

City and County of San Francisco  
Micki Callahan  
Human Resources Director



Department of Human Resources  
*Connecting People with Purpose*  
www.sfdhr.org

**MEMORANDUM**

**TO:** The Honorable Mayor London Breed  
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:** November 6, 2018

**SUBJECT:** Annual Report on Sexual Harassment Complaints filed in Fiscal Year 2017/2018

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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 provides additional data on the City's response to sexual harassment complaints and 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 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. On a quarterly basis, 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 preventative action to protect complainants, such as issuing the accused employee a Cease & Desist/Stay Away Order, reporting any allegations of sexual assault to the San Francisco Police Department, referring the complainant to the Employee Assistance Program, retraining the accused employee (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.

### **2017/2018 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 or gender, but is not of a sexual nature. For example, commenting that an employee will be unable to successfully complete a work task due to his or her sex or based on stereotypes about his or her sex would be categorized as harassment based on sex.

Attachment A identifies “internal” complaints filed with individual City departments and DHR EEO. Attachment B identifies “external” complaints filed with the California Department of Fair Employment and Housing (DFEH) and the U.S. Equal Employment Opportunity Commission (EEOC). In Fiscal Year 2017/2018, 105 internal complaints and 5 external complaints alleging sexual harassment were filed.

The 105 internal sexual harassment complaints received during FY 2017/2018 represent a 119% increase over the number of sexual harassment complaints received during FY 2016/2017, and it continues the upward trend over the past several years. See Attachment C. This increase in the number of sexual harassment complaints, however, does not indicate that sexual harassment incidents are becoming more frequent. If that were the case, we would expect to see a similar trend in the number of external sexual harassment complaints filed. However, the number of external sexual harassment complaints filed has remained consistently low over the past several fiscal years, ranging between one and five complaints. See Attachment C. Rather, the increase in the number of internal complaints filed is likely caused by increased employee awareness of both the City’s EEO complaint process and the right to a workplace free of sexual harassment. DHR EEO believes this increased awareness is the result of:

- Supervisors and managers better understanding their responsibility to report complaints of potential sexual harassment, as a result of completing the 2017 online Harassment Prevention Training;
- An increase in the number of City departments that require all employees, including non-supervisors, to take the online Harassment Prevention Training; and
- The #MeToo movement and the national conversation around sexual harassment in the workplace.

### **2017/2018 Data on the City’s Response to Sexual Harassment Complaints**



After receiving and investigating a sexual harassment complaint, the City takes preventative or corrective actions to ensure that any sexually harassing conduct stops and to protect the complainant, as well as other employees who may have been subjected to the sexual harassment, from future misconduct. In the past fiscal year, these actions have included reviewing the City's EEO Policy with the accused employee, providing one-on-one training for the accused employee, retraining entire work units, and taking disciplinary action against the accused employee, including separation from City employment. Additionally, restrictions on future City employment, including a permanent ban, can and have been placed on employees found to have engaged in sexual harassment.

To date, DHR EEO has completed investigations of 90 of the 105 internal sexual harassment complaints received during FY 2017/2018. *See Attachment A.* DHR EEO's investigations have sustained the sexual harassment allegations in seven complaints. In five of these seven cases, due to the egregiousness of their misconduct, the accused employee is no longer employed by the City or is in the process of being separated from City employment.

Moreover, the City does not wait to act until misconduct becomes serious. In FY 2017/2018, DHR EEO instructed departments to take preventative or corrective actions in 73, or 81%, of the 90 sexual harassment complaints it has closed. *See Attachment D.* In cases where the alleged conduct is isolated or sporadic in nature, as well as in cases where the alleged conduct stopped months prior to the complaint being filed, the City still takes immediate preventative or corrective action to correct the accused employee's behavior and to make sure that the conduct does not repeat or start again.

Additionally, DHR EEO has already taken preventative actions in two of the 15 pending sexual harassment complaints. *See Attachment D.* Preventative actions such as issuing a Cease & Desist Order or reassigning the accused employee pending completion of the investigation may be warranted where the alleged conduct is serious or recent and ongoing. These actions are taken in addition to reviewing the City's EEO Policy with the accused to impress upon them the seriousness of the allegations and the consequences of violating the EEO Policy. Additional corrective actions may be taken depending on the outcome of those investigations.

To promote an environment that encourages reporting of inappropriate behavior, the City has a variety of policies, procedures, training and avenues to report complaints. They are described in more detail below.

### **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:

- Quarterly 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>), and posted in departments
- Monthly Citywide EEO Staff Meeting Led by DHR EEO Division

- Provides an opportunity for DHR EEO staff to meet with citywide EEO staff and share information on recent court cases, 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 14,963 employees to date

Beginning on January 1, 2019, per Mayor Breed’s Executive Directive on Ensuring a Diverse, Fair, and Inclusive City Workplace, all employees, not just supervisors and managers, must take the online Harassment Prevention Training and will be required to complete the training biennially. Expanding the online Harassment Prevention Training to all 34,000+ employees will boost the training’s impact considerably and ensure that all employees understand the role they play in maintaining a workplace free of harassment.

DHR EEO is also developing a training geared toward line staff that explains the difference between harassment and abusive conduct/bullying that is not based on a protected category, i.e. race, sex, disability, etc. The goal is to educate employees to report abusive conduct/bullying complaints to their department’s Human Resources so that departmental Human Resources staff may conduct an investigation and take corrective action to address the behavior.

### **Avenues to Report a Complaint**

The City offers City employees and applicants (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, individuals can report their complaints to:

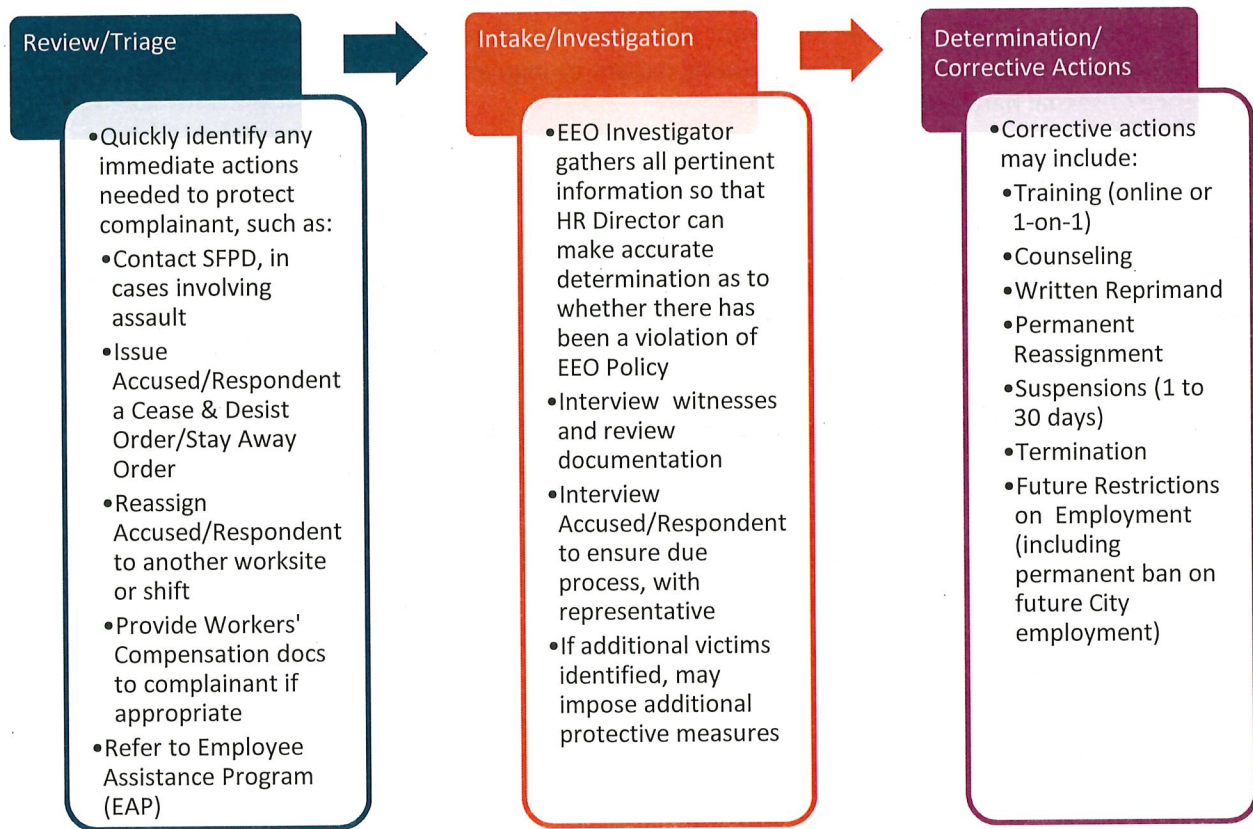
- Their supervisor or manager
- Any City supervisor or manager
- A departmental Human Resources (Personnel) Officer
- DHR’s EEO Division, through multiple channels:
  - Harassment Helpline (415-557-4900)
  - Walk-in or by appointment
  - Email/Phone to any DHR EEO employee (contact info at <http://sfdhr.org/employees-phone-directory>)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

### 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. New "Bystander" Training

DHR EEO will work with a vendor to develop bystander training. The goal is to deliver the training in FY 2019/2020 to all City employees. The bystander training will 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.

2. Identify "Hotspots" to Focus Prevention Efforts

DHR EEO will continue to use data and analytic approaches 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.

3. Annual Reports to Departments on EEO Complaints

DHR EEO will also begin providing annual reports to the City departments on the number of EEO complaints filed within their department. These reports will be sent to each department head so that they may be aware of any trends, areas of concern, and areas of improvements within their department. These annual reports will also be published on the SFDHR website.

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> for Fiscal Year 2017/2018**  
**(July 1, 2017 through June 30, 2018)**

STATUS <sup>2</sup>							
DEPARTMENT	CLOSED					PENDING	TOTAL
	SETTLED	INSUFFICIENT EVIDENCE	SUSTAINED	IMMEDIATE PREVENTATIVE ACTIONS TAKEN	NO EEO JURISDICTION OR WITHDRAWN		
AIRPORT COMMISSION			3		1		4
ANIMAL CARE & CONTROL				1			1
BUILDING INSPECTION				1			1
DISTRICT ATTORNEY				3	1		4
EMERGENCY MANAGEMENT				1			1
FINE ARTS MUSEUMS				1			1
FIRE DEPARTMENT				2	3	1	6
HUMAN SERVICES AGENCY				9	2	2	13
MUNICIPAL TRANSPORTATION AGENCY		1	2	8	2	1	14
PLANNING DEPARTMENT				2			2
POLICE DEPARTMENT				3	2		5
PORT OF SAN FRANCISCO					1		1
PUBLIC HEALTH				12	2	6	20
PUBLIC LIBRARY			1	7	2	2	12
PUBLIC UTILITIES COMMISSION				4	2	1	7
PUBLIC WORKS				2	1	1	4
REAL ESTATE						1	1
RECREATION AND PARK			1	5			6
SHERIFF'S DEPARTMENT				1			1
TECHNOLOGY				1			1
TOTAL COMPLAINTS	0	1	7	63	19	15	105

<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 sexually harassing conduct occurred in violation of City's EEO Policy;

- *"Immediate Preventative Actions Taken"*: complaint was resolved through immediate preventative and/or corrective actions; where the alleged conduct may have violated City policy, DHR instructs departments to take immediate preventative or 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.). These actions are the same actions that would have resulted had a full investigation been initiated and the conduct corroborated; and
- *"No EEO Jurisdiction or Withdrawn"*: complaint did not allege that a supervisor requested sexual or romantic favors or that complainant was subjected to unwelcome sexual or romantic advances or other conduct of a sexual nature; complainant was not a City employee, applicant, volunteer, unpaid intern, or contractor; complaint was not against a City department; the complaint was untimely; they were precluded from filing an internal EEO complaint because complainant's MOU prevents employee from filing a complaint regarding the same issue as a previously filed grievance; or complainant withdrew complaint without providing enough information to allow the investigation to continue.



**Attachment B**  
**External Complaints<sup>3</sup> for Fiscal Year 2017/2018**  
**(July 1, 2017 through June 30, 2018)**

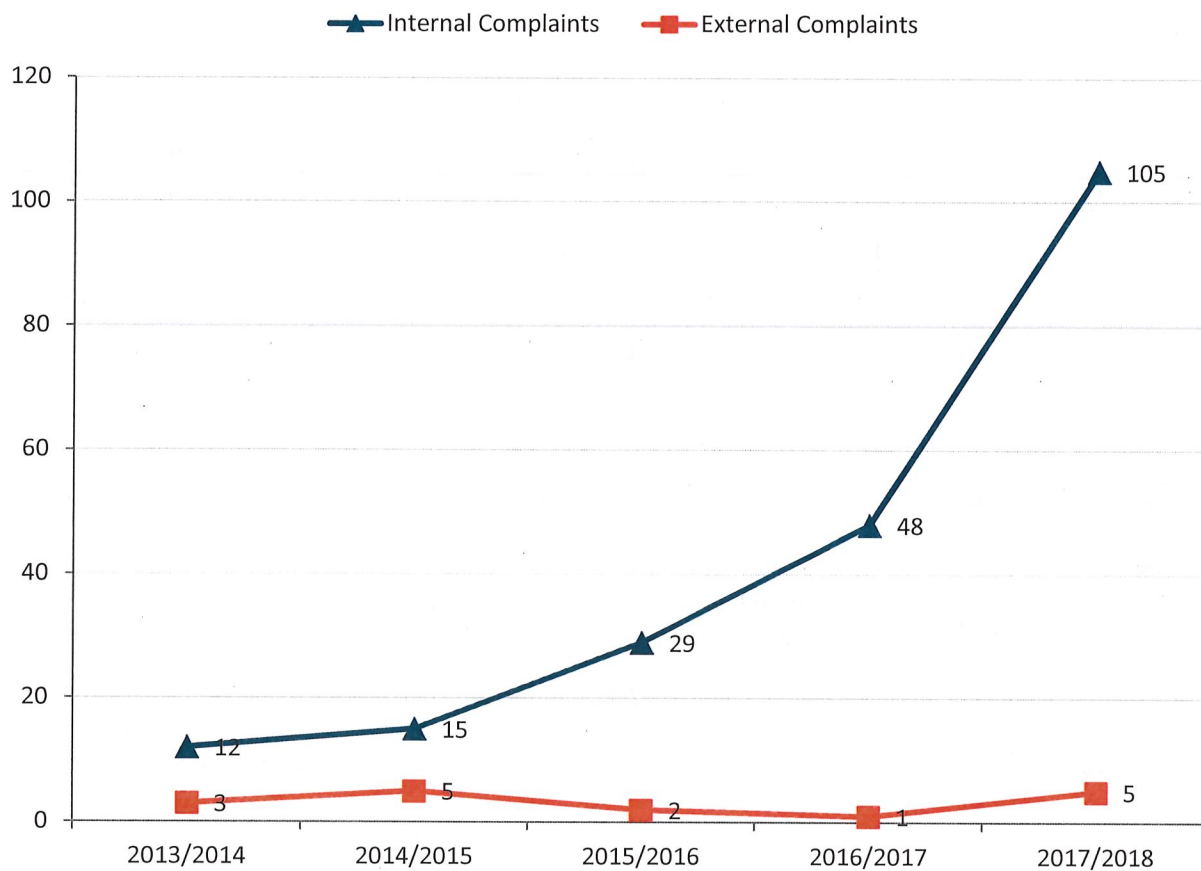
DEPARTMENT	STATUS <sup>4</sup>					TOTAL
	CLOSED				PENDING	
	SETTLED	INSUFFICIENT EVIDENCE	SUSTAINED	NOT INVESTIGATED		
MUNICIPAL TRANSPORTATION AGENCY					2	2
PUBLIC HEALTH				1		1
PUBLIC LIBRARY					2	2
TOTAL COMPLAINTS	0	0	0	1	4	5

<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, without any admission or acknowledgement of liability;
- *"Insufficient Evidence"*: complaint was investigated, and DFEH/EEOC found insufficient evidence to establish sexual harassment;
- *"Sustained"*: complaint was investigated, and DFEH/EEOC found sufficient evidence that sexual harassment occurred; and
- *"Not Investigated"*: complaint was not investigated because the DFEH/EEOC issued notice of right to sue.

**Attachment C**  
**Sexual Harassment Complaints Received During**  
**Fiscal Years 2013/2014 through 2017/2018**



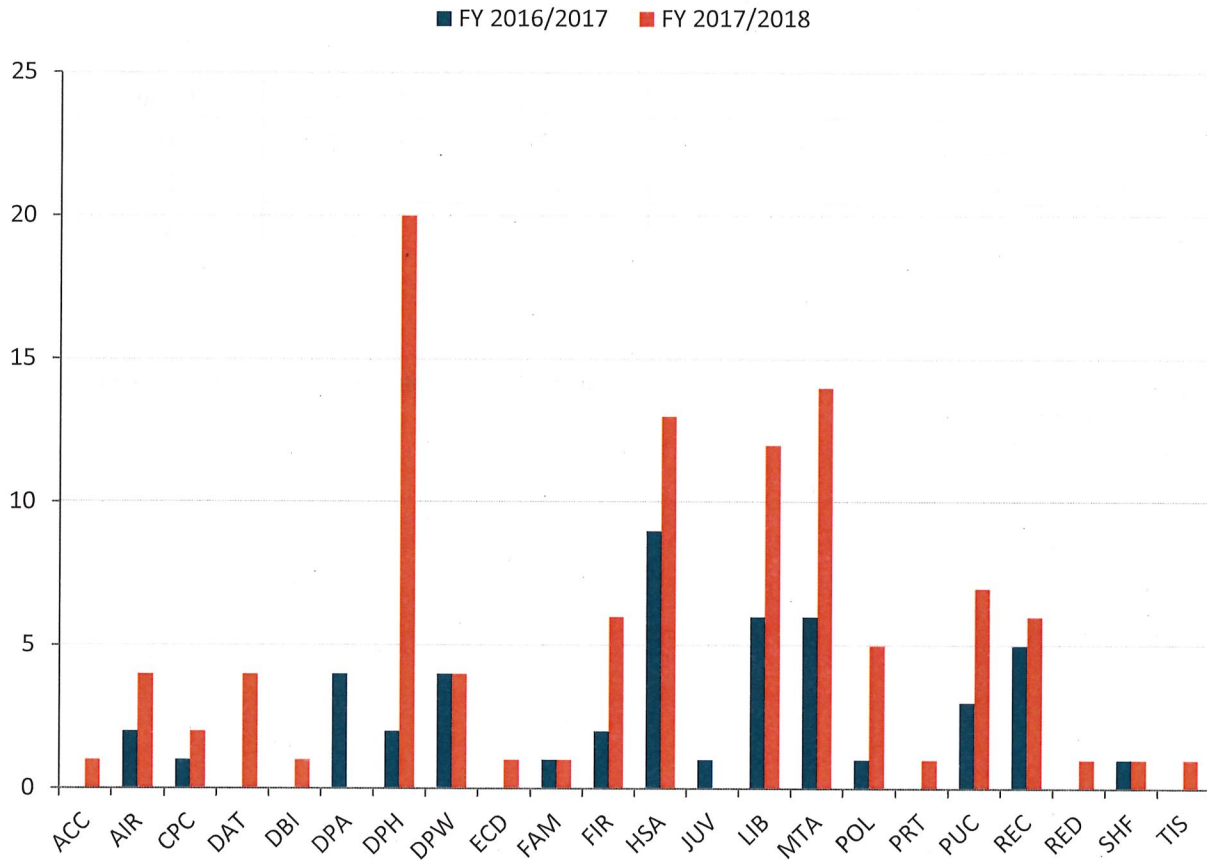
**Attachment D**  
**Sexual Harassment Complaints by Department<sup>5</sup> for**  
**Fiscal Years 2016/2017 and 2017/2018**

	STATUS		TOTAL
	CLOSED	PENDING	
PREVENTATIVE/CORRECTIVE ACTION TAKEN	73	2	75
NONE REQUIRED	17	13	30
<b>TOTAL</b>	<b>90</b>	<b>15</b>	<b>105</b>

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



**Attachment E**  
**Sexual Harassment Complaints by Department<sup>6</sup> for**  
**Fiscal Years 2016/2017 and 2017/2018**



<sup>6</sup> Complaints filed with individual Departments and the Department of Human Resources, Equal Employment Opportunity Division (DHR EEO). Of the 58 City departments, only the 22 departments in which a sexual harassment complaint was filed during either FY 2016/2017 or FY 2017/2018 are included in this chart.