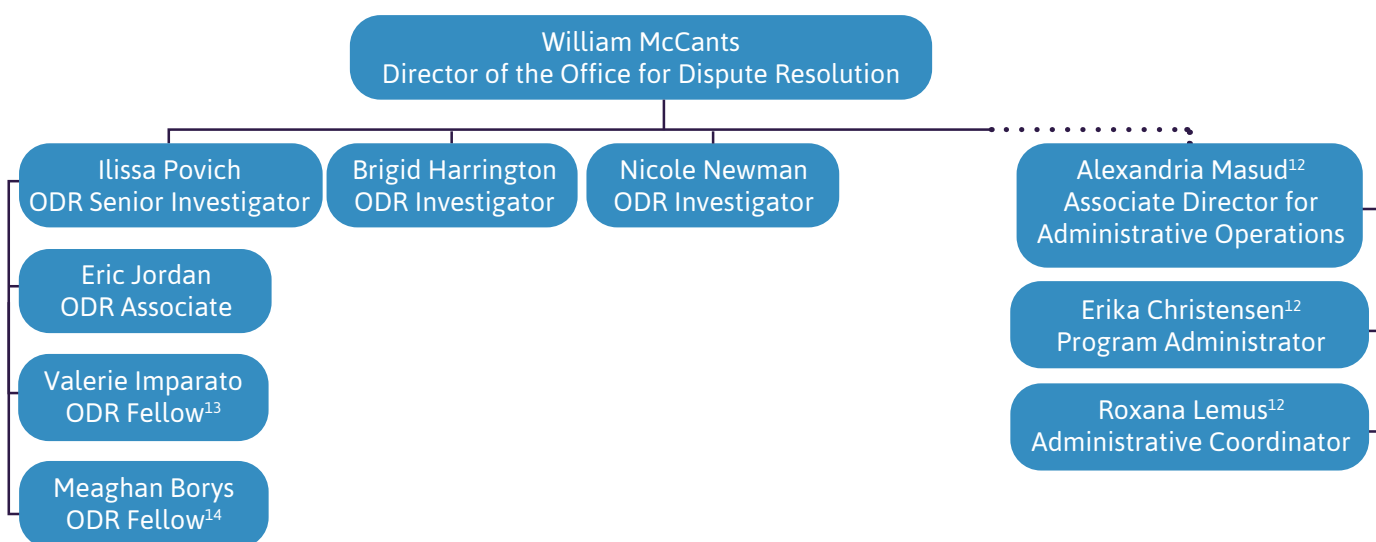
¹¹ ODR in FY18 also handled two complaints under University-wide policies other than the Policy; these two complaints are not included in the data and charts contained in this Report. ODR only accepts such complaints from Schools and Units when the size of its caseload of complaints filed under the Policy allows.

and ODR finds there is a hostile environment for one or multiple members of our community, the ODR Investigative Team, relying on the expertise of the involved School or Unit, create tailored recommended measures. This holistic approach works to improve outcomes both for individuals and the broader community.

As part of our mission, ODR staff was involved in delivering over 30 audience-tailored trainings and presentations, which included attendees from across Harvard. ODR staff members also continued to hone and advance their skills base, receiving as applicable more than 50 hours of professional development

training in subjects such as investigation, confidentiality, due process, and the neurobiology of trauma.

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



¹² Erika Christensen, Roxana Lemus, and Alex Masud are cross-departmental administrative staff, contributing to both the Title IX Office and Office for Dispute Resolution.

¹³ Valerie Imparato is no longer in ODR Fellow position as of August 1, 2019.

¹⁴ Meaghan Borys is no longer in the ODR position as of October 25, 2019.



Bill McCants, Director of the Office for Dispute Resolution

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



Meaghan Borys, ODR Fellow

Meaghan is a licensed attorney who graduated from Harvard College in 2011 and received her J.D. from UCLA School of Law in 2014. In addition to her role as an ODR Fellow, Meaghan is a proctor in the Yard, where she serves as a resident advisor to first-year Harvard students. She has practiced as a criminal prosecutor in the Suffolk County District Attorney's Office in Boston and spent two years as a law clerk to the Justices of the Massachusetts Superior Court.



Erika Christensen, Program Administrator

Erika contributes to the broader programmatic initiatives of the Title IX Office, develops informational content in digital and video formats, and manages data systems. She also provides support to the Office for Dispute Resolution and assists with casework as needed. Erika has a B.A. in the Studies of Women, Gender, & Sexuality from Harvard College. Prior to joining the Title IX Office and ODR, she worked to support at-risk communities by developing suicide mitigation strategies.

She also worked as a national campaign recruiter during the 2016 presidential primaries.



Brigid Harrington, ODR Investigator

Brigid has been a licensed attorney for 13 years and is in her fourth year conducting ODR investigations and facilitating trainings as an Investigator. She previously conducted criminal investigations as an Assistant District Attorney in New York, where she was assigned to the Special Investigations Bureau of the Special Narcotics Prosecutor, and has worked as a civil litigator in Boston. Brigid has a B.A. from the University of Pennsylvania and a J.D. from Boston College. Brigid is an avid skier and runner, and has completed two marathons.



Anne-Valerie Imparato, ODR Fellow

Anne-Valerie Imparato is a licensed attorney with a J.D. from HLS, and a B.A. in Political Theory from New York University. Prior to joining ODR, Anne-Valerie worked at major law firms in New York and Boston, specializing in international litigation, international arbitration, and securities law. She also has extensive immigration law experience and speaks five languages: English, French, Haitian Creole, Spanish, and Italian. Anne-Valerie is a member of Harvard’s Administrative Fellowship Program.



Eric Jordan, ODR Associate

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



Roxana Lemus, Administrative Coordinator

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



Alexandria Masud, Associate Director for Administrative Operations

Alex joined the office in 2014 and now oversees the operations of the Title IX Office and the Office for Dispute Resolution, evaluates ongoing projects for adherence to long-term strategic and multi-year financial plans, and assesses and mitigates areas of risk. Alex is also a member of the Board of First-Year Advisers at Harvard College. She received her B.A. in Philosophy of Law from Albion College. Prior to joining Harvard, she worked as a client services analyst in the institutional asset management field focusing on a book of business comprised of endowments and foundations.



Nicole Newman, ODR Investigator

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



Ilissa Povich, ODR Senior Investigator

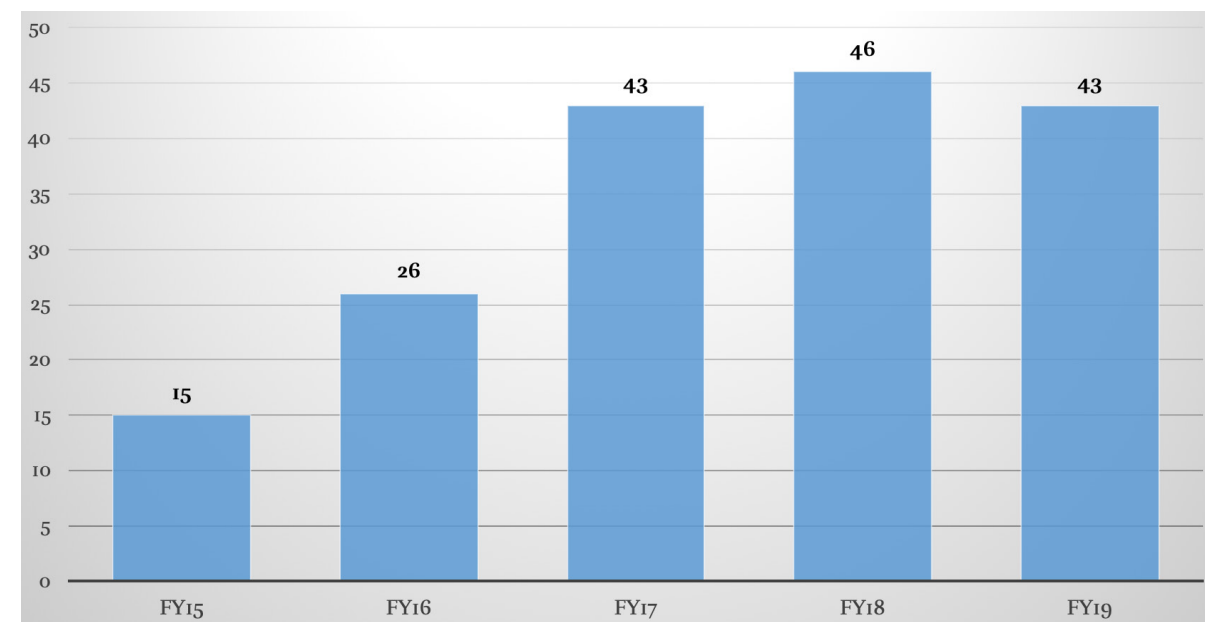
Ilissa has conducted investigations and facilitated trainings with ODR since its inception in the fall of 2014. A graduate of HLS and a licensed attorney, Ilissa previously worked at a major Boston law firm and as General Counsel of a Boston area company. She holds a bachelor’s degree from Duke University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

ODR – DISPUTE RESOLUTION DATA & ANALYSIS

As in prior years, each case ODR investigated in FY19 was unique, and many were highly complex. A summary of ODR complaint information in FY19, with comparisons to complaint information in FYs 2015, 2016, 2017, and 2018 is provided below:

- ODR received 43 new complaints in FY19, compared to 46 new complaints in FY18, 43 new complaints in FY17, 26 new complaints in FY16, and 15 new complaints in FY15.
- Approximately 51% of the complaints in FY19, and 48% over the five-year period, were resolved before progressing to the investigative stage (i.e., through administrative closure after initial review, or withdrawal).

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



Timing: In FY19, ODR staff continued to keep the average length of investigations to approximately 3 ½ months (2018-2019, ranging from 2.8 to 4.8 months)¹⁵, down from over 5 months in FY15, its first year of operation. This was accomplished notwithstanding unprecedented challenges, such as more than one investigation in ODR’s FY18-FY19 caseload involving over 60 interviews and over 1,000 pages of documentation. ODR ensures that its investigators are as thorough as possible, and we continue to work to make the process move more quickly while maintaining the same quality, fairness, and sensitivity, regardless of, e.g., the size and complexity of a matter, or the roles of the principals in the Harvard community.

¹⁵ In estimating the average length of investigation for the purposes of this annual report, ODR did not include, e.g., staff cases requiring interpretation and translation services, cases involving delays due to documented medical or related circumstances, or cases with more than twice as many allegations as the ODR average of three. (One case, with over ten times as many allegations as the average of three, was, along with a single-allegation case, dropped from the summary data to avoid skewing the average in a misleading manner.)

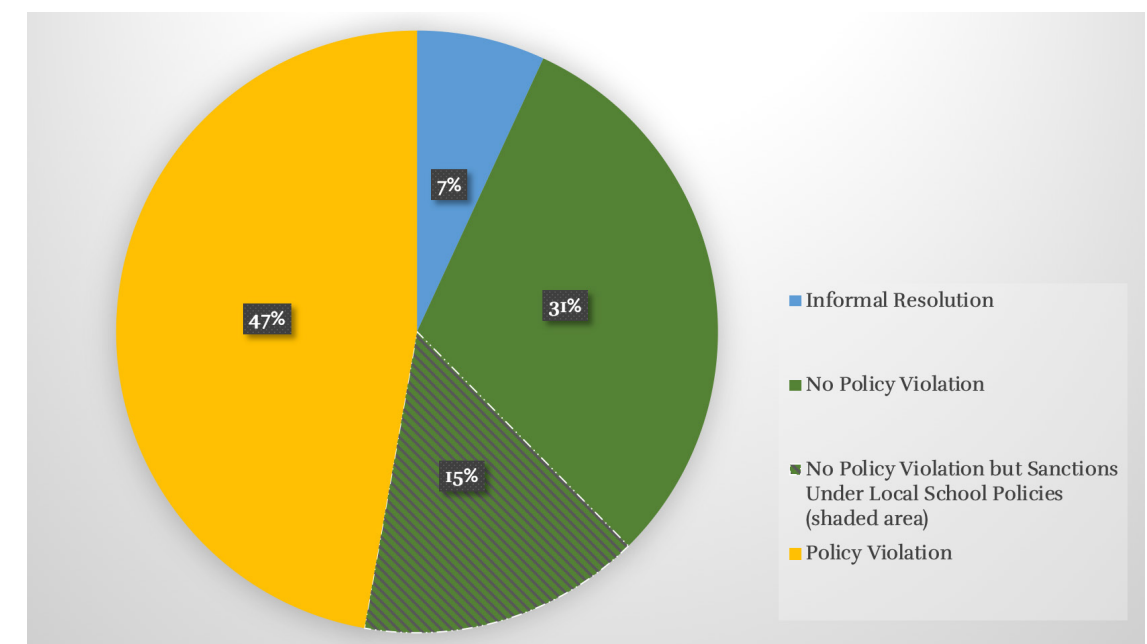
Many factors affect the length of the investigation in a particular case, for example:

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

One of the strengths of our Policy, in contrast to those of many peer institutions, is that we have one standard that applies to a range of behaviors. As a result, we often see in one complaint allegations that include a constellation of conduct such as sexual assault, stalking (including through electronic means), and a pattern of comments targeting an individual based on sex-stereotyping, sexual orientation, and/or gender identity. The Policy takes into account that an individual may have experienced multiple types of prohibited behavior, during one or more incidents. This standard allows us to be responsive to the broader array of conduct that may be negatively affecting someone’s life at Harvard. Accordingly, a single complaint against one respondent may contain multiple allegations. In addition, under the Policy, we also assess whether a hostile environment has been created.

Of the total number of complaints that went to full investigation from FY15-FY19, approximately 47% were found to involve violations of the Policy and approximately 46% were found not to involve violations of the Policy, with approximately 15% of the latter/7% of the total resulting in factual findings that subsequently supported sanctioning under local School rules. (Figure 2).

Figure 2. Outcomes of Complaints Proceeding to Investigation¹⁶, FY15-FY19 (N = 72)

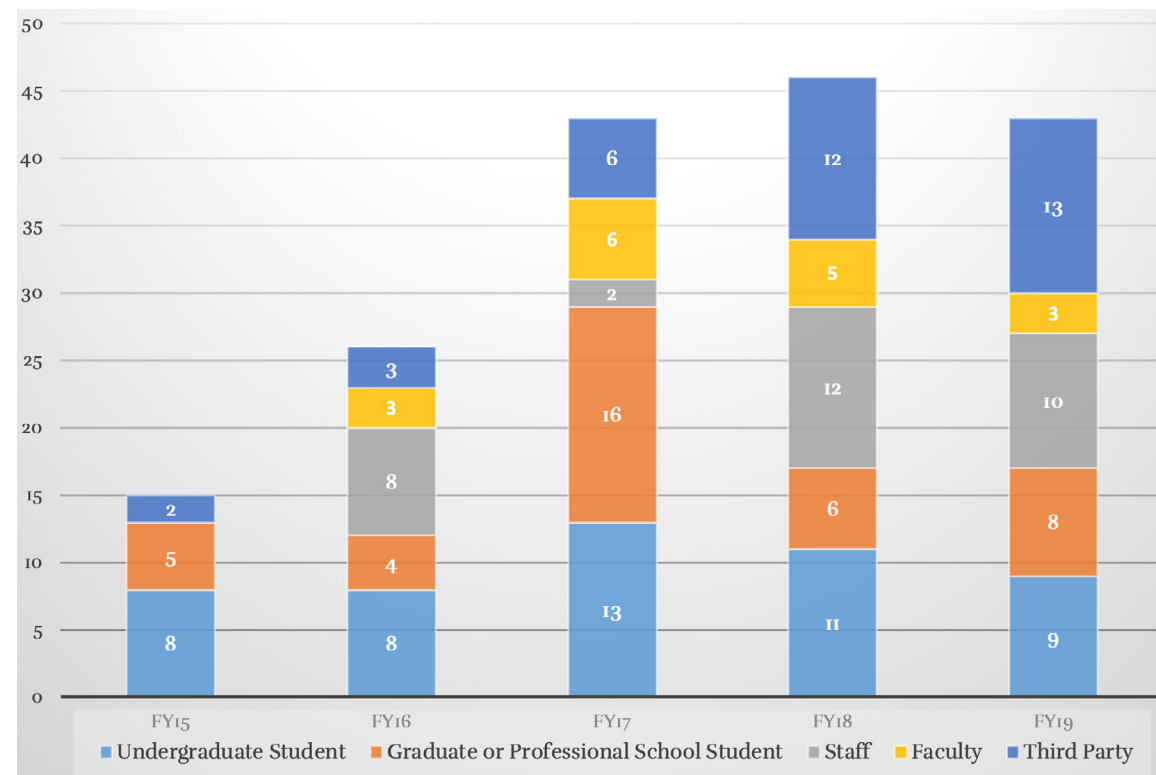


¹⁶ Many complaints contain more than one allegation. Policy violation determinations must be made separately for each allegation. If one or more allegations in a complaint result(s) in the finding of a Policy violation, this is counted as a single “Policy Violation.”

Case Demographics FY15-FY19:

- For each of the five fiscal years, the largest proportion of complaints was filed by or on behalf of students (including both undergraduate students and graduate or professional school students). There were no noteworthy changes in the number of complaints filed by or on behalf of any group between the fourth and fifth fiscal years. (Figure 3)
- In four of the five fiscal years, the largest proportion of complaints was filed against students (including both undergraduate and graduate or professional school students). The number of complaints filed against faculty decreased significantly (by 5). (Figure 4)

Figure 3. University Status¹⁷ of Complainants¹⁸ FY15-FY19 (N=173)



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

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

Figure 4. University Status of Respondents, FY15-FY19 (N = 173)

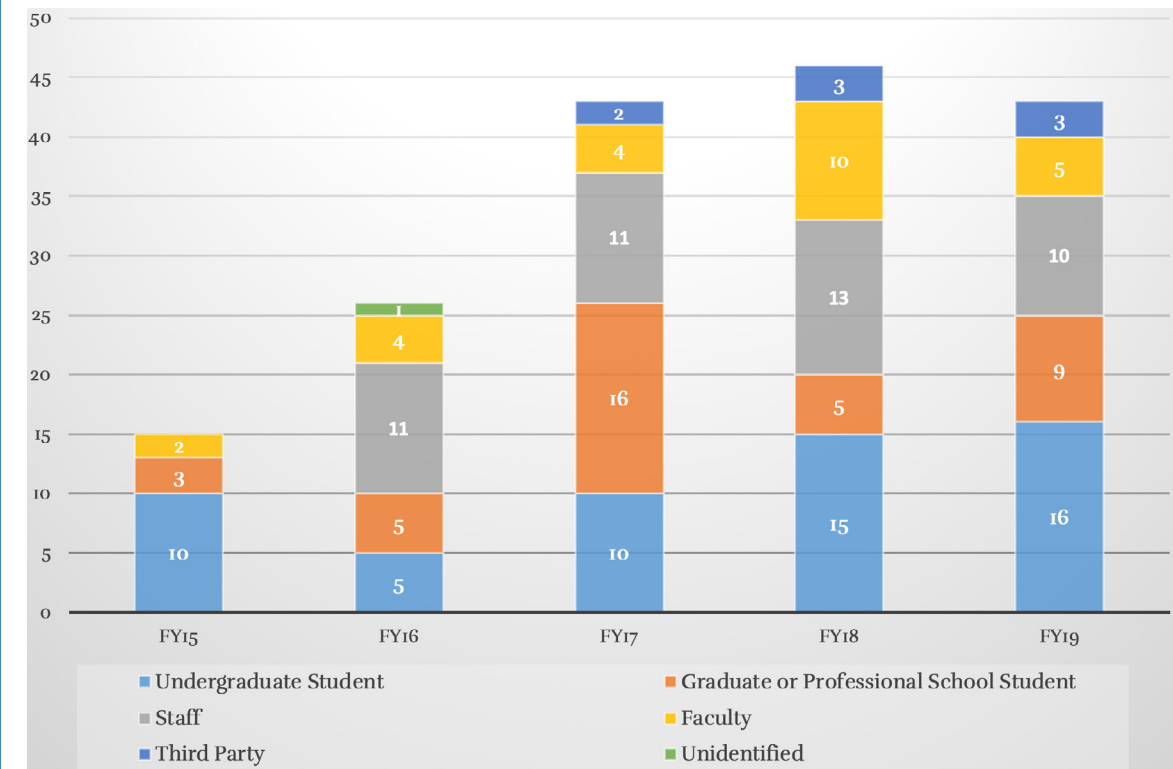


Figure 5. Complaint Allegations by Category FY15-FY19 (N=242)

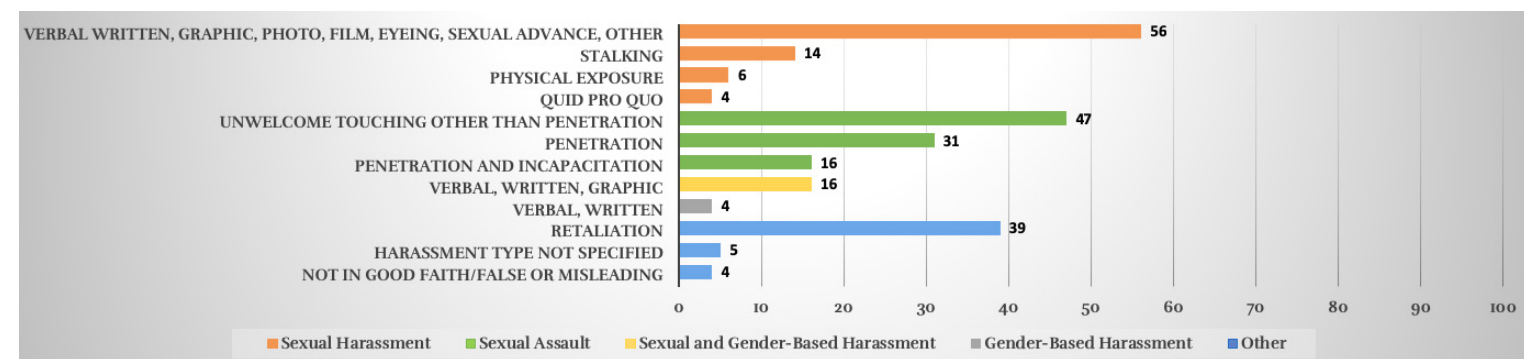


Figure 6. Complainant Status, Focusing on Allegations of Sexual Assault FY15-FY19 (N=94)

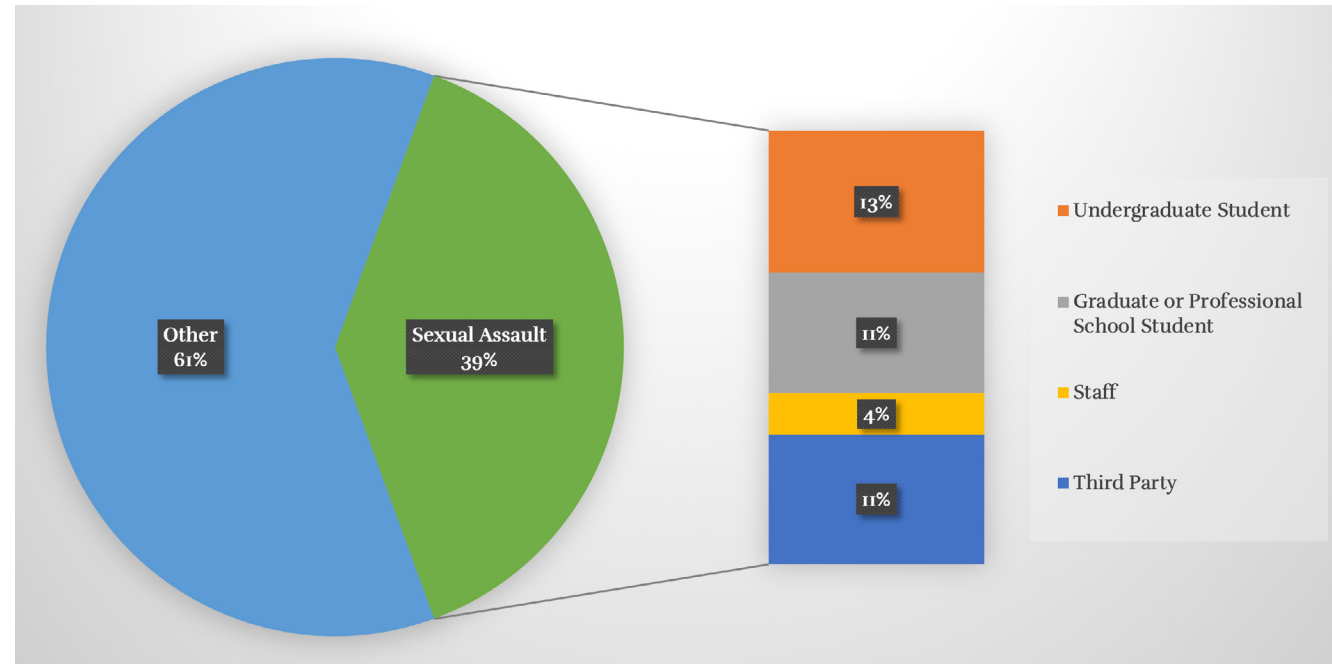


Figure 8. Sexual and/or Gender-Based Harassment Allegations (Not Including Sexual Assault) by Complainant Status FY15-FY19 (N=99)

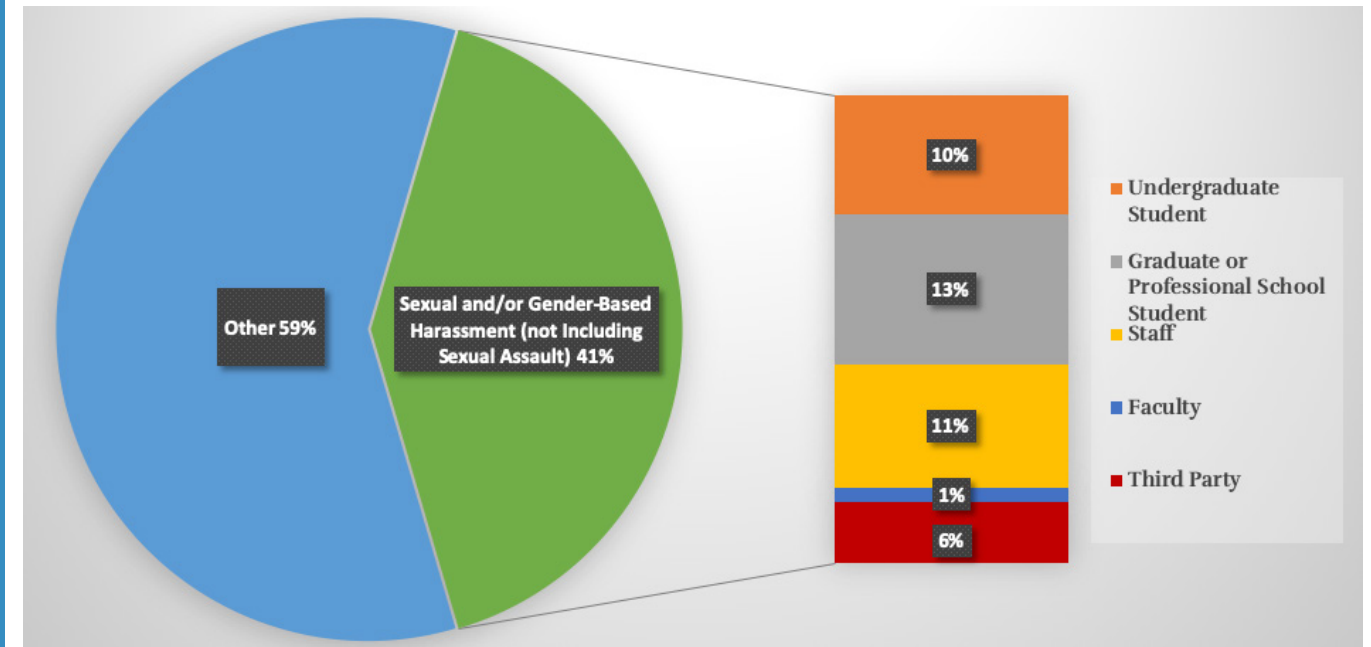


Figure 7. Respondent Status, Focusing on Allegations of Sexual Assault FY15-FY19 (N=94)

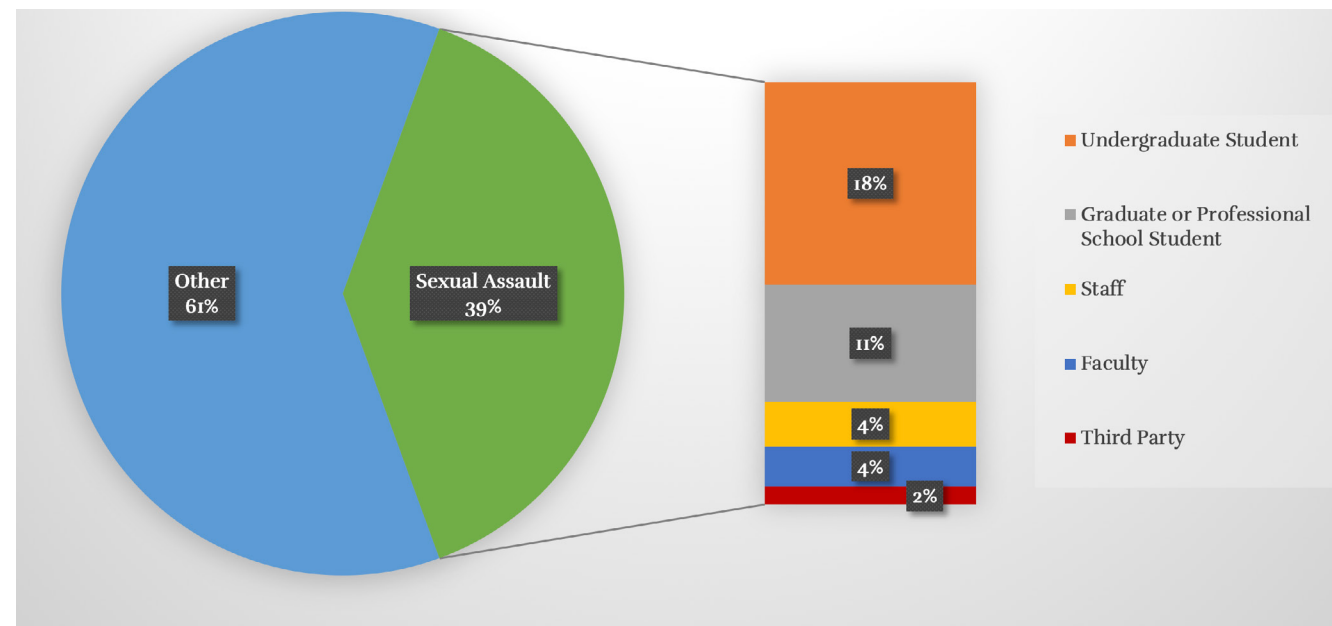
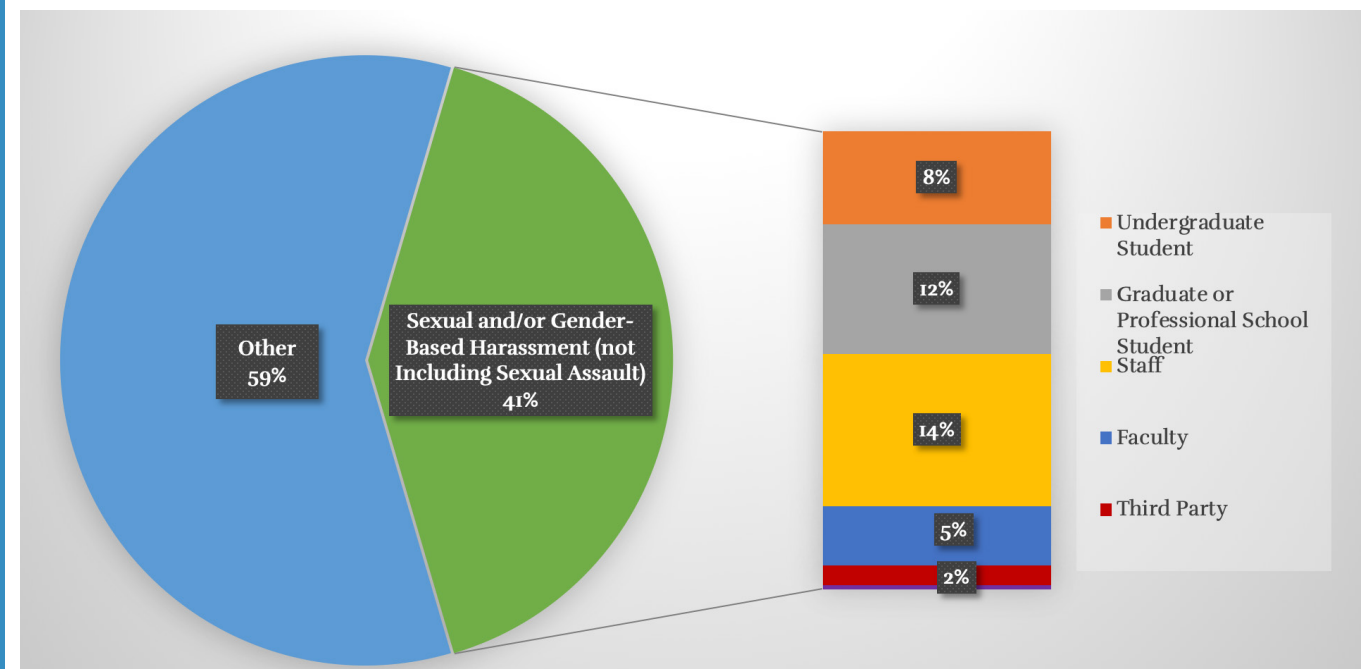


Figure 9. Sexual and/or Gender-Based Harassment Allegations (Not Including Sexual Assault) by Respondent Status FY15-FY19 (N=99)



GLOSSARY OF TERMINOLOGY

In response to community feedback, we have included for your convenience a glossary of terminology commonly used in this Report.

Administrative Closure: When an Investigation is not opened because the conduct alleged would not be a violation of the Policy, even if the facts are true. (See “Initial Review” below)

Complainant: A person who files a complaint with ODR alleging that they experienced sexual or gender-based harassment, or in special circumstances described in the applicable procedures, a School or Unit Title IX Coordinator or designee.

Complaint (or “Formal Complaint”): A written and signed statement alleging a violation of the Policy. A complaint can be filed by the complainant or by a third party filing on behalf of a potential complainant (a “reporter”). Submitting a complaint to ODR starts the formal complaint process.

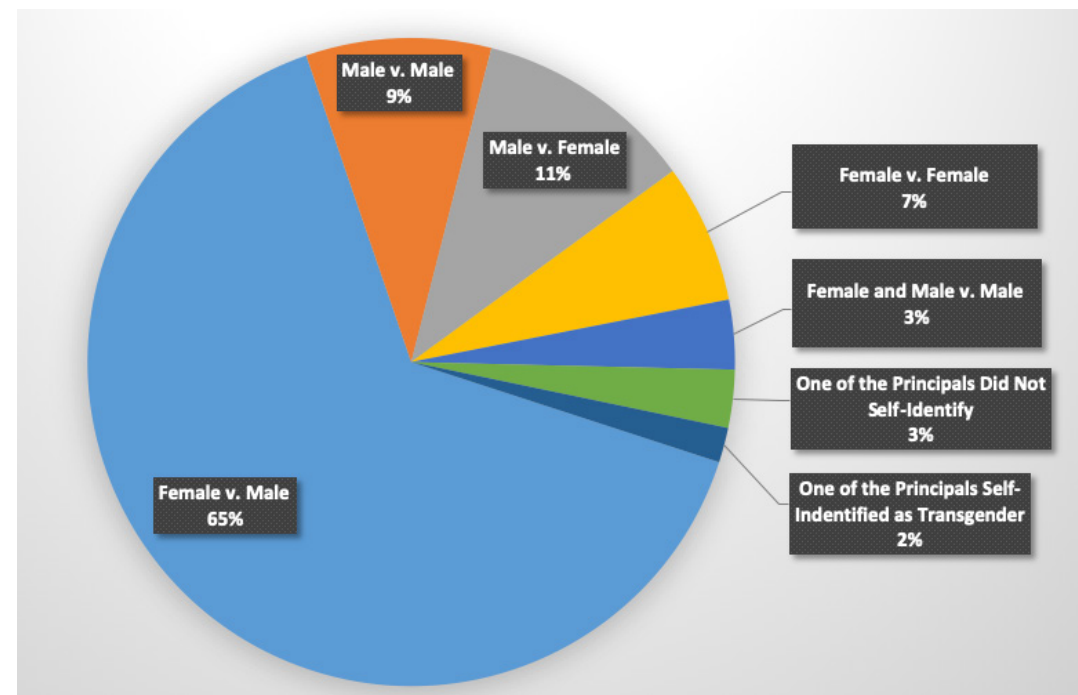
Designee: see “Investigative Team,” defined below.

Disclosures: Concerns regarding incidents of potential sexual or gender-based harassment that are brought to the attention of local Title IX Coordinators.

Finding of Fact: After gathering and reviewing evidence from both parties and witnesses, as well as other evidence identified by the Investigative Team, the Investigative Team weighs the evidence and reaches a determination about what, more likely than not, happened in a particular case.

Informal Resolution: Informal resolution is a voluntary process through which the party initiating the request identifies specific allegations and, with the assistance of their Title IX Coordinator, the Title IX Officer, or ODR, addresses those allegations through a written agreement that is mutually acceptable to both parties, the School or Unit Title IX Coordinator, and the Title IX Officer or the Director of ODR in consultation with the Title IX Officer. At any point prior to such resolution, the party who initiated the request may withdraw the request for informal resolution. If the informal resolution request is withdrawn before a formal complaint has been filed, either party may initiate a formal complaint under the applicable procedures. Ordinarily, the informal resolution process will be concluded within two to three weeks of the date of the request. Once the parties have reached an express agreement through informal resolution, ODR will not investigate a complaint based on the same scope of allegations. Some allegations may not be appropriate for informal resolution, for example, in some instances where the allegations indicate a potential risk of a hostile environment for others in the community.

Figure 10. Gender¹⁹ of the Principals Complainant v. Respondent FY14-FY19 (N=173)



¹⁹ Using self-identification.



Initial Review: A review of the complaint by the Investigative Team to determine whether the allegations, if true, would be a violation of the Policy. If so, then an investigation is started. If the allegations would not be a violation of policy, the complaint is administratively closed. To make this decision, the Investigative Team will review the written complaint and have a conversation with the complainant to gather more information about the allegation. During the Initial Review period, the respondent is not notified of the complaint.

Interim Measures: Individualized supports to help those who have been affected by incidents of potential gender-based or sexual harassment, including sexual violence, participate in campus life at Harvard and continue with their studies or work. Some examples include extensions of time or other course-related adjustments, University-issued and University-enforced no contact orders, and alterations to course schedules or work schedules.

Investigation: The process followed by a trained ODR Investigative Team to gather information in a thorough, impartial, structured, and timely way so that a decision can be made regarding the facts of a case and there can be a determination of whether there has been a violation of the Policy.

Investigative Team: The Investigative Team, which consists of an ODR Investigator paired with a trained person designated by the respondent's School or Unit, is responsible for conducting investigations. If the School or Unit does not designate a person to serve on the Investigative Team, then a single ODR Investigator will conduct the investigation.

Liaison: A person designated by the respondent's School or Unit the respondent is from to provide information to ODR from the School or Unit, while also relying on ODR to provide the Liaison with information about the status and progress of the investigation.

Parties: The complainant and the respondent.

Personal Advisor: Under the conditions outlined in the applicable procedures, the parties in an ODR complaint each may be entitled to designate a "personal advisor" to support them during the ODR investigation process. Personal advisors are individuals who, at the request of their advisee, provide support to the advisee throughout the ODR investigation. A personal advisor should be someone who can assist the party without conflict and thus, may not have any other involvement in the ODR process. So, for example, an individual may not serve as both a personal advisor and a witness in an ODR investigation. The personal advisor may be present when their advisee is being interviewed and can give feedback to their advisee in private. They may not speak for their advisee during the interview.

Policy: Harvard University's Sexual and Gender-Based Harassment Policy.

Principals: Individuals in a complaint alleging they have been the subject of misconduct prohibited by the Policy, or in special circumstances described in the applicable procedures, a School or Unit Title IX Coordinator or designee, and individuals who are alleged in a complaint to have engaged in conduct prohibited by the Policy.

Reporter: Someone who submits a complaint describing possible harassment, but who did not directly experience it. For example, a concerned coworker who witnessed harassment in the workplace.

Respondent: A person who is alleged in a complaint to have engaged in conduct prohibited by the Policy.

Responsible Employee: Staff (including paid student employees, only when acting as employees of the University) and faculty who must share information with a Title IX Coordinator about potential incidents of sexual or gender-based harassment. Our goal is to ensure that individuals receive accurate information about the resources and options available from a trained person in a position to assist them. For more information on responsible employees, visit the Responding to Disclosures Guide.

Third Party: A person who is not a Harvard student, faculty, staff, or appointee as provided in the Policy, but to whom the Policy either applies or who may bring a complaint under the applicable procedures.

Title IX Coordinator: Harvard has designated 50+ Title IX Coordinators distributed across every School and Unit of the University. The Coordinator assures that every student, faculty, and staff member has access to support at the local level. They serve in a neutral role and are specially trained to respond to disclosures of potential sexual or gender-based harassment, assist in developing interim measures, and serve as a bridge to other resources. Title IX Coordinators handle disclosures sensitively and discretely and information is shared on a strictly need-to-know basis.