



**MEMORANDUM**

**TO:** The Honorable Mayor Mark Farrell  
Honorable Members of the Board of Supervisors  
Sheryl Davis, Executive Director, Human Rights Commission  
Emily Murase, Executive Director, Department on the Status of Women

**FROM:** Micki Callahan, Human Resources Director

**DATE:** February 6, 2018

**SUBJECT:** Annual Report on Sexual Harassment Complaints filed in Fiscal Year 2016/2017

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In light of the national conversation about sexual harassment, this year the Department of Human Resources (DHR) is expanding its annual report on sexual harassment complaints under Administrative Code Section 16.9-25(e)(2). This expanded report adds information on the City's policies prohibiting harassment, the City's training and education of supervisors regarding their responsibility to stop and report harassment, the multitude of avenues available for employees to report complaints, and recommendations to ensure the City continues to be proactive in reducing the incidence of workplace harassment.

San Francisco is a long-standing leader in protecting employees' civil rights. City policies prohibiting harassment are comprehensive; written in simple, understandable terms; and available in multiple languages. DHR's Equal Employment Opportunity (EEO) Division continues to review and update City policies and procedures regularly, so they remain best practices. We train and educate executives, managers, and supervisors on their responsibilities under those policies to model appropriate behavior and to respond promptly and appropriately to employee concerns and complaints. We provide employees a variety of avenues to file complaints in the event they experience or witness harassment. Each year we notify all City employees of their right to a workplace free from sexual harassment, and their options for reporting complaints.

The City is strongly committed to ensuring a work environment that is free from sexual harassment, not only because it is a legal obligation, but because it is the right thing to do. The City does not tolerate sexual harassment. City employees found to have engaged in such conduct may be subject to discipline, up to and including termination. The City may take other appropriate corrective action, such as retraining, including one-on-one training with a DHR Senior EEO investigator, counseling the accused employee, reassigning the accused employee, changing the reporting structure, or at the request of the complainant, reassigning the complainant. We are committed to a workplace where employees are treated with respect, courtesy, and dignity, and take all appropriate measures to prevent and respond to sexual harassment complaints.

## **Policies and Procedures**

The City regularly educates employees on the City's EEO Policy and harassment prevention and provides regular updates to City EEO investigators on investigation best practices by:

- Annual EEO Policy Distribution
  - Provides a link to the EEO Policy webpage (<http://sfdhr.org/equal-employment-opportunity-policy>), which contains quick links to the EEO Policy in Chinese and Spanish
- How to File A Discrimination Complaint Flyer (publicly available at DHR and online) (<http://sfdhr.org/how-file-discrimination-harassment-or-retaliation-complaint>)
- Monthly Citywide EEO Staff Meeting Lead by DHR EEO Division
  - Provides an opportunity for DHR EEO staff to meet with citywide EEO staff and share information on recent court cases, developments in EEO trends, and information learned at conferences
  - Allows EEO staff to discuss strategies and best practices for handling EEO cases, which provides opportunities for new EEO investigators to learn from and connect with experienced EEO investigators

## **Training and Education**

The City provides biennial online Harassment Prevention Training that:

- Is required for all supervisors and managers, including board and commission members, including employees in acting assignments and serving as "lead" employees
- Trains supervisors/managers on their responsibility to immediately report any allegations they receive, using practical scenarios based on actual complaints
- Was recently updated and re-launched on October 30, 2017
- Has reached 11,826 employees to date

## **Avenues to Report a Complaint**

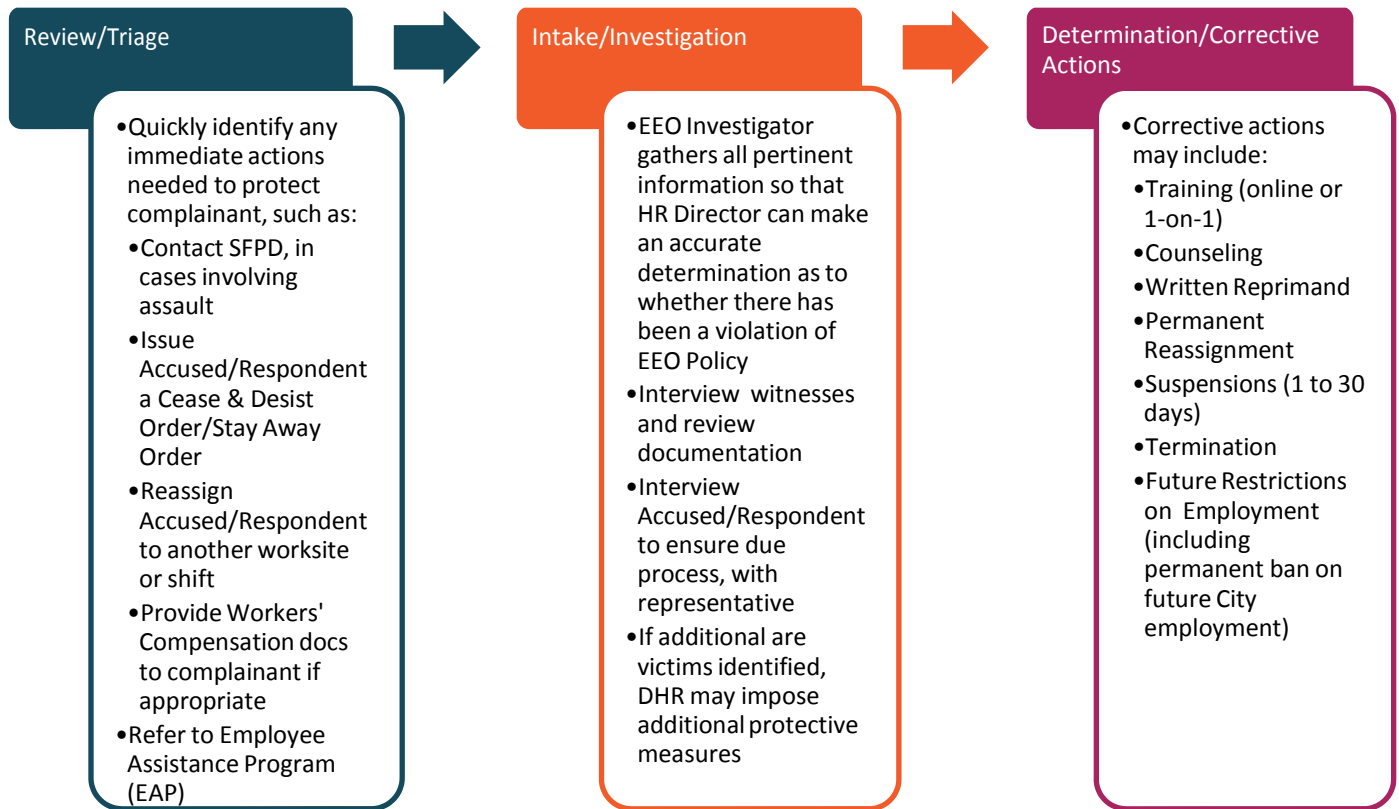
The City offers City employees (as well as volunteers and interns) several avenues by which they can report allegations of harassment, including sexual harassment. Whether the allegations are against a co-worker, supervisor, vendor, or member of the public, City employees can report their complaints to:

- Their supervisor or manager
- Any City supervisor or manager
- A departmental Human Resources (Personnel) Officer
- DHR's EEO Division, through multiple channels:
  - Harassment Helpline (415-557-4900)
  - Walk-in or by appointment
  - Email/Phone to any DHR EEO employee (contact info at <http://sfdhr.org/employees-phone-directory>)
  - U.S. Mail or Interoffice Mail (to DHR EEO, 1 South Van Ness Ave., 4<sup>th</sup> Floor, SF, CA 94103)
  - Fax to DHR EEO (415-557-4803)

The City also provides information on how complainants may contact the California Department of Fair Employment and Housing and the United States Equal Employment Opportunity Commission.

### **EEO Complaint Process**

If an employee complains to someone at his or her department, the department is required to refer the complaint to DHR EEO Division. An employee may also complain directly to DHR EEO. When DHR EEO receives a complaint, it initiates the complaint process. Key steps of the complaint process are as follows:



Throughout the complaint process, the EEO investigator reminds all persons involved in the investigative process (e.g., complainant, accused, witnesses) that retaliation is prohibited by law and by the City's EEO Policy.

### **2016/2017 Data on Sexual Harassment Complaints**

Pursuant to San Francisco Administrative Code, Section 16.9-25(e)(2):

The Human Resources Director shall provide annually to the Mayor, the Board of Supervisors, the Human Rights Commission, and the Commission on the Status of Women a written report on the number of claims of sexual harassment filed, including information on the number of claims pending and the departments in which claims have been filed. The reports shall not include names or other identifying information regarding the parties or the alleged harassers.

In accordance with Section 16.9-25(e)(2), this report includes the “Annual Report on Sexual Harassment Complaints” (Attachments A and B). Sexual harassment is defined as:

- Any unwelcome sexual advance, request for sexual favors, and other physical, verbal, or visual conduct of a sexual nature; or
- Conditioning an employment benefit on the acceptance of sexual or romantic favors; or
- Making or threatening reprisals after a negative response to a sexual or romantic advance.

Sexual harassment is distinguished from harassment based on sex, as the latter is defined as physical, verbal, or visual conduct based on sex that is not of a sexual nature. For example, questioning the ability of an employee to complete a task due to his or her sex would be categorized as harassment based on sex.

Attachment A identifies “internal” complaints filed with individual City departments and the DHR EEO Division. Attachment B identifies “external” complaints filed with the U.S. Equal Employment Opportunity Commission (EEOC) and the California Department of Fair Employment and Housing (DFEH). For Fiscal Year 2016/2017, a total of forty-eight (48) internal complaints and one (1) external complaint alleging sexual harassment were filed.

### **Projections**

DHR projects receiving approximately 81 sexual harassment complaints for FY 2017/2018 based on the number of sexual harassment complaints received in the first seven months of FY 2017/2018. (Attachment C.) While this number represents a 65% increase in the number of sexual harassment complaints over the prior fiscal year, we do not believe the increase in complaints is due to an increase in sexual harassment. Rather, we attribute the increase in complaints to:

- Greater employee awareness of their rights to a workplace free of sexual harassment;
- Increasing understanding by supervisors and managers of their responsibility to report complaints; and
- Higher levels of confidence in the City’s EEO complaint process

Anecdotally, complainants have shared with DHR EEO Division personnel that because they have seen the EEO complaint process effectively address the complaints of their colleagues, they have felt more comfortable bringing forth their own complaints. Similarly, supervisors who have reported sexual harassment complaints have explained that the online Harassment Prevention Training helped them realize that they are still obligated to report the complaint they received, even when they were not the direct supervisor of the employee who made the complaint.

### **Recommendations**

To ensure that the City continues to be proactive in its efforts to reduce the incidence of workplace sexual harassment, DHR recommends the following:

1. Expand the Online Harassment Prevention Training

The online Harassment Prevention Training has been an important tool to increase awareness of employee rights and supervisor responsibilities regarding sexual harassment. The training is an online interactive program that includes practical scenarios illustrating sexual harassment and the appropriate

response to it. The training goes beyond the issue of sexual harassment, by including topics such as transgender co-workers and political affiliation harassment. Currently, the City has a limited number of licenses for the training, sufficient to cover those employees mandated by law to take it. Making the training available for all 34,000+ employees, even those who are not required legally to take it, would expand its reach and impact considerably.

2. Develop “Bystander” Training and Tip Sheets

With assistance from DHR’s Workforce Development Division, DHR EEO Division will develop a training module to include in future harassment prevention trainings that focuses on “bystander” training. Bystander training modules use a “see something, say something” approach. These modules encourage employees not to ignore inappropriate conduct, and teach them how to intervene and address such conduct in an appropriate manner without escalating conflict.

3. Identify “Hotspots” to Focus Prevention Efforts

DHR EEO Division will continue to improve its ability to identify specific departments and work units within departments that may need additional resources to prevent harassment. While sexual harassment complaints come from a variety of departments, there are some departments that appear to have a relatively higher incidence of sexual harassment complaints. While these departments tend to be the City’s largest departments, size alone may not account for the frequency of sexual harassment complaints in some areas. We wish to partner with these departments to increase awareness of sexual harassment, and to assist them in implementing culture change at the worksite level to reduce the incidence of sexual harassment complaints.

Please contact Linda Simon, DHR Director of EEO and Leave Programs, at 415-557-4837, for further information.

**Attachment A**  
**INTERNAL COMPLAINTS**<sup>1</sup>

Fiscal Year 2016/2017 (July 1, 2016 through June 30, 2017)

DEPARTMENT	TOTAL FILED	STATUS <sup>2</sup>					
		Closed					Pending
		Settled	Insufficient Evidence	Sustained	One Incident & Immediate Corrective Actions	No EEO Jurisdiction	
Airport Commission	2				1		1
Fine Arts Museums	1				1		
Fire Department	2				1	1	
Human Services Agency	9				6	2	1
Juvenile Probation	1						1
Municipal Transportation Agency	6		2	1	1	1	1
Planning Department	1					1	
Police Accountability	4						4
Police Department	1				1		
Public Health	2					1	1
Public Library	6				2	3	1
Public Utilities Commission	3		1				2
Public Works	4				2	2	
Recreation and Park	5				3	1	1
Sheriff's Department	1						1
<b>TOTAL COMPLAINTS</b>	<b>48</b>	<b>0</b>	<b>3</b>	<b>1</b>	<b>18</b>	<b>12</b>	<b>14</b>

<sup>1</sup> Complaints filed with individual Departments and the Department of Human Resources, Equal Employment Opportunity Division (DHR EEO).

<sup>2</sup> Definitions:

- *“Settled”*: complaint was resolved, without any admission or acknowledgement of liability.
- *“Insufficient Evidence”*: complaint was investigated and there was insufficient evidence to establish sexual harassment;
- *“Sustained”*: complaint was investigated and there was sufficient evidence that sexual harassment occurred; and
- *“No EEO Jurisdiction”*: complaint was not investigated because it did not meet EEO standards of discrimination; nonetheless, DHR may still instruct departments to take appropriate corrective action (i.e. issue City’s EEO Policy or Policy Regarding Treatment of Co-Workers and Members of the Public, obtain signed acknowledgement of receipt of policy, direct to take online harassment prevention training, etc.)

**Attachment B**  
**EXTERNAL COMPLAINTS**<sup>3</sup>

Fiscal Year 2016/2017 (July 1, 2016 through June 30, 2017)

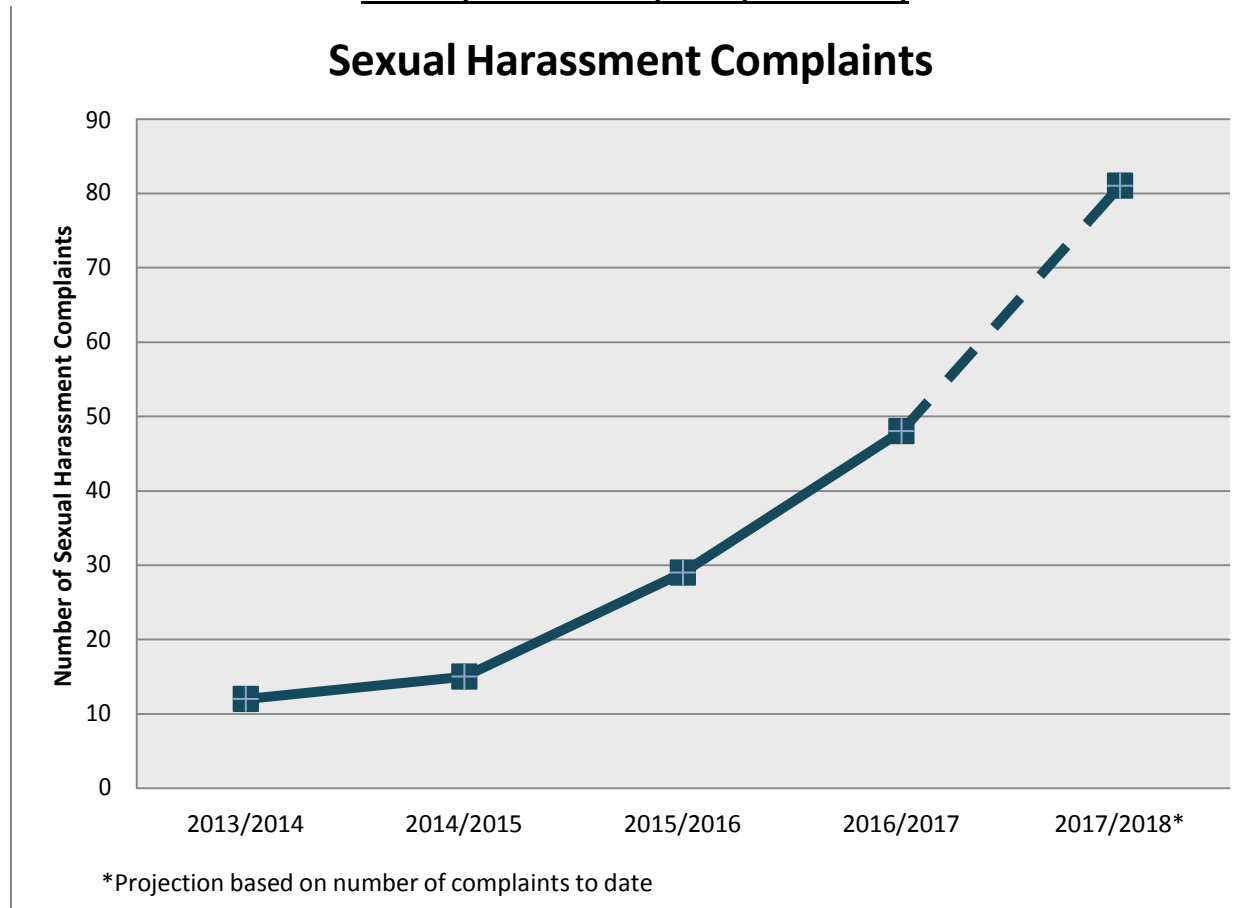
DEPARTMENT	TOTAL FILED	STATUS <sup>4</sup>				
		Closed				Pending
		Settled	Insufficient Evidence	Sustained	Not Investigated	
Public Health	<b>1</b>	0	0	0	1	0
<b>TOTAL COMPLAINTS</b>	<b>1</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>1</b>	<b>0</b>

<sup>3</sup> Complaints filed externally with the California Department of Fair Employment and Housing (DFEH) or the U.S. Equal Employment Opportunity Commission (EEOC).

<sup>4</sup> Definitions:

- *“Settled”*: complaint was resolved;
- *“Insufficient Evidence”*: complaint was investigated and there was insufficient evidence to establish sexual harassment;
- *“Sustained”*: complaint was investigated and there was sufficient evidence that sexual harassment occurred; and
- *“Not Investigated”*: complaint was not investigated because the EEOC/DFEH issued notice of right to sue.

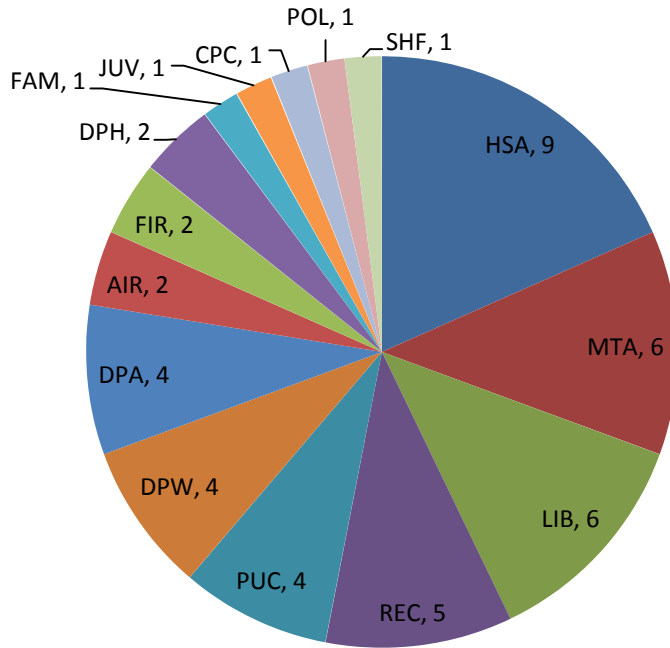
**Attachment C**  
**SEXUAL HARASSMENT COMPLAINTS<sup>5</sup> FOR**  
**FY 2013/2014 TO 2017/2018 (PROJECTED)**



<sup>5</sup> Complaints filed with individual Departments and the Department of Human Resources, Equal Employment Opportunity Division (DHR EEO).



**Attachment D**  
**Sexual Harassment Complaints by Department**  
**FY 2016/2017**



**Sexual Harassment Complaints by Department**  
**Fiscal Year 2015/2016**

