

Staff Ombuds Office Report

2006-2008



**Margo Wesley, Director and Ombudsperson
Sara Thacker, Associate Ombudsperson
Michele J. Bernal, Assistant Ombudsperson**

University of California, Berkeley

OUR MISSION

The Staff Ombuds Office advocates for fairness, equity, justice, and humane treatment in the workplace. From these principles, the Staff Ombuds Office offers a confidential, impartial, objective, informal alternative for resolution of work-related concerns for staff, student employees, and managers of staff.

This mission, which guides all our endeavors, derives from UC Berkeley's Administrative Vision. To accomplish this mission, we work at many different levels:

- **individual:** helping staff employees, and those who work with them, to approach workplace problems constructively. We do this by identifying options and resources, making referrals, coaching in effective conflict resolution skills, and facilitating dialogue.
- **group:** identifying underlying problems and interests, facilitating constructive resolution of differences, mediating disputes, providing targeted training.
- **campuswide:** serving on committees which influence the campus climate; identifying systemic problems and advising campus management on effective approaches for addressing them.

Working at all these levels, we provide staff employees and those who interact with them, including faculty and managers, with the tools they need to resolve work-related problems constructively. Our overarching goal is to promote fairness, equity, justice, and humane treatment.

OPERATING PRINCIPLES

As mentioned in our mission statement, essential principles of the Staff Ombuds Office are **independence, impartiality, confidentiality, and informality**. These four principles are consistent with the principles of the International Ombudsman Association.

- **Independence** means that we are not part of the management “line” and cannot compel anyone to take any particular course of action. Our strength is in opening up constructive dialogue, helping people to help themselves, and bringing to light systemic problems or processes which seem unfair, unjust, uncaring, or in other respects counter-productive to the well-being of the campus community.

- **Impartiality** means that we strive to provide an objective assessment to both those who seek our services and those with whom they are experiencing difficulties. We do not represent or serve as personal advocates for anyone, but we do advocate for fair process and we do encourage people to adhere to the University's values of fair treatment, respect, civility, and the creation of a caring environment in which staff can flourish while contributing to the accomplishment of the campus mission.
- **Confidentiality** means that we do not serve as an office of record or an agent of notice to the institution, and we do not disclose information provided in confidence without explicit permission from the person who provided the information. The sole exception to confidentiality is any situation in which, in our estimation, there is an imminent threat of serious harm. The promise of confidentiality is essential to the role of Ombuds because it helps create a safe space where people feel free to say what is on their minds. The more we know about a situation, the more helpful we can be in developing a range of options for visitors to consider as possibilities for dealing with the situation constructively. In addition, for many visitors the mere fact of being respectfully and safely "heard" is a tremendous benefit, and is the first step in enabling them to engage in effective problem-solving.
- **Informality** means that we encourage people to resolve problems at the lowest effective level. Although we inform people about many possible resources and courses of action, including access to formal processes such as grievance procedures and external complaint arenas, we do not participate in any formal processes. A major purpose in having an Ombuds office is to help people resolve problems before they escalate to the point at which formal resolution seems necessary.

A UNIQUE ROLE

While bearing some similarity to and often collaborating with other offices, the Ombuds role is truly unique:

- Like *Human Resources*, we help people to understand the policies, procedures, and rights which apply to them. However, we do not develop policies, provide official interpretations, participate in formal arenas (such as grievances, arbitrations, or lawsuits), or advocate on behalf of any parties.
- Like *CARE Services* (the campus Employee Assistance Program), we help people to identify their underlying concerns and needs. However, our focus is not on psycho-social assessment and

referral, but on practical, constructive methods for addressing workplace conflicts.

- Like those who handle *compliance-related functions* such as investigation of whistleblower complaints or allegations of discrimination, we encourage people to report wrongdoing, help them learn about options for resolution, and assist them in finding safe, constructive ways to come forward. However, unlike compliance offices, we do not conduct formal investigations or serve as an office of notice or record.

Our primary activities in support of constructive approaches to dealing with workplace conflict are:

- **advising and informing** individuals and groups concerning options and resources,
- **referring** people to appropriate individuals and offices and opening avenues of communication,
- **facilitating** constructive dialogue,
- **mediating** conflicts between individuals and within groups,
- **training and coaching** individuals and groups, and
- **consulting** with campus management to identify patterns, provide an early warning system regarding systemic problems, and recommend systemic solutions.

MAJOR ACTIVITIES

Advising and Mediating: Between fiscal years 2006 and 2008 we advised 625 individuals, many of whom were seen more than once. Working with these individuals often involved contacting several others in order to assess the situation thoroughly and facilitate resolution. We also conducted 12 mediation sessions involving 26 individuals, including two-person and multi-party sessions. Mediations entail extensive preparation of the parties.

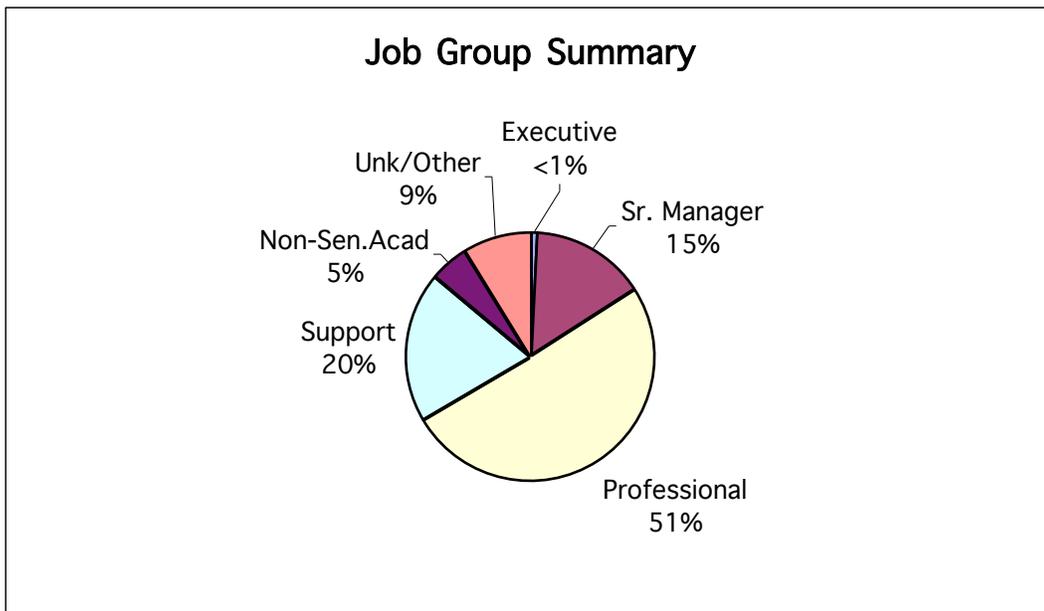
Training: We offered forty-two workshops to 765 participants on a variety of topics, including Civility: Respect in Action, E-Mail Civility, Managing and Mediating Conflict for Supervisors and Managers, Dealing With Difficult Situations and Behavior in the Workplace, Communicating Effectively During Conflict, Bullies and How to Deal With Them, and Introduction to Mediation: Facilitating Workplace Disputes. Our workshops also included training in conflict

resolution for six Supervisory Development Labs, the fall 2006 All Chairs and Deans Retreat, the 16th Annual Advising, Counseling and Mentoring Conference, and tailored training for a dozen departments based on an assessment of their specific needs.

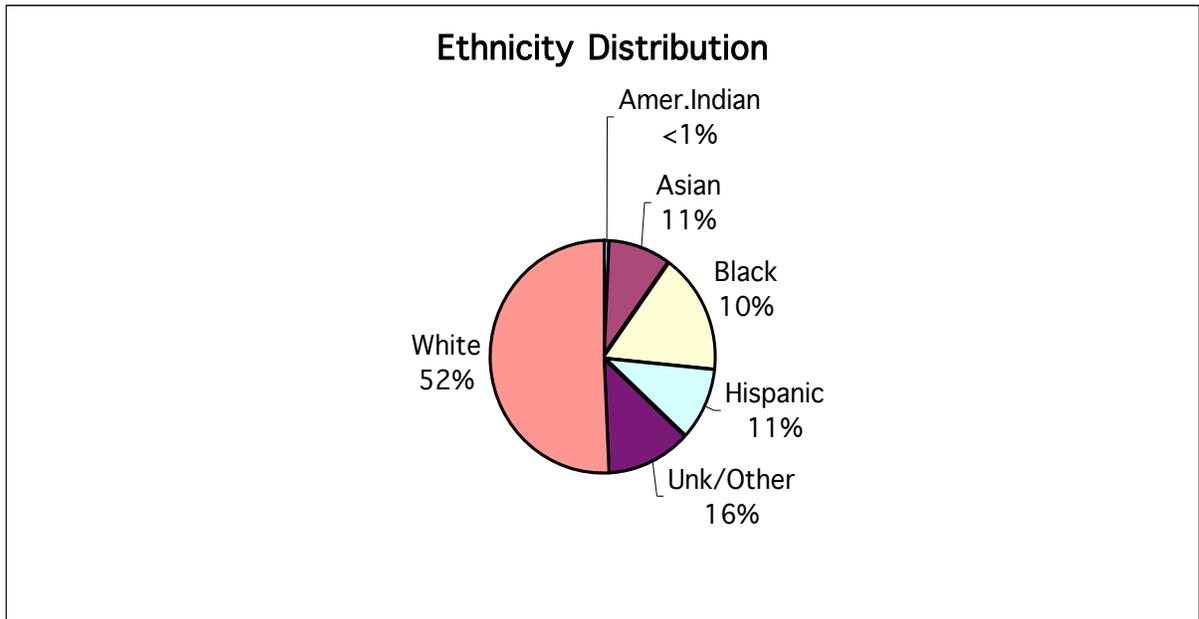
Consulting: We met with staff organizations and served on several campus committees, not as regular, voting members, but in order to give and receive information regarding the campus climate and to assure fair process and the inclusion of many voices. We also actively participated in monthly New Employee Orientations to ensure that new hires were aware of our services.

WHO USES OUR SERVICES?

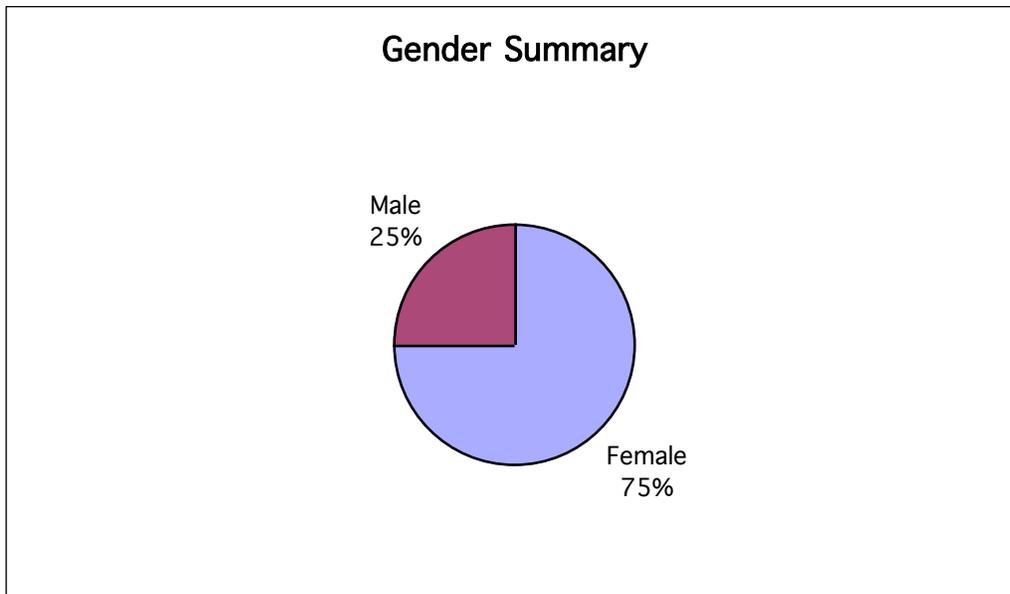
48% of our visitors were staff in non-management positions, 42% were supervisors/managers, and the remaining 10% were unknown/others (such as members of the public or ombuds from other locations). Most of our visitors were in career staff positions; approximately 6% were on probation, and 4% were on limited appointments or contract positions. 5% of our visitors were non-Senate academics, some of whom the Academic Senate Ombuds referred to our office. Although the numbers are small, the academic cases tend to be particularly complex. In terms of major campus job group categories, the distribution is as follows:



Race and Gender: The racial and gender distribution of users of our services has remained fairly steady, and is fairly close to the campus career workforce distribution. As of March 31, 2008, the career staff workforce for the Berkeley campus was comprised of <1% Native American, 12% Hispanic, 13% Black, 20% Asian-Pacific Islander and 54% White. The number of visitors to the Staff Ombuds Office whose racial designation is unknown (largely due to phone appointments) was 16%. 52% of those whose racial designation was known were White, about the same as in the last reporting period. 11% were Hispanic (up from 7%), 10% were Black (down from 16%), 11% were Asian (about the same), and less than 1% were American Indian (holding steady). These demographics are comparable to CARE Services, another UC Berkeley helping service provider.



The gender distribution of career staff workforce is 58% female and 42% male. During this reporting period visitors to our office were made up of 75% female and 25% male, a figure that has remained quite steady over the years. This data also comports with well-documented trends that show consistent gender differences in help-seeking behavior.



WHAT CONCERNS DO PEOPLE BRING?

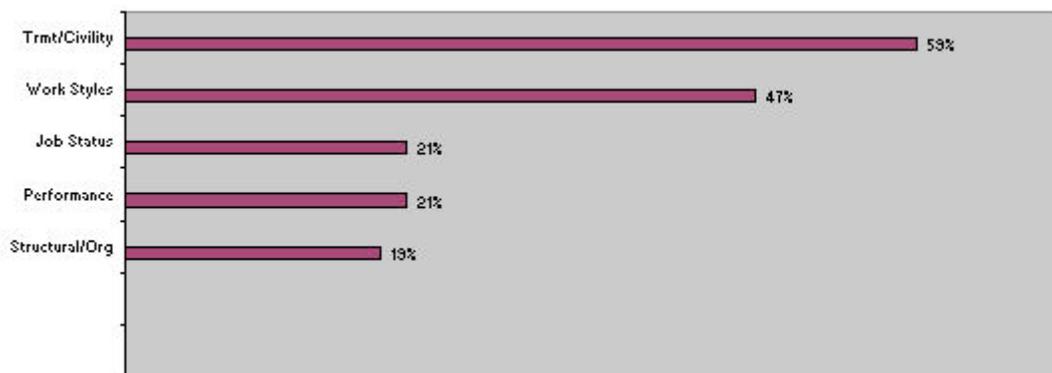
Nature of the Relationships: 75% of the problems brought to our attention concern relationships between employees and their supervisors or others in management. 22% of the problems concern relationships with someone at approximately the same level within the work unit and 20% concern relationships with people outside the work unit or campus. (Totals exceed 100% because people sometimes present multiple relationship issues.)

Sources of Conflict: We no longer keep statistics on how many situations involve breakdowns in communication, because over the years we have found that the vast majority of cases were caused or exacerbated by communication problems. Thus, we consider Communication to be a “given” – a primary area invariably needing to be addressed when attempting to resolve conflicts.

Treatment/Civility remains the top category among other sources of conflict described by employees. 59% of situations involved concerns about Treatment/Civility, 47 % concerned Work Styles, 21% concerned Job Status, 21% were about Performance Evaluation issues, 19% revolved around Structure/Organization, 8% involved Discrimination, 6% concerned issues of Compensation, and 6% concerned issues of Health and Safety. Workload issues were noted in 5% of cases. Other categories of conflict (Corrective Action/Dismissal, Selection, Layoff, Flexible Work Arrangements, Ethics, Reprisal) each involved 4% or fewer of all cases. (Totals exceed 100% because people often bring multiple issues.)

Of the 8% of cases alleging discrimination, Gender was the primary concern consisting of 42% of the discrimination cases (same as in the past report). The next most frequent category was discrimination based on Race/Ethnicity (also the same as in the last report). Disability/Health remained about the same at 10% of discrimination cases. Allegations of other forms of discrimination, such as Sexual Orientation, Age, Religion, National Origin, each comprised 6% or less of the Discrimination category. Other/Miscellaneous made up 10% of discrimination and included such concerns as class, weight, stature, and union affiliation. (Totals exceed 100% because people may allege multiple bases of discrimination.)

Leading Conflict Issues



The following are short descriptions of the five leading concerns employees brought to the office during this two-year period:

Treatment/Civility – Perceived maltreatment, abuse, rudeness, meanness, ridicule, yelling, bullying, ignoring, discounting, passive-aggressiveness, public embarrassment, quarreling, unequal treatment, etc.

Work Styles – Conflicts resulting from different ways of approaching the job or of prioritizing work; different opinions of what constitutes effective work style or teamwork; or behaviors that interfere with unit effectiveness or collaboration.

Job Status – Fears of change in status, such as termination, separation, layoff, involuntary transfer, or loss of or change in duties. May also include job description issues, lack of role clarity, or disagreements over appropriate assignments or tasks.

Performance Evaluation Issues – Performance concerns for either the visitors themselves or a supervisee. Wide range of issues involving perception of how one’s job is being done (quality, productivity, professional competence, etc.). Includes appraisal of job performance, either formally or informally. Also includes concerns about the evaluation process.

Structural/Organizational – Concerns resulting from impending or actual reorganization at any level. Organizational structure that is unclear or confusing regarding reporting lines, job distribution, or on-going fallout from any organizational change.

MAJOR ACCOMPLISHMENTS

Advising and Mediating: The Staff Ombuds Office sent anonymous satisfaction surveys to staff members who visited during the fourth quarter of the fiscal year. We had an average response rate of 47% for this two-year reporting period. 100% of all visitors who responded to the survey stated they would use our services again.

Influencing the Campus Climate: The Staff Ombuds Office influences systemic change in many ways, including:

- providing an “early warning system”--identifying problematic trends before they emerge as formal complaints or malfunctions;
- suggesting options for improvement to appropriate entities;
- encouraging broad-based input as appropriate;
- opening effective avenues of communication and encouraging people to come forward; and
- reinforcing positive trends

In support of these change efforts, we met with a variety of constituent groups to share input, broaden perspectives, and identify potential options for resolving systemic problems and moving in new directions. We met with a number of campus staff organizations and groups including the Council of Staff Organizations, the Chancellor’s Staff Advisory Committee, the Council of Ethnic Staff Organizations, Alianza (the Chicano/Latino staff association), the Business Process Analysis Working Group (BPAWG), and several unions. We also talked with leaders of the Asian Pacific American Systemwide Alliance, the Black Staff and Faculty Organization, the Berkeley Staff Assembly, LavenderCal, and the Native American Staff Council.

The Staff Ombuds Office collaborated with several UCB service providers, including the Center for Organizational Effectiveness (now the Chancellor’s Strategy and Alignment Group), the Center for Organizational and Workforce Effectiveness, CARE Services, and representatives from the Executive Vice Chancellor & Provost’s Office, regarding faculty outreach, organizational development, training needs, and problem areas on campus. We also participated on several committees and task forces aimed at improving the

campus climate, such as the Chancellor's Advisory Committee on Dependent Care, the University Health Services Faculty and Staff Advisory Committee, the New Employee Orientation Advisory Group, and the Health and Construction Workgroup. We are not voting members of committees because acting as such might compromise Ombuds independence and impartiality; however, we have influenced systemic change by providing insights on problem areas, opening up perspectives, serving as a sounding board, and offering suggestions in support of fair, inclusive, and effective processes for bringing about improvement.

Training: There has been a steady increase in the number of requests for conflict management training, tailor-made to the needs of individual departments. Themes of civility in general and civility in use of e-mail continued to be the most popular requests, along with themes involving effective communication. The satisfaction rating of employee participants in our trainings averaged 8.6 on a scale of 1-10. Last year, our workshops on "Dealing with Disputes and Disagreements" presented at the Supervisory Development Lab received the highest ratings – an average score of 9.6/10.

In addition, for the first time the Staff Ombuds Office presented a workshop on "Managing Conflict Effectively" for academic deans and department chairs at the fall 2006 All Chairs and Deans Retreat. This workshop was well received and may have contributed to the increased frequency of assistance the Staff Ombuds Office has provided to deans and department chairs in the last two-year reporting period.

Being fully staffed with Margo Wesley (Director/Ombudsperson), Sara Thacker (Associate Ombudsperson) and Michele Bernal (Assistant Ombudsperson/Senior Analyst), the Staff Ombuds Office almost doubled the training provided to the campus from the previous fiscal year. For example, for the first time in two years, the Staff Ombuds Office presented at the 16th Annual Advising, Counseling and Mentoring Conference ("Dealing with Disputes and Disagreements: A New Approach to Conflict Resolution in the Workplace").

Recent Hiring: The Staff Ombuds Office was short-staffed for 11 months of fiscal year 2006-2007, which put a substantial burden on the office to meet individual staff needs. Due to the shortage of staff, the Office reduced its training offerings and outreach efforts for this time period. In July 2007, the Staff Ombuds Office was pleased to be fully staffed with the addition of Associate Ombudsperson Sara Thacker, who has experience in negotiation, mediation, multi-party dispute resolution, cultural considerations in conflict resolution, and the role of gender in mediation.

Library Collections: Any staff member may check out books from the Staff Ombuds Office's conflict resolution library. The Staff Ombuds Office made major efforts to research, identify and acquire additions to our library holdings, including resources addressing cultural differences in communication and conflict resolution, as well as publications in Spanish.

Professional Leadership and Public Service: The Staff Ombuds Office continued to take a leadership role in the organizational ombuds profession, both within the University of California system and beyond. In March 2008, the Staff Ombuds Office hosted a UC system-wide meeting of ombuds offices to share best practices, discuss systemic change, and support the establishment of ombuds offices at other UC campuses. The Staff Ombuds Office also was a leader in developing a "Declaration of Best Practices for University of California Ombuds Offices" published in 2006.

OBSERVATIONS AND RECOMMENDATIONS

Selection and Training of Supervisors: As mentioned earlier, 75% of the cases brought to the Staff Ombuds Office concern conflicts between employees and their supervisors/managers. Improvement in supervisory selection and training will enhance the campus climate and contribute to our ability to recruit, develop, and retain high-performing staff members.

Recommendations: One area for improvement is assuring that supervisors are selected primarily for their ability to lead, coach, and develop those they supervise rather than for their technical and substantive expertise. Supervisors should be comprehensively evaluated in these areas in order to improve their effectiveness, and training should be targeted to reach those supervisors who need additional skills. The newly revised performance evaluation forms should contribute to this end. In addition, the new 360° evaluations, if done comprehensively in an anonymous, confidential manner, could be a valuable tool for identifying supervisors who need additional managerial skills. All new and current supervisors should be given time for adequate orientation and training.

Clash of Work Styles: The Staff Ombuds Office has seen an 11% increase in cases involving work-style conflicts. Often these conflicts emerge as new employees come to campus with new visions and skills or as campus organizational structures change and new managers are brought in to institute major improvements. New employees have created marvelous opportunities for enhancements of all sorts, and have reenergized many areas of the campus. At the same time, some of these changes have presented significant challenges and have entailed clashes in work styles. For example, a considerable number of people seeking assistance from the Staff Ombuds Office have described problems that stem, at least in part, from the following perspectives:

- New managers may have different ways of approaching the job or prioritizing work and become frustrated when they experience resistance to change. They often do not understand why there is such resistance, especially when they were explicitly hired for their new vision or to bring about change. Some long-time staff members are equally frustrated and their resistance to change is often couched in phrases such as “You don’t understand why we’ve been doing things this way.” Some staff members also feel that managers coming from outside the campus culture do not value their skills, experience, and insights.
- In many work-style cases, staff remark that managers with a hierarchical or corporate style often clash with “the Berkeley way.” These staff members are discouraged by “top-down” decision-making and would like managers to seek input first before implementing changes that impact their work. At the same time, managers who experience work-style conflicts do not feel supported by their staff and do not understand why staff do not embrace changes they believe will benefit the campus.

Recommendations: A comprehensive approach to addressing the underlying concerns mentioned above might include:

- increasing efforts to acclimatize newcomers to the Berkeley culture
- providing training for managers on how to effectively plan for and implement change
- encouraging new managers to actively seek staff input and engage staff in change efforts
- providing information to staff regarding the decision-making process and explaining the rationale for instituting change
- encouraging staff to attend support programs on coping with change
- expanding workshops on key communication skills, including giving and receiving feedback
- providing managers with ready access to experts who can assist them with major “organizational development” efforts, including climate surveys, strategic planning, organizational redesign, and effective use of staff retreats

The Staff Ombuds Office looks forward to collaborating with those involved in such efforts.

Performance Evaluation Issues: Many staff members who brought concerns regarding their written performance evaluations were upset because they were “surprised” by the feedback supervisors provided. Staff felt as if they should have known about these performance issues earlier in the year so they could correct problems before they became part of the written evaluation. Some long-term staff members were upset because their rating had changed from previous years due to the new performance rating scales. Some of them were comforted by the information provided by Human Resources that recognized that “Changes in individual ratings compared to last year do not necessarily indicate a change in performance unless explicitly stated in the evaluation.”

Recommendations: Conversations regarding performance should occur throughout the year between supervisors and staff. They should not be a one-time event to discuss the written performance evaluation at the time of submission. In addition, Departmental Human Resource Managers should ensure that all staff members are aware of the new performance rating scale and that a lower score from previous years may not indicate a decrease in actual performance. If this information is not conveyed, it may demoralize staff whose actual performance has not changed.

Use of “Acting” and “Interim” Titles: Although we have not collected statistics on this topic, our impression is that more people have been appointed to “Acting” and “Interim” status, and that many of them stayed in that status for longer periods of time (e.g., for a year or more) than in the past. This can create several problems: 1) People in those positions don’t feel they have the full authority and power that they would have were the appointment permanent. Those with whom they interact—supervisees, higher-level managers, and colleagues—may feel the same. As a result, the unit that the person is overseeing may be somewhat limited in its ability to bring about necessary change. 2) People who might be interested in applying for the permanent position may believe that the person in the “Acting” or “Interim” title has been given an unfair advantage, or has even been pre-selected for the permanent position.

Recommendations: We recommend that “Acting” and “Interim” status be used only when clearly necessary, and for as little time as is necessary. We also recommend that the reasons for this status be communicated as explicitly as possible.

*Text: Margo Wesley and Sara Thacker
Data: Michele J. Bernal*