



# INSPECTOR GENERAL

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JUNE 01, 2023

## **Follow-Up Evaluation of the Congressional Request for Architect of the Capitol's Response to Sexual Harassment**

*Report No. OIG-FLD-2022-01*

## MISSION

The OIG promotes efficiency and effectiveness to deter and prevent fraud, waste and mismanagement in AOC operations and programs. Through value-added, transparent and independent audits, evaluations and investigations, we strive to positively affect the AOC and benefit the taxpayer while keeping the AOC and Congress fully informed.

## VISION

The OIG is a high-performing team, promoting positive change and striving for continuous improvement in AOC management and operations. We foster an environment that inspires AOC workforce trust and confidence in our work.



# Results in Brief

## *Follow-Up Evaluation of the Congressional Request for Architect of the Capitol's Response to Sexual Harassment*

June 01, 2023

### Objective

The objective was to determine whether the Architect of the Capitol (AOC) implemented corrective actions to address issues identified in the 2019 report, *Congressional Request for Office of Inspector General Review of the Architect of the Capitol's Response to Sexual Harassment* (2019-0001-INVQ-P). The inquiry provided 15 results and revealed that the AOC had (1) inadequate recordkeeping; (2) ineffective communication about assistance; (3) a perceived lack of independence and employee trust regarding who handles complaints; (4) inconsistent jurisdictional documentation, tracking and responses to sexual harassment complaints; and (5) gaps in victim advocacy and whistleblower protection. Because the Office of Inspector General (OIG) did not make recommendations in the 2019 report, this evaluation follows up on the AOC's progress and challenges relevant to the 15 inquiry results.

This follow-up evaluation was included in the OIG's Fiscal Year (FY) 2021-2023 Work Plan.

At the AOC, the Diversity, Inclusion and Dispute Resolution Office (DI/DR) is assigned primary responsibility for prevention of and response to harassment issues as well as support to positive workplace culture.

### Findings

Based on our follow-up evaluation, we found the following:

- The DI/DR implemented and outsourced its 24-hour hotline to provide greater independence and confidentiality.
- Survey responses and other initiatives show positive results and efforts to improve AOC culture.
- The AOC's anti-harassment policy aligns with the Equal Employment Opportunity Commission's (EEOC's) Promising Practices for a comprehensive and effective harassment policy.
- The quality of sexual harassment data remains an issue despite the DI/DR's implementation of a new case management system.
- The AOC declined to provide the OIG full access to all agency records in accordance with AOC policy and the Inspector General Act of 1978.
- The AOC could do more to prevent harassment committed by non-employees and to hold all perpetrators accountable.
- Not all the DI/DR staff completed Equal Employment Opportunity (EEO)-related training during FY 2019, 2020 and half of 2021; further, the DI/DR has not established a training requirement for its staff.
- The AOC does not always proactively follow up with accusers/complainants to ensure safe re-entry into the workplace.



# Results in Brief

## *Follow-Up Evaluation of the Congressional Request for Architect of the Capitol's Response to Sexual Harassment*

### **Findings (Cont'd)**

- The AOC's lack of transparency about allegations affects employee trust, and the DI/DR does not always receive or request follow up from jurisdiction officials on actions taken for substantiated cases.
- The DI/DR implemented anti-harassment training, but it is not a mandatory annual requirement for the AOC's workforce; further, the training could be enhanced by incorporating the EEOC's "Promising Practices for Preventing Harassment" for effective harassment training as a best practice.
- The DI/DR was realigned and reports to the Office of the Chief Administrative Officer, however, independence risks remain.
- Staff workload has increased.

regarding nonemployee harassment and hostile work environments.

3. AOC jurisdictions that frequently work with the public review and update all visitor guidelines and communications, as needed, to include language that promotes an anti-harassment workplace.
4. The AOC develop or update policies and procedures to address how the agency will document and investigate nonemployee harassment.
5. The DI/DR establish and document minimum training requirements for its staff related to the staff's field and area of expertise.
6. The AOC document and implement a process to conduct follow up inquiries after resolution to identify employee concerns, verify safety, address fears of retaliation and ensure effective reintegration (as appropriate) to minimize negative impacts on its workforce.
7. The AOC update AOC Order 24-1 Conciliation Program Guide, May 22, 2013, to ensure it is providing consistent and current information about the conciliation process and resources available.
8. The DI/DR develop office-specific internal policies and procedures that require regular communication and updates to individuals on the status of their complaints and cases.
9. The AOC develop and implement a process to report EEO-related information, as appropriate, to increase transparency and employee trust.
10. The DI/DR develop and implement a process to receive and document recommendations and actions taken by AOC jurisdictions deciding officials involving sexual harassment allegations.

### **Recommendations**

We recommend that:

1. The DI/DR develop and implement office-specific internal policies and procedures for documenting, monitoring and reporting cases in Entellitrak to ensure quality non-EEO and EEO data.
2. The DI/DR perform a climate assessment for jurisdictions that frequently work with the public to identify and address concerns



# Results in Brief

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*Follow-Up Evaluation of the Congressional Request for Architect of the Capitol's Response to Sexual Harassment*

11. The DI/DR update its anti-harassment training to include language options that employees commonly use; examples specific to the AOC workplace and workforce; consequences for supervisors if they fail to fulfill their responsibilities related to reporting and preventing harassment, retaliation, and other prohibited conduct; consequences for misconduct; and explanations of the complaint process.
12. The DI/DR update and make its anti-harassment training a mandatory annual training requirement for the AOC's workforce.

## **Management Comments**

The AOC provided comments on May 22, 2023, see Appendix C. In its Management Comments, the AOC concurred with eight recommendations, partially concurred with two recommendations and non-concurred with two recommendations. Please see the recommendations table on the next page for the status of each recommendation.

## *Recommendations Table*

Management	Recommendations Unresolved	Recommendations Resolved	Recommendations Closed
Office of the Chief Administrative Officer	3, 4, 6, 8, 9, 10, 11	1, 2, 5, 7	12

The following categories are used to describe agency management’s comments to individual recommendations:

- **Unresolved:** Management has not agreed to implement the recommendation or has not proposed actions that will address the recommendation.
- **Resolved:** Management agreed to implement the recommendation or has proposed actions that will address the underlying finding that generated the recommendation.
- **Closed:** The OIG verified that the agreed upon corrective actions were implemented.



# INSPECTOR GENERAL

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DATE: June 01, 2023

TO: Chere Rexroat, RA  
Acting Architect of the Capitol

FROM: Christopher P. Failla, CIG *C. Failla*  
Inspector General

SUBJECT: Follow-Up Evaluation of the Congressional Request for Architect of the Capitol's (AOC's) Response to Sexual Harassment  
(Report No. OIG-FLD-2022-01)

Please see the attached final report for our follow-up evaluation of the Architect of the Capitol's (AOC's) Response to Sexual Harassment, which was announced on May 24, 2022. We found that the AOC implemented most of the OIG's suggestions that resulted from the 2019 inquiry, Congressional Request for Office of Inspector General Review of the Architect of the Capitol's Response to Sexual Harassment. Within the past three years, the AOC expanded its anti-harassment policy, the Diversity, Inclusion and Dispute Resolution (DI/DR) Office developed new training for AOC employees and supervisors, increased training for its own staff, outsourced their 24/7 hotline, realigned its office for greater independence and implemented a new case management system. However, we found issues with the quality of the AOC's sexual harassment data and a lack of written office specific policies and procedures for training requirements, documenting and tracking complaints, and responding to complaints. Additionally, more can be done to prevent nonemployee harassment. We made 12 recommendations to improve AOC's response to sexual harassment.

On May 22, 2023, we received the AOC's response to our draft report. Discussions held prior to the issuance of this report resulted in two changes to the final report for clarification. In response to our official draft report (Appendix C), the AOC and DI/DR concurred with eight recommendations, partially concurred with two recommendations and non-concurred with two recommendations. We consider seven recommendations unresolved (Recommendations 3, 4, 6, 8, 9, 10 and 11), four resolved but open (Recommendations 1, 2, 5 and 7) and one closed (Recommendation 12).<sup>1</sup> Your concurrence, non-concurrence or partial concurrence with Recommendations 3, 4, 6, 8, 9, 10 and 11 do not adequately address our concerns and findings to improve the AOC's response to sexual harassment as discussed in our report. The status of the recommendations will remain open until final corrective action is taken. We will contact you within 90 days to follow up on the progress of your proposed management decision. (Please include the actual or planned completion dates of your actions.)

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<sup>1</sup> Findings and Recommendations were changed from alphanumeric values to numeric values.



# INSPECTOR GENERAL

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I appreciate the assistance you and your staff provided throughout the evaluation. Please direct questions to Brittany Banks, Assistant Inspector General for Follow-Up at 202.436.1445.

Distribution List:

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# INTRODUCTION

## Objective

The objective of this follow-up evaluation was to determine whether the Architect of the Capitol (AOC) implemented corrective actions to address issues identified in the March 2019 Office of Inspector General (OIG) report, *Congressional Request for Office of Inspector General Review of the Architect of the Capitol's Response to Sexual Harassment (2019-0001-INVQ-P)*.

## Background

In October 2018, the OIG, at the direction of the Senate Committee on Rules and Administration, conducted an inquiry of the AOC's response to sexual harassment complaints over the last 10 years. The March 2019 report, *Congressional Request for Office of Inspector General Review of the Architect of the Capitol's Response to Sexual Harassment*, focused on the sexual harassment complaint process, complaint data, policies and procedures, penalty response, training and cultural attitudes. The inquiry revealed that the AOC had (1) inadequate recordkeeping; (2) ineffective communication about assistance; (3) a perceived lack of independence and employee trust regarding who handles complaints; (4) inconsistent jurisdictional documentation, tracking and responses to sexual harassment complaints; and (5) gaps in victim advocacy and whistleblower protection.

The Committee on Appropriations, Subcommittee on the Legislative Branch Appropriations, was concerned with the findings of the 2019 report. In fiscal year (FY) 2020, the subcommittee directed the AOC to report on the status of its implementation of the 15 inquiry results, including implementation of the recommendations identified in prior OIG sexual harassment management advisories that went unimplemented in previous years.<sup>2</sup> Because the OIG did not make recommendations in the 2019 report, this evaluation follows up on the AOC's progress and challenges relevant to the 15 inquiry results.

## ***Diversity, Inclusion and Dispute Resolution (DI/DR) Office***

The DI/DR is responsible for addressing employee and management concerns involving workplace conflicts, Equal Employment Opportunity (EEO)-related matters and employment-related disputes. The DI/DR offers confidential counseling, intervention and mediation to address issues early and ensure fair resolution through the Conciliation Program, an informal dispute resolution program. The program serves as the AOC's primary internal process for resolution for matters subject to the Congressional Accountability Act of 1995<sup>3</sup>, which prohibits discrimination and harassment based on

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<sup>2</sup> S. Report. No. 116–124. 2019. Legislative Branch Appropriations, 2020. <https://www.appropriations.senate.gov/imo/media/doc/FY2020%20Legislative%20Branch%20Appropriations%20Act,%20Report%20116-124.pdf#page=36>.

<sup>3</sup> United States Code Title 2, Part A of the Congressional Accountability Act of 1995

race, color, national origin, sex, sexual orientation, gender identity, religion, age, disability, genetic information, sexual harassment and retaliation.

Per the AOC Organizational Chart, the DI/DR Director reports to the Chief Administrative Officer (CAO). Currently, the CAO is designated as the AOC EEO Director, and the DI/DR Director is designated as the AOC EEO Deputy Director.

## **Criteria**

The following criteria were used during this evaluation:

- United States Code Title 2, Part A of the Congressional Accountability Act of 1995
- AOC Policy Memorandum 24-2, AOC Workplace Anti-Harassment Policy, October 15, 2020
- AOC Policy Memorandum 24-3, Workforce Diversity, Inclusion and Equal Employment Opportunity, October 1, 2019
- U.S. Government Accountability Office (GAO), Standards for Internal Control in the Federal Government
- AOC Order 40-1, Authority and Responsibilities of the Office of Inspector General (OIG) and Cooperation of Architect of the Capitol (AOC) Employees, March 12, 2019
- The Inspector General Act of 1978
- The Inspector General Empowerment Act of 2016

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## EVALUATION RESULTS

### **Finding 1. New Case Management System Implemented but Data Quality Issues Found**

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#### ***Case Management System Implementation***

The 2019 report found that the AOC had poor internal controls over recordkeeping sexual harassment data. In addition, the DI/DR's intake process for harassment complaints was not standardized and did not ensure appropriate metrics were collected at the onset of a complaint. The AOC self-identified that the lack of an electronic tracking system significantly inhibited the DI/DR's process. During the 2019 evaluation, the DI/DR was in the process of identifying an automated system for intake and tracking, and their goal was to have a fully automated system by the end of 2019.

In 2019, the DI/DR successfully acquired Entellitrak, a case and business process management system, to track harassment complaints, EEO claims, management referrals, contacts, cases and associated documents. The system can create reports and analyze data metrics. Per the DI/DR's 2022 update to the Committee on Rules and Administration, the system went live in September 2020 and currently tracks ongoing cases and has an archive of closed cases that date back to 2015.

#### ***Self-Identified Data Quality Issues***

Despite having an electronic case management system, the OIG observed issues impacting the AOC's sexual harassment data objectivity, quality, and integrity. In addition, the DI/DR admitted it has been challenging managing the data and identified inconsistencies in how cases are logged. Because cases can transition between case types (e.g., from contact to claim or from management referral to claim), case data validation can be time-consuming. Further, in response to information requests, the OIG did not always receive complete and consistent data from the DI/DR. In the OIG's first request for information, the DI/DR provided a table with 41 cases. For 15 of the 41 cases, the case type was blank, and some case final actions were ambiguous. Also, the OIG did not receive descriptions of relationships or notes regarding follow-up actions. Two months after the OIG's initial request for information, the DI/DR self-identified issues with the initial data table submitted and provided an updated table with 33 cases. The OIG did not request a review of the initial data submitted. Four of the originally provided cases were removed because they occurred outside of this evaluation's scope, three should not have been logged as sexual harassment cases and one was a duplicate. Additionally, the case type was updated for all 33 cases.

Managing and ensuring data quality is essential to achieve the AOC's mission. According to the GAO's *Standards of Internal Control in the Federal Government* (also known as the Green Book),<sup>4,5</sup> federal managers are responsible for obtaining relevant data from reliable sources and processing it into quality information within the entity's information system to make informed decisions. Reliable sources provide data that are reasonably free from error and bias and faithfully represent what they purport to represent. Quality information is appropriate, current, complete, accurate, accessible and provided on a timely basis.

As noted previously, the DI/DR is aware of its data quality and management issues. During the evaluation, the DI/DR expressed to the OIG that they were standardizing case tracking and would self-audit existing cases to ensure consistency moving forward.

### ***Uncovering Data Quality and Internal Control Issues***

As part of our review, the OIG attempted to verify the number of sexual harassment cases recorded in Entellitrak. The DI/DR's administrative officer, who has sole responsibility for entering case data, created a report that returned 13 sexual harassment cases from October 1, 2019, through March 2022, which is a stark difference from the table of 33 cases DI/DR previously provided. While we cannot conclude or confirm, this may be an indication that the DI/DR is not fully utilizing the reporting features of the case management system. Reports may not contain quality data significant for decision making.

Our review also included verifying the accuracy of the numbers reported in the DI/DR Update/Accomplishments Report from March 2022 (Figure 1). The OIG requested supporting documentation but did not receive supporting documentation for the report. As such, we were unable to verify the accuracy of the numbers reported.

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<sup>4</sup> GAO. 2014. *Standards for Internal Control in the Federal Government* (Green Book). <https://www.gao.gov/assets/gao-14-704g.pdf>.

<sup>5</sup> While abiding by the standards set forth in the Green Book is not required of the Legislative Branch under the Federal Managers' Financial Integrity Act, these standards are best practice and an applicable framework for setting and vetting internal controls.

Figure 1. DI/DR Rules Meeting – DI/DR Update/Accomplishments Report March 2022



- The number of Claims filed by AOC employees is declining from the high in FY 2019.
- Management Referrals continue at a high rate. This should be viewed as a positive.
  - ✓ The DI/DR Director has worked with supervisors to become more proactive and to reach out to DI/DR early when they see a problem or concern. An active list of management referrals reflects more active and aware supervisors. It also reflects a sense of increased accountability and DI/DR has seen positive outcomes as a result.

The inconsistencies noted occurred because the DI/DR does not have documented standard operating procedures (SOPs) for logging, tracking, reviewing and reporting cases using the new case management system, which the DI/DR acknowledged. When asked for their SOPs outlining the step-by-step process of their work-related tasks, the DI/DR referenced AOC Order 24-2 Architect of the Capitol Workplace Anti-Harassment Policy § 7-9 and AOC Order 24-5 Reasonable Accommodation in Employment Policy and Procedures § B as general procedures and provided us with Entellitrak’s user guide.

Per the Green Book, management should implement control activities through policies and document those policies for each unit, including their responsibility for the operational process, objectives and related risks, as well as control activity design, implementation and operating effectiveness. Unit-specific policies and procedures provide tailored structure and ensure tasks and activities are being performed consistently. Implementing such policies and procedures also promotes quality, accountability, continuity of operations and effective oversight of AOC operations.

## Recommendation

### Recommendation 1

We recommend that the Diversity, Inclusion and Dispute Resolution Office (DI/DR) develop and implement office specific policies and procedures for documenting, monitoring and reporting cases in Entellitrak to ensure quality non- Equal Employment Opportunity (EEO) and EEO data.

***Recommendation 1 – AOC Comment***

Concur. DI/DR does have office-specific internal policies and procedures for documenting, monitoring and reporting cases in Entellitrak, but they are not yet documented in writing. DI/DR has established a Plan of Action and Milestones (POA&M) to process map all DI/DR programs. It is important to capture these policies in writing, and DI/DR will do so when the POA&M is complete.

***Recommendation 1 – OIG Comment***

We reviewed the management comment and recognize the AOC's concurrence with the recommendation. The DI/DR will establish written policies for documenting, monitoring and reporting cases in Entellitrak. AOC's actions appear to be responsive to the recommendation. Therefore, the recommendation is considered resolved but open. The recommendation will be closed upon completion and verification of the proposed action.



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## **Finding 2. Again, the AOC Declines to Provide the OIG Access to Agency Records**

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In the OIG's first request for information, we asked the DI/DR to provide the following for each sexual harassment case: names, the relationship of the accuser and accused, date, how the DI/DR was made aware of the allegation, the nature or type of sexual harassment, outcomes and follow up actions. In the table OIG received, the DI/DR did not identify the complainants nor those accused of sexual harassment by name. Although the IG Act of 1978 grants the OIG the authority to receive full access to all records and materials available to the Agency, the AOC refused to provide information based on the following:

- The Congressional Accountability Act, which requires all information in the counseling and mediation stages at the Office of Compliance remain "strictly confidential"
- AOC Order 24-1, which directs that the DI/DR "will not reveal the source of the information unless unavoidable or required by law"
- AOC Order 4-16, which requires the AOC to protect the personal privacy of and prevent unwarranted invasions of personal privacy for all AOC employees

In October 2019, the DI/DR submitted a climate assessment on the House Office Building night labor and custodial branch. The OIG requested a copy of the assessment but received a heavily redacted report that did not provide enough information to determine the full scope of the assessment, results or actions taken. This is yet another instance related to this follow-up evaluation in which the AOC did not provide the OIG access to information necessary to conduct its work.

The AOC's failure to disclose agency data and records is against its own policy outlined in AOC Order 40-1, which requires timely access to all records, reports, audits, reviews, documents, papers, recommendations or other materials available to the AOC. Further, it ignores the Inspector General (IG) Empowerment Act of 2016, which confirms that federal IGs are entitled to full and prompt access to agency records, thereby eliminating any doubt about whether agencies are legally authorized to disclose potentially sensitive information to IGs.

The OIG later determined that names were not pertinent to this evaluation's results. However, the AOC's reluctance to disclose information may hinder the results of future OIG audits and evaluations which strive to improve AOC operations.

## Finding 3. More Can Be Done to Prevent Nonemployee Sexual Harassment

AOC employees interact regularly with nonemployees or external parties like Congress, contractors and members of the public. The 2019 OIG report stated that the AOC could better prepare for an integrated workplace by adding additional protection and education. In that report, interviews with AOC leadership revealed that some custodial staff, especially those on the night shift, experienced harassment while working in the offices of Members of Congress. Some staff overheard harassing conversations and were exposed to pornography but did not speak up due to fear of retaliation.

“

In my career at [the] AOC (over 14 years) I have seen many of my female colleagues, upset and even crying because not only have they experienced some sort of sexual harassment by visitors to the Capitol, but [M]embers of Congress themselves. They are most upset, at least it seems to me, that they know, even though they report it, nothing will be done, and it will most likely happen again.

”

Our evaluation found that the AOC could do more to ensure the safety and wellness of its employees against nonemployee harassment.

For this evaluation, the OIG conducted a confidential survey of AOC employees’ thoughts and opinions on the AOC’s handling of sexual harassment. Based on survey feedback, 11 of 60 employees said they were subject to some form of sexual harassment by nonemployees in the form of inappropriate touching, comments and jokes. Of those 11, seven elected not to report the harassment. Employees listed the following reasons for not reporting:

- A distrust of AOC management
- Dismissive attitudes by supervisors and leadership
- A fear of retaliation
- A “visitors are always right” culture and mentality

Additionally, the OIG received comments from employees who said they witnessed general and sexual harassment of colleagues by Members of Congress, congressional staff and the public (i.e., visitors and tourists). Out of 644 survey respondents, approximately 58 percent agreed or strongly agreed that the AOC would investigate their concern or complaint, even if the complaint was made against a Member of Congress. However, there is still a perception that external parties are not being held accountable and that no action would be taken against them even if the AOC were to investigate.

The number of incidents involving external-party harassment could be reduced if the AOC better promoted and communicated a culture of anti-harassment to the public. The OIG noticed that visitor guidelines and information available on AOC websites are vague, silent on the matter or do not mention what constitutes unacceptable behavior or the consequences thereof. For example, the U.S. Capitol Visitor Center’s (CVC’s) website merely states, “please be respectful to our staff and your fellow visitors. We want everyone to feel welcome at the U.S. Capitol.”<sup>6</sup> The AOC is responsible for providing a safe environment regardless of its workplace’s inherent and expected hazards.

When asked about the process for addressing sexual harassment by external parties, the DI/DR said it first ensures the employee’s safety and then, depending on the accused, investigates. For example, if the accused is a contractor or vendor, the DI/DR will inform their management and complete the investigation. If the case is substantiated, it is referred to the Office of General Counsel (OGC). The DI/DR admitted that there is only so much their office can do if the accused is a Member of Congress, congressional staffer or the public because they are outside of the AOC’s jurisdiction. Although this type of case is rare, it is still documented and referred to the Office of Legislative and Public Affairs.

“ ... the majority of the inappropriate comments, unwanted touching, and harassing/threatening behaviors that I’ve personally experienced as an AOC employee have come from members of the public who enter the building as visitors. Why do we not have signage in the CVC...”

## Recommendations

### *Recommendation 2*

We recommend that the Diversity, Inclusion and Dispute Resolution Office (DI/DR) perform a climate assessment for jurisdictions that frequently work with the public to identify and address concerns regarding nonemployee harassment and hostile work environments.

#### *Recommendation 2 – AOC Comment*

Concur. While there is no evidence supporting a challenge or trend with external harassment, the AOC will implement this recommendation, limiting the scope to nonemployee harassment concerns.

<sup>6</sup> U.S. Capitol Visitor Center. “Visitor Guidelines | U.S. Capitol - Visitor Center” <https://www.visitthecapitol.gov/visit/know-before-you-go/capitol-etiquette>.

### ***Recommendation 2 – OIG Comment***

We reviewed the management comment and recognize AOC's concurrence with the recommendation. The OIG did not state that external harassment was a challenge or a trend in the official draft report based on comments received from the DI/DR during the evaluation. However, in the agency's response, the DI/DR did acknowledge that the allegations regarding the U.S. Capitol Visitors Center (CVC) were credible.

The DI/DR will perform a climate assessment for jurisdictions that frequently work with the public to identify and address concerns regarding non-employee harassment. The OIG continues to recommend that DI/DR also address how non-employee harassment may contribute to a hostile work environment. AOC's actions appear to be responsive to the recommendation. Therefore, the recommendation is considered resolved but open. The recommendation will be closed upon completion and verification of the proposed action.

### ***Recommendation 3***

We recommend that the Architect of the Capitol (AOC) jurisdictions that frequently work with the public review and update all visitor guidelines and communications, as needed, to include language that promotes an anti-harassment workplace.

### ***Recommendation 3 – AOC Comment***

Concur. All the AOC jurisdictions fall under AOC Order 24-2, Workplace Anti-Harassment Policy, which is buttressed by annual policy memorandums, annual workforce training and materials distributed and posted throughout the Capitol complex. While AOC records show a continuous dialogue with our workforce on these matters, DI/DR will meet with each jurisdiction and office to remind AOC leadership and managers of the need to reinforce our policies throughout the workforce. The AOC will review the public-facing visitor guidelines for appropriate behavior.

### ***Recommendation 3 – OIG Comment***

We reviewed the management comment and recognize AOC's concurrence with the recommendation. While continuous dialogue with a workforce and its leadership is a good practice, documentation (written guidelines and communication) is a necessary part of an effective internal control system. AOC employees have a greater risk for nonemployee harassment because of their interaction with the public. The agency could greatly benefit from updating guidelines or developing a visitor code of conduct that promotes an anti-harassment workplace and a safe environment for all. AOC's actions appear to be partially responsive to the recommendation. Therefore, the recommendation is considered open and unresolved. The recommendation will be closed upon completion and verification that visitor guidelines and communications include language that promotes an anti-harassment workplace.

***Recommendation 4***

We recommend that Architect of the Capitol (AOC) develop or update policies and procedures to address how the agency will document and investigate nonemployee harassment.

***Recommendation 4 – AOC Comment***

Concur, in part. The AOC claims process covers all allegations of discrimination, including sexual harassment by employees and nonemployees. The AOC will continue to apply standard investigative procedures to document track, monitor trends, and investigate non-employee harassment allegations. The AOC policies on workplace anti-harassment and sexual harassment are reviewed periodically.

***Recommendation 4 – OIG Comment***

We reviewed the management comment and recognize AOC's partial concurrence with the recommendation. DI/DR does not have written internal standard operating procedures that address nonemployee harassment. Additionally, AOC Order 24-2, Architect of the Capitol Workplace Anti-Harassment Policy does not address harassment by the public or visitors. In fact, the scope of the policy only defines AOC employees, contractors, seasonal employees, interns, volunteers and student volunteers. The GAO Green book states that management should develop and maintain documentation of its internal control system. Effective documentation assists personnel by establishing and communicating the who, what, when, where and why of internal control execution. Documentation also provides a means to retain organizational knowledge and to communicate that knowledge as needed to external parties, such as external auditors.<sup>7</sup>

The AOC's actions do not appear to be responsive to the recommendation. Therefore, the recommendation is considered open and unresolved. The recommendation will be closed upon completion and verification of a new or updated policy to address how the agency will document and investigate nonemployee harassment.

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<sup>7</sup> GAO. 2014. Standards for Internal Control in the Federal Government (Green Book). <https://www.gao.gov/assets/gao-14-704g.pdf>. While abiding by the standards set forth in the Green Book is not required of the Legislative Branch under the Federal Managers' Financial Integrity Act, these standards are best practice and an applicable framework for setting and vetting internal controls.

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## **Finding 4. DI/DR Staff Training Efforts Show Progress but Shortcomings Identified**

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In 2011, the OIG issued management advisory MA (I)-11-01, which recommended the AOC implement certified sexual harassment complaint investigations training for EEO staff. This recommendation arose from concerns about unresolved and inadequately addressed complaints. Per the 2019 report, the AOC implemented the training as recommended in 2012 but current DI/DR staff have not received standardized or formal refresher training since then. Instead, the former DI/DR Director chose to focus on alternative dispute resolution and meditation skills because the office is not a “traditional” EEO office.

Based on the training documentation received for this evaluation, at least two DI/DR staff charged to handle sexual harassment complaints neglected to complete EEO-related training during FY 2019, 2020 and half of 2021. Training completed in 2021 and 2022 focused on various topics like harassment prevention, EEO law, employee relations, the investigation process and conflict resolution. The DI/DR is now actively pursuing training to ensure staff maintain a level of competence in accordance with its mission.

Nevertheless, the OIG observed that the DI/DR has not established a training requirement for its staff. Training requirements include the subject matter, frequency and amount of training required to remain qualified and skilled for a position. Although Equal Employment Opportunity Commission (EEOC) requirements do not apply to legislative branch agencies, their requirements can be used as a best practice to ensure training efforts are consistent and understood. The EEOC requires that new EEO counselors, including contractors, receive a minimum of 32 hours of EEO counselor training prior to assuming counseling duties. Additionally, all EEO counselors are required to receive at least eight hours of continuing EEO counselor training each FY.

Further, any person who serves as a neutral party in an agency’s EEO alternative dispute resolution program must have professional training in whatever dispute resolution technique(s) the agency uses in its program. Adopting a training requirement could benefit the office because it helps new and current employees stay informed of relevant EEO and non-EEO developments, practices, laws and guidance.

## **Recommendation**

### ***Recommendation 5***

We recommend that the Diversity, Inclusion and Dispute Resolution Office (DI/DR) establish and document minimum training requirements for its staff related to the staff’s field and area of expertise.

***Recommendation 5 – AOC Comment***

Concur, in part. Executive branch EEO programs are governed by the Equal Employment Opportunity Commission's (EEOC) Management Directive 110, which outlines the regulatory process, including processing timeframes and training requirements for the executive branch complaints process. As the legislative branch does not have a formal process, there is no formal external training for claims the agency can use to establish a minimum training requirement. Additionally, DI/DR staff do not perform the same role as EEO counselors in the executive branch and cannot be trained in the same manner. However, DI/DR will establish minimum training requirements in writing that articulate the need for initial and refresher training in this area. Outside of this, the AOC will continue to develop training plans specific to each staff member's position and developmental need.

According to Appendix A of this report, the follow up evaluation occurred between May 2022 and February 2023. While the current DI/DR Director has been on staff since August 29, 2022, she was not interviewed as a part of this follow up. However, since she arrived, the office has established a multi-year training plan for staff development in their relevant fields.

***Recommendation 5 – OIG Comment***

We reviewed the management comment and recognize the AOC's partial concurrence with the recommendation. The OIG acknowledged that EEOC requirements do not apply to legislative branch agencies and referenced it as a best practice to help ensure that the DI/DR training efforts are consistent and understood amongst its staff. The OIG did not recommend that the DI/DR take specific training or establish a formal process. We intentionally made the recommendation broad so that the DI/DR could establish its own minimum training requirements based on required competencies and area of expertise. DI/DR will establish minimum training requirements in writing that articulate the need for initial and refresher training. The AOC's actions appear to be responsive to the recommendation. Therefore, the recommendation is considered resolved but open. The recommendation will be closed upon completion and verification of the proposed action.



## Finding 5. AOC Could Better Support Accusers of Sexual Harassment

The 2019 report highlights that gaps in victim advocacy and lack of transparency about actions taken against the accused erode employees' trust. Victim advocacy refers to providing resources and support services for anyone who has been a victim of harassment or violence. Services can include help processing decisions, emotional support, referrals, assistance and education about the legal process and legal guidance. In the 2019 report, the OIG suggested the AOC take steps to assist victims with reintegration in the workplace because employees stated they lacked assistance adjusting to the workplace after reporting.

Our evaluation found that the DI/DR does not always proactively follow up with accusers to ensure safe re-entry into the workplace.

Prior to launching an investigation into a complaint, the DI/DR stated that they provide the accuser (complainant) with an explanation of their rights to file with the Office of Congressional Workplace Rights (OCWR) and the option to contact the Employee Assistance Program. They also stated that victim support and advocacy is not an appropriate charge for an EEO office and that the office must remain neutral for effective operations. The DI/DR believes that other offices, such as the AOC Ombuds, the Office of Safety and Code Compliance, the Employee Labor Relations Branch (ELRB), Workplace Violence and Human Capital Management Division (HCMD), are better equipped to respond to fears of safety and reintegration. While the OIG agrees that an EEO office is not the appropriate avenue for victim advocacy, the DI/DR has stated that it is not a traditional EEO office. For example, the DI/DR accepts EEO and non-EEO complaints and does not offer settlements. The office has the responsibility to resolve complaints at the lowest possible level. As such, this should allow the office some flexibility to develop and incorporate better procedures to help prevent further instances of harassment, retaliation or a hostile work environment.

During our fieldwork for this follow-on evaluation, the OIG received an email from an employee who claimed they were sexually harassed by a supervisor. The complainant expressed disappointment about the lack of support from their chain of command and how the DI/DR handled the case. The investigation conducted by the DI/DR found that the accused reached between the complainant's legs to take a picture and also startled several employees by not making their presence known (i.e., was found staring) as the employees worked. In previous years, others reported concerns about the accused being

“ As of today, we're up to seven females who have complained about demeaning and inappropriate behaviors; he has finally been stripped of his supervisory duties, but is allowed to stay in place at full high-level GS pay until he retires, a terrible message to send staff... ”



“creepy.” Management officials said they counseled the accused, but none of this was reported to the DI/DR or documented by management.

“

I have experienced sexual harassment in the past and it was not properly addressed and the perpetrator was still allowed to work in my environment, even though I asked for a transfer. The individual still continued to intimidate me even though I have reported all incidents to my supervisory[sic] and DI/DR. He is still here, nothing is done and it is business as usual.

”

Because there was not enough evidence to support that staring would be inappropriate, this case was not substantiated even though the accused created an uncomfortable work environment for the complainant and other employees. The complainant was temporarily separated from the accused and given the choice to permanently relocate. The complainant felt punished and refused the offer because they were happy with other aspects of the work environment. The complainant was placed back into the workplace with the accused and claims the harassment continued. Per the 2019 report,

immediate action includes separating the accused and the complainant. If the complainant declines to waive confidentiality, then the allegations must be assessed for their impact on others. If allegations are egregious or pose a threat to an AOC employee, then the DI/DR must act despite the complainant’s request for confidentiality.

However, the DI/DR must have more strategic protocols and methodologies in place so that reintegration does not create an environment where victims feel challenged and displaced. The lack of such protocols puts the agency at a greater risk for future litigation involving harassment and retaliation.

In contrast to some of the survey comments received, the data provide a more positive outlook:

- Approximately 66 percent of 642 respondents agree or strongly agree that the AOC would take appropriate action to prevent the harassment from reoccurring.
- Approximately 69 percent of 640 respondents agree or strongly agree that the AOC would provide them with options and support to address their concerns or complaints.

## Recommendations

### *Recommendation 6*

We recommend that the Architect of the Capitol (AOC) document and implement a process to conduct follow up inquiries after resolution to identify employee concerns,

verify safety, address fears of retaliation and ensure effective reintegration (as appropriate) to minimize negative impacts on its workforce.

### ***Recommendation 6 – AOC Comment***

Non concur. It is inappropriate to implement victim advocacy in the DI/DR program, because the neutrality of an EEO office is paramount to its effective operations and mission. For this reason, "victim support and advocacy" is not an appropriate charge for DI/DR. Rather, the AOC provides other, more appropriate avenues for employee support.

Cultivating trust under the lens of an EEO program arguably goes back to the consistent application of the process. Accordingly, the guidelines outlined in AOC Order 24-2, Workplace Anti-Harassment Policy, are the appropriate source for addressing concerns about retaliation and providing a communications strategy. An essential tenet of EEO is confidentiality, and there is great consideration given to striking the balance between confidentiality and transparency. Party communications are limited to ensure the integrity of an investigation and ward against a chilling effect. Further, while DI/DR investigates and makes determinations of policy violations, its scope does not extend to the disciplinary process. This division in authority is proper and consistent with best practices. Appropriate mechanisms are already in place to identify employee concerns (DI/DR investigations, climate assessments, the 24-hour Hotline, ELRB, the Employee Assistance Program, the Ombuds), to verify safety concerns (Office of Safety, Workplace Violence Program) and to address fears of retaliation (DI/DR investigations).

### ***Recommendation 6 – OIG Comment***

We reviewed the management comment and recognize the AOC's nonconcurrency with the recommendation. Our evaluation found that the DI/DR does not always proactively follow up with accusers to ensure safe re-entry into the workplace. The 2019 report referenced the phrase "victim support and advocacy." In this follow up evaluation, the OIG refrained from using this phrase based on feedback received from the DI/DR. The focus and intent of the recommendation is to ensure the safety of all employees after resolution and reintegration. The DI/DR is not governed by the EEOC, therefore, it has the flexibility to incorporate a neutral follow up process or procedure without putting the agency at risk. Further, the recommendation was addressed to AOC (not solely the DI/DR) to provide corrective action that considers the agency policies and operations as a whole. The AOC's actions do not appear to be responsive to the recommendation. Therefore, the recommendation is considered open and unresolved. The OIG continues to recommend that the AOC document and implement a process to conduct follow up inquiries after resolution to identify employee concerns, verify safety, address fears of retaliation and ensure effective reintegration (as appropriate) to minimize negative impacts on its workforce. The OIG will monitor the program progress and follow up on the development of any action items and implementation of program improvements.

***Recommendation 7***

We recommend that the Architect of the Capitol (AOC) update AOC Order 24-1 Conciliation Program Guide, May 22, 2013, to ensure it is providing consistent and current information about the conciliation process and resources available.

***Recommendation 7 – AOC Comment***

Concur. While AOC Order 24-1 2013 Conciliation Program Guide is still accurate, the AOC is currently updating several orders, including AOC Order 24-1.

***Recommendation 7 – OIG Comment***

We reviewed the management comment and recognize the AOC's concurrence with the recommendation. The DI/DR will update AOC Order 24-1 2013 Conciliation Program Guide. The AOC's actions appear to be responsive to the recommendation. Therefore, the recommendation is considered resolved but open. The recommendation will be closed upon completion and verification of the proposed action.

## Finding 6. Gaps in Communication Hinder Employee Trust

In the 2019, the OIG suggested that sharing redacted cases with AOC staff may help reassure employees that the AOC takes their concerns seriously. However, challenges exist due to the DI/DR's confidentiality policy and because the office does not always receive follow up from the jurisdiction deciding officials regarding outcomes or penalties.

### The DI/DR's Perspective

“An essential tenet of EEO is confidentiality and there is great consideration given to striking the balance between confidentiality and transparency in the process. Party communications are limited to ensure the integrity of an investigation and ward against the chilling effect. Further, DI/DR is tasked with investigating and making determinations of policy violations, the scope does not extend to the disciplinary process. It would be inappropriate for DI/DR to advise a Complainant (or any party) of anything more than the investigative finding and such a disclosure could create potential due process complications.<sup>8</sup>”

We were unable to gain a full understanding of the DI/DR's protocols or standards for communicating with the complainant and accused because there are no SOPs for such communication. Thus, the OIG relied on interviews with the DI/DR staff. The DI/DR informed the OIG that the complainant must contact the DI/DR specialist handling their case to obtain updates; however, the specialist is not required to respond. The specialist will conduct a close-out meeting with the complainant and issue them a closure letter documenting the outcome or finding at the end of an investigation. The OIG notes the following:

- There was no mention of the DI/DR conducting follow-up inquiries.
- Depending on the finding, the DI/DR may or may not have a conversation with the accused.
- When a case is substantiated, DI/DR will notify the complainant of the outcome and refer the case to ELRB. Management consults with ELRB for guidance on personnel actions and specific actions taken are not shared with the complainant.

<sup>8</sup> The DI/DR's comments were received in response to OIG's Notice of Findings and Recommendations

Our confidential survey results yielded comments from respondents that the DI/DR was not responsive during investigations and that they were not always aware of the investigation status, outcome or final decisions. Survey results also confirmed these sentiments. Of the 60 respondents that indicated they were subjected to some form of sexual behavior or harassment, 21 reported the behavior or harassment. Approximately 43 percent of 21 respondents confirmed they strongly disagreed or disagreed with the statement that they received communication about corrective actions being taken after they filed their complaint.

“ It is hard to determine improvement if there is no data, analysis or open communication on where the agency was 3 years ago and today. It’s also not clear how many individuals AOC has removed, disciplined or trained due to sexual harassment concerns. ”

As a best practice, the EEOC’s Promising Practices for Preventing Harassment states that an effective complaint system should be responsive to allegations by employees and include processes to convey the resolution of the complaint to the complainant and the alleged harasser and, where appropriate and consistent with relevant legal requirements, any preventative and corrective actions taken by the agency.<sup>9</sup> The EEOC’s Quality Practices for Effective Investigations and Conciliations also provides guidance on communicating for investigations and conciliations. For each process, the EEOC recommends that staff communicate timely with the charging party, the accused or their representatives as the investigation warrants.<sup>10</sup>

As evident in the findings of this evaluation, the AOC should be more proactive in their communication with the complainant and accused about the status and outcomes of complaints.

The 2019 report also suggested that the agency’s lack of transparency about allegations affects employee trust. The AOC does not publicize summary-level EEO-related information, which includes sexual harassment data, describing the number of allegations, violations or descriptions of disciplinary actions taken with its workforce. Because of this, the perception remains that complaints are being “swept under the rug” and are not processed promptly. Not knowing the status or outcome of allegations raises employee concerns about the effectiveness of the investigation process and the DI/DR’s ability to resolve cases.

Again, our evaluation found that the DI/DR does not always receive or request follow-up from jurisdiction officials on actions taken for substantiated cases, and we also found small inconsistencies in the data we received relevant to this topic. For example, the OIG could not determine the actions taken for three substantiated cases. The actions taken vaguely stated “referred to ELRB” or “unknown.” The ELRB provides guidance to

<sup>9</sup> [Promising Practices for Preventing Harassment | U.S. Equal Employment Opportunity Commission \(eoc.gov\)](#)

<sup>10</sup> <https://www.eoc.gov/quality-practices-effective-investigations-and-conciliations>

jurisdiction deciding officials on disciplinary action for infractions and has indicated that it uses eCase to track matters referred by the DI/DR that result in disciplinary action.

## **Recommendations**

### ***Recommendation 8***

We recommend that the Diversity, Inclusion and Dispute Resolution Office (DI/DR) develop office specific internal policies and procedures that require regular communication and updates to individuals on the status of their complaints and cases.

#### ***Recommendation 8 – AOC Comment***

Concur. The AOC will provide more frequent case updates to the complainant in the investigative process.

#### ***Recommendation 8 – OIG Comment***

We reviewed the management comment and recognize the AOC's concurrence, however, the proposed corrective action does not fully address the recommendation. The OIG recommended that DI/DR develop internal written policies and procedures that include standards or requirements for communicating with employees on the status of their complaints and cases. This internal control was recommended to help ensure consistent and regular communication amongst all employees. The importance of documentation is mentioned in OIG's comment for Recommendation 3. The recommendation is open and unresolved. The recommendation will be closed upon completion and verification of specific internal policies and procedures that require regular communication and updates to individuals on the status of their complaints and cases.

### ***Recommendation 9***

We recommend that the Architect of the Capitol (AOC) develop and implement a process to report Equal Employment Opportunity-related information, as appropriate, to increase transparency and employee trust.

#### ***Recommendation 9 – AOC Comment***

Non concur. While the AOC understands the importance of perception in the EEO process, studies have consistently shown the primary tools to increase reporting are the ability to pursue matters anonymously, the ability to raise claims informally and transparency of the process for the individual case. The AOC provides a 24-hour hotline that allows individuals to report anonymously. DI/DR's processes provide the ability to reach informal resolution. The AOC's Ombuds program also provides informal resolution for employees. The AOC has addressed individual case transparency in Finding F [now Finding 6].

The AOC believes the potential negative effects of publicizing statistical case data outweigh the perceived benefits. This is supported by the fact that no federal agency requirement to report this type of information exists. Federal notification of case information is covered by sections 1133 and 1134 of the Elijah E. Cummings Federal Employee Antidiscrimination Act, which amends the No FEAR Act. The Elijah E. Cummings Act only requires agencies to post findings of intentional discrimination (including retaliation), not statistical aggregate data, and while the act does not apply to the legislative branch, the AOC briefs information monthly to the House and Senate Committees of Oversight and Administration.

A significant percentage of the matters raised with DI/DR are done so by employees seeking dispute resolution support, which is not addressed by publishing case information. Additionally, data reporting does not effectively message the AOC's response to sexual harassment allegations. The AOC communicates its response to sexual harassment more effectively through training, targeted messaging through all levels of leadership, and continued enforcement of the AOC's anti-discrimination policies.

### ***Recommendation 9 – OIG Comment***

We reviewed the management comment and recognize the AOC's nonconurrence with the recommendation. The OIG did not recommend that the AOC publicize statistical case data in accordance with any laws or regulations. During the evaluation, we revised the initial recommendation based on comments received from the DI/DR. We intentionally made the new recommendation more implementable so the AOC could be selective about the data shared and to provide the AOC an opportunity be more transparent.

Contrary to the agency's response, the Elijah Cummings Federal Employee Antidiscrimination Act of 2020 (Cummings Act) requires executive federal agencies to post on its public web site summary statistical data relating to equal opportunity complaints filed against the agency. In addition, the No FEAR Act requires EEOC to post government-wide, summary statistical data pertaining to hearings and appeals filed with EEOC. The posting of EEO data on agency public web sites is intended to assist Congress, Federal agencies and the public with determining whether agencies are living up to their equal employment opportunity responsibilities. The OIG believes that the perceived benefits of reporting such data, as with the Cummings Act, outweigh potential negative effects.

The AOC's actions do not appear to be responsive to the recommendation. Therefore, the recommendation is considered open and unresolved. The OIG continues to recommend that the AOC develop and implement a process to (publicly) report EEO-related information, as appropriate, to increase transparency and employee trust. The OIG will monitor the program progress and follow up on the development of any action items and implementation of program improvements.



***Recommendation 10***

We recommend that the Diversity, Inclusion and Dispute Resolution Office (DI/DR) develop and implement a process to receive and document recommendations and actions taken by Architect of the Capitol jurisdictions deciding officials involving sexual harassment allegations.

***Recommendation 10 – AOC Comment***

Concur. However, DI/DR will request this information from ELRB, the advisor to and repository of this information, not the jurisdictions.

***Recommendation 10 – OIG Comment***

We reviewed the management comment and recognize the AOC's concurrence, however, the proposed corrective action does not fully address the recommendation. The OIG's intent was for the DI/DR to develop and implement a process for receiving and documenting actions taken from ELRB on a continuous basis to retain complete case records and auditable documentation. Therefore, the recommendation is open and unresolved. The recommendation will be closed upon completion and verification of a process to receive and document recommendations and actions taken by AOC jurisdictions and deciding officials involving sexual harassment allegations.



## Finding 7. Training Was Successfully Implemented but Needs Improvements

### *Avenues of Assistance Training*

The 2019 report suggested the AOC clarify its Avenues of Assistance (AOA) and improve communication about the options that exist to its staff. In response, the DI/DR introduced the Know Your Rights/AOA mandatory training in 2021. This 40-minute virtual training provides trainees with a description of their rights as legislative branch employees as well as contact information for resources and programs available to assist them with work and life concerns. Additionally, an updated AOA brochure was mailed to employees in 2022.

#### Survey Results

1. 64 percent of 706 employees are more informed of their rights and resources after watching the Know Your Rights/AOA training video.
2. 66 percent of 710 employees found the 2022 AOA brochure and other materials informative on the sexual harassment reporting process and pertinent workplace policies.
3. 48 percent of 715 employees are familiar or very familiar with the AOA.

### *Sexual Harassment Training*

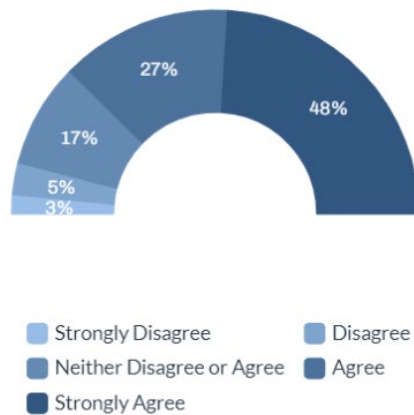
The 2019 report stated that there is a significant disparity among AOC staff members about what constitutes sexual harassment. In response, the DI/DR developed and implemented a sexual harassment training plan for the AOC workforce in 2019. Beginning in 2020, the plan was to provide training to all AOC employees on a two-year cycle alternating annually between in-person and online sessions with new AOC employees completing the online course within 30 days of onboarding. In March 2022, the DI/DR stated that they provide sexual harassment training annually that is updated and revamped each year to present new and different course material.

Our evaluation found that, in 2021, the DI/DR implemented anti-harassment training to ensure the workforce understands what constitutes sexual harassment and how to prevent it from occurring. This online training is interactive, provides examples and allows the AOC to reach all employees in all locations. The training also encourages staff to report harassing conduct, explains that retaliation is prohibited, and includes bystander intervention techniques. However, the training is not a mandatory annual requirement, nor has it been updated since 2021. One OIG employee hired in January 2022 and three new OIG employees hired in FY 2023 (two supervisors and two staff) were not assigned the training through the online learning portal.

Survey results show that 75 percent of 689 employees agree or strongly agree that AOC offers effective training on sexual harassment (Figure 2). Nevertheless, AOC's sexual harassment training could be enhanced by the following:<sup>11</sup>

- Providing language options that are commonly used by employees
- Tailoring examples specific to the AOC workplace and workforce
- For supervisor-specific training, including explanations of consequences for failing to fulfill their responsibilities to report and prevent instances related to harassment, retaliation and other prohibited conduct
- Including examples of consequences for misconduct
- Describing the complaint process

Figure 2. Survey Results About Effectiveness of the AOC's Sexual Harassment Training



# 75%

of 689 respondents agree or strongly agree that the AOC offers effective training on sexual harassment.

## Recommendations

### *Recommendation 11*

We recommend that the Diversity, Inclusion and Dispute Resolution Office (DI/DR) update its anti-harassment training to include language options that employees commonly use; examples specific to the Architect of the Capitol (AOC) workplace and workforce; consequences for supervisors if they fail to fulfill their responsibilities related to reporting and preventing harassment, retaliation and other prohibited conduct; consequences for misconduct; and explanations of the complaint process.

<sup>11</sup> [Promising Practices for Preventing Harassment | U.S. Equal Employment Opportunity Commission \(eoc.gov\)](#)

***Recommendation 11 – AOC Comment***

Concur. Outside of accessibility for those with disabilities, the AOC is not legally required to provide language options. However, as a best practice, the AOC is currently working on a Language Access Plan for various aspects of employment at the AOC.

***Recommendation 11 – OIG Comment***

We reviewed the management comment and recognize the AOC's concurrence, however, the proposed corrective action only partially addresses the recommendation. The OIG will continue to recommend best practices to improve and enhance OIG programs and operations. The response does not address whether the AOC will update the sexual harassment training to include examples specific to the AOC workplace and workforce; consequences for supervisors if they fail to fulfill their responsibilities related to reporting and preventing harassment, retaliation, and other prohibited conduct; consequences for misconduct; and explanations of the complaint process. Therefore, the recommendation is open and unresolved. The recommendation will be closed upon completion and verification of the various training updates mentioned above.

***Recommendation 12***

We recommend that Diversity, Inclusion and Dispute Resolution Office (DI/DR) update and make its anti-harassment training a mandatory annual training requirement for Architect of the Capitol's (AOC's) workforce.

***Recommendation 12 – AOC Comment***

Concur. The AOC requires Prevention of Discrimination and Harassment training for all employees annually. However, during 2022, the training was being revised, so it was not implemented in 2022. Prevention of Discrimination and Harassment training will be required of all AOC employees and supervisors in April and May 2023, and will be required annually thereafter.

***Recommendation 12 – OIG Comment***

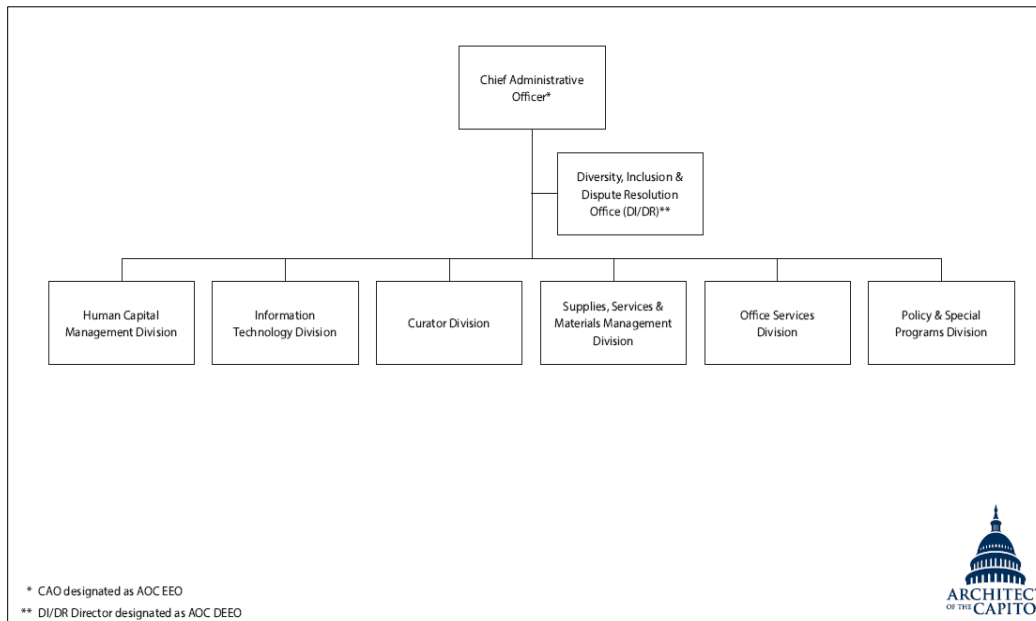
We reviewed the management comment and recognize the AOC's concurrence with the recommendation. As of May 2023, DI/DR requires that all AOC employees and supervisors take the Prevention of Discrimination and Harassment training. The AOC's actions appear to be responsive to the recommendation. Therefore, the recommendation is considered closed.

## Finding 8. DI/DR Was Realigned to Improve Independence but Risks Remain

In MA (I)-11-01, the OIG recommended the DI/DR (then the Equal Employment Opportunity and Diversity Programs Office) report to the Office of the Architect or the Chief Operating Officer rather than to the HCMD to increase employee trust. In 2012, the AOC stated it consulted with an independent human resource contractor to review the placement of the EEO office. The contractor determined the change was not necessary. The 2019 report results revealed, again, that some employees did not fully trust the AOC’s leadership and the DI/DR’s independence placed within the HCMD due to potential conflicts of interest.

In 2019, the DI/DR was realigned and reported to the Office of the Architect. In 2022, however, the DI/DR was realigned again and now reports directly to the Office of the Chief Administrative Officer (OCAO) (which provides administrative and business support) (Figure 3). At this time, the CAO is designated as the AOC EEO, and the DI/DR’s Director is designated as the Deputy AOC EEO.

Figure 3. AOC OCAO Organizational Chart



The realignment shows the AOC’s leadership efforts to strengthen the DI/DR’s independence and employee trust. Nevertheless, the actions taken did not fully meet the intent of the OIG’s 2011 recommendation in MA (I)-11-01, and conflicts of interest, impartiality and objectivity risks remain with processing employee complaints. As referenced in the 2019 report, the EEOC Management Directive 110 states that the EEO Director cannot be placed under the supervision of officials responsible for executing and

advising on personnel actions.<sup>12</sup> While the AOC is not required to follow the directive as it is part of the legislative branch, the agency could benefit from placing the EEO Director under the supervision of the head of the agency to ensure it can act with the greatest degree of independence in perception and reality.

Further, there was a perception that the HCMD, DI/DR and OGC were too close and shared information informally during the early stages of the case investigation process, thereby creating potential conflicts of interest. Prior to the 2019 report, the OGC had detailed an attorney to DI/DR, which could give the appearance of inappropriate information sharing. The OGC maintains, however, that they are not involved with or prematurely made aware of complaints or claims reported to the DI/DR unless there is a need to know (e.g., an employee may file a claim with the DI/DR first and later files a claim with the OCWR). As part of their discovery process, the OGC may request documentation from DI/DR as part of the litigation and discovery process. Employees soliciting advice regarding sexual harassment are referred to DI/DR. After the 2019 report, the OGC attorney formally assigned to the DI/DR was reassigned to the OGC, and the DI/DR now employs its own counsel, the Deputy Director of the DI/DR.

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<sup>12</sup> [Management Directive 110 | U.S. Equal Employment Opportunity Commission \(eeoc.gov\)](https://www.eeoc.gov/management-directive-110)

## **Finding 9. Staff Workload Has Increased**

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During recent interviews as part of this evaluation, the DI/DR expressed challenges with and concerns about the number of personnel available to assist with the office's increasing workload and demands. Unlike a traditional EEO office, the DI/DR accepts EEO and non-EEO complaints. DI/DR's scope is broadened by the inclusion of non-EEO claims and the investigative function of the office. The previous DI/DR Director explained that more EEO issues have surfaced and increased the staff's caseload.<sup>13</sup> At times, it becomes hard for staff to keep up with the demand. Most staff are performing multiple job roles (e.g., one staff member assigned to perform dispute resolution is also responsible for reasonable accommodations), which affect could processing times, follow-up and quality of service.

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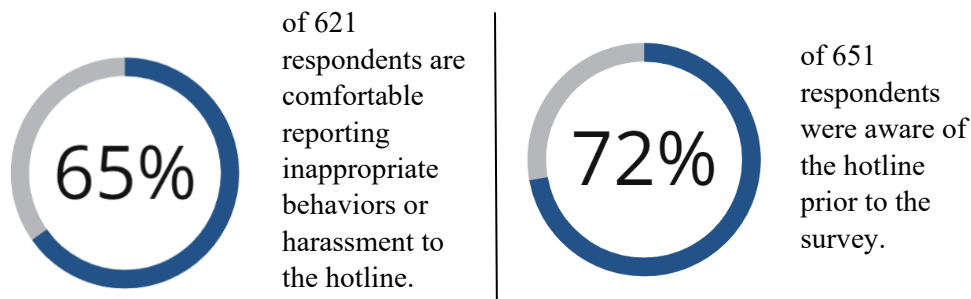
<sup>13</sup> The previous DI/DR Director left the AOC during this evaluation in July 2022. A new DI/DR Director was hired in August 2022.

## Finding 10. Hotline Successfully Implemented to Provide Greater Independence and Confidentiality

In January 2019, the DI/DR launched a confidential hotline voicemail for employees to report their concerns, questions or complaints. It gave them the option to leave their name and telephone number if a return call was desired. In the 2019 report, the OIG recommended the DI/DR outsource the hotline service for greater independence and confidentiality and to ensure all calls are answered by a live person rather than a voicemail service. At the time of the report, the DI/DR was working with the AOC's Information Technology Division to research outsourcing.

Since 2019, the DI/DR has contracted out the management and facilitation of its hotline service. AOC employees can now report their concerns, questions and complaints with a live representative 24 hours a day, seven days a week. Callers can remain anonymous or provide a name and contact information if a callback is desired. When a call is received, the DI/DR is immediately sent a notification for follow up, logs the notification and contacts the employee within 24 hours. Information regarding the hotline is communicated to AOC staff through flyers, staff emails and during new employee onboarding sessions. The previous DI/DR Director stated that, in the past three years, they had about 10 hotline calls but only one turned into a sexual harassment claim. Figure 4 illustrates AOC employees' knowledge of and comfortability with using the confidential hotline.

Figure 4. Survey Results Regarding the Confidential Hotline



## Finding 11. Survey Results and AOC Efforts Show Positive Results to Improve Culture

The 2019 report stated there were outdated cultural attitudes in some AOC departments, which set a tone of permissibility. In response, the OIG encouraged the AOC to leverage nonmanagement leaders to spread the message of civility and respect and encourage harassment reporting. Cultural diversity among age groups, trades, genders and other workforce metrics revealed the need for unified consensus, starting at the top.

The DI/DR distributed monthly AOC Chooses Civility Toolkits to all AOC supervisors, managers and senior leaders from August 2021 through May 2022. Each month focused on one of AOC's 10 Principles of Civility.<sup>14</sup> The monthly toolkits had ideas, articles, quotes, links to videos and other related materials that could be shared with employees at staff meetings and safety briefings. The goal was to provide tools to AOC supervisors to help them engage their employees in conversations about the importance of civility in the workplace. Hard copies of the toolkits were also distributed to all jurisdictions. The AOC has not disseminated toolkits since May 2022.

### Survey Results

- Approximately 56 percent of 642 respondents believe the AOC's culture and attitudes relevant to sexual harassment have improved within the last three years; approximately 34 percent neither agree nor disagree.
- Approximately 28 percent of 651 respondents feel that sexual harassment is a problem within the AOC; approximately 36 percent neither agree nor disagree.
- Approximately 65 percent of 642 respondents agree or strongly agree that the AOC fosters a positive workplace environment wherein reporting sexual harassment is encouraged and met without retaliation.

<sup>14</sup> AOC's 10 Principles of Civility are to (1) Pay Attention, (2) Acknowledge Others, (3) Listen, (4) Be Inclusive, (5) Speak Kindly, (6) Respect Others' Time and Space, (7) Apologize Earnestly, (8) Take Responsibility, (9) Respect Others' Opinions, and (10) Refrain from Idle Complaints.



## **Finding 12. Anti-Harassment Policy Expanded as Recommended**

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The 2019 report stated that there were gaps in AOC Order 24-2 Workplace Anti-Harassment Policy and that policy revisions were pending deployment in late 2019. The DI/DR planned to include specific prohibited behaviors, actionable guidance for managers and penalty guidelines. The DI/DR issued the revised policy in October 2020. Our evaluation found that the policy was expanded to include harassment of all protected classes; provides greater clarity on prohibited behaviors; explains the process for reporting and participating in the investigative process; applies to electronic communications; and updates organizational names. The policy aligns with EEOC's Promising Practices for a comprehensive and effective harassment policy.

## CONCLUSION

After implementing most of the OIG's suggestions that resulted from the 2019 inquiry, the AOC has made notable strides to create a positive, anti-harassment environment where employees feel safe and heard. Within the three past years, the AOC expanded its anti-harassment policy and the DI/DR developed new training for AOC employees and supervisors, increased training for its own staff, outsourced their 24/7 hotline, realigned its office for greater independence and implemented a new case management system for recordkeeping.

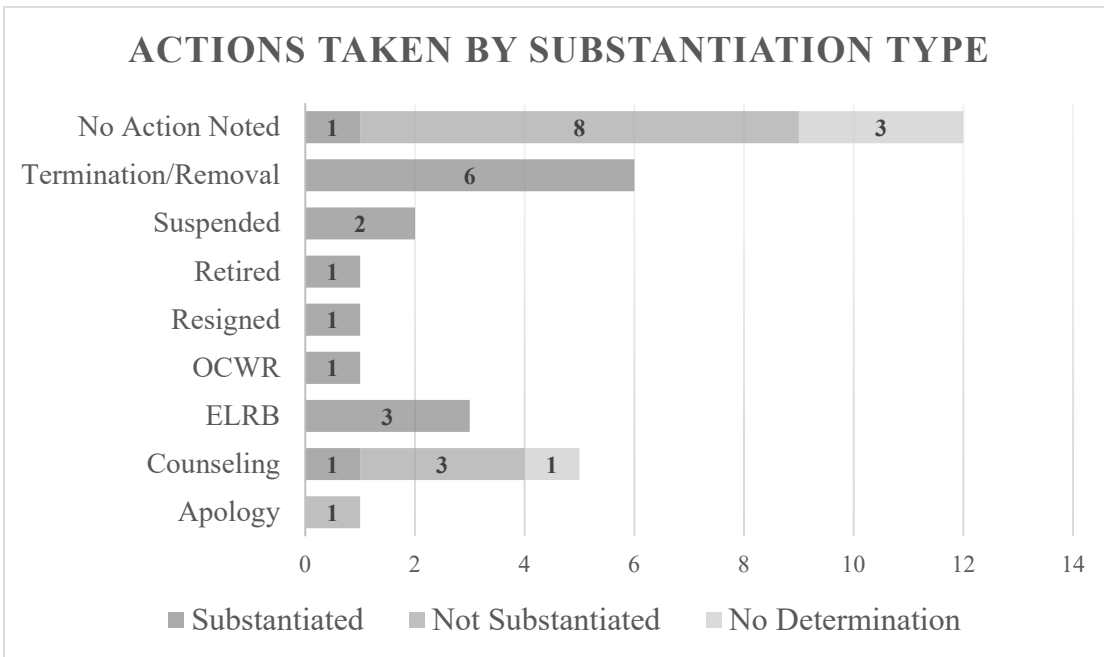
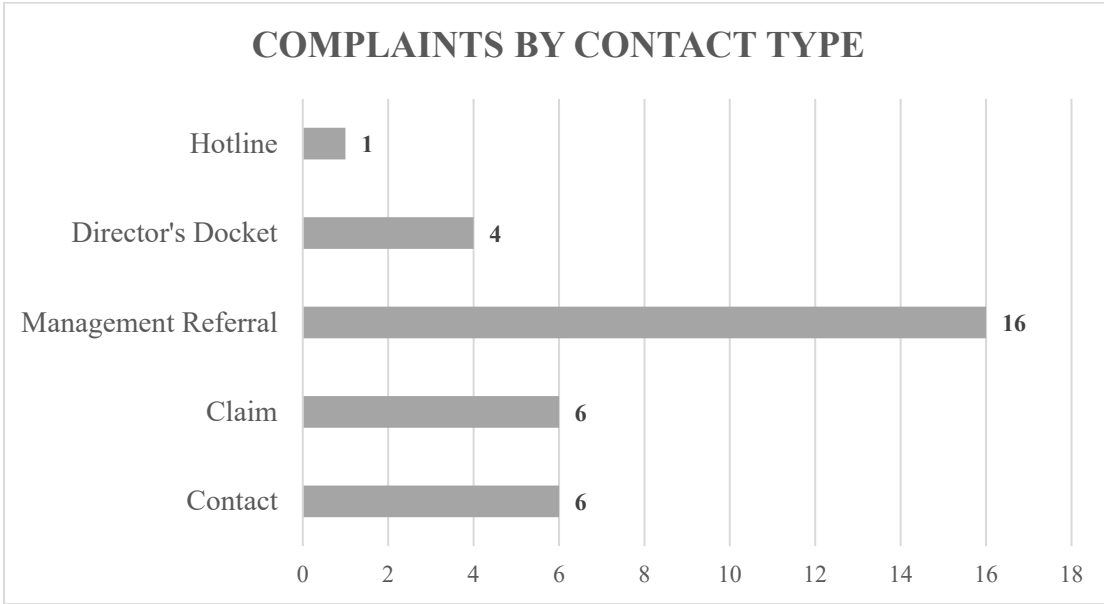
In conducting this follow-up evaluation, the OIG has made 12 recommendations. We found issues with the quality of the AOC's sexual harassment data and a lack of office specific policies and procedures for training requirements, documenting and tracking complaints and responding to complaints.

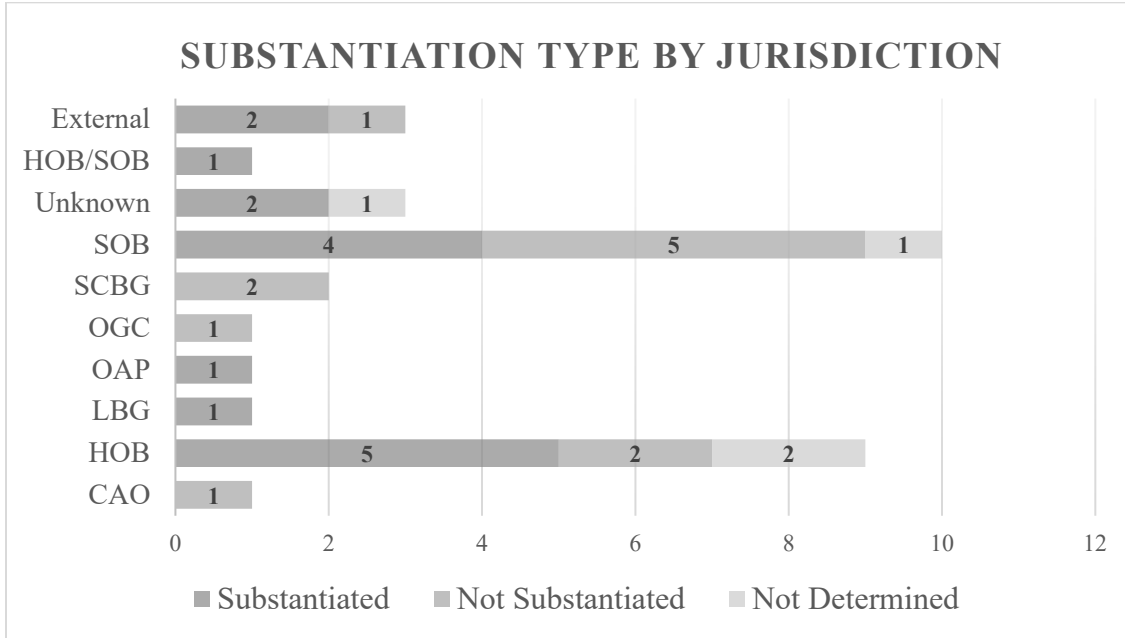
Effective organizational and culture change requires continuous commitment, learning, feedback and effort. Our confidential AOC-wide sexual harassment survey data yielded mostly positive results, but there remains a perception that the AOC does not take concerns seriously and should do more to prevent harassment committed by nonemployees, regardless of the number of complaints reported. Some employees are still reluctant to report incidents due to a fear of retaliation, limited support and follow-up, and a lack of communication about the outcome of allegations. The AOC can display more leadership and further its commitment to protect its workforce by focusing on improving internal controls to ensure an objective, neutral and consistent complaint process; providing transparency; and holding all harassers accountable in line with the Architect's values of respect, integrity, safety and empowerment.

# DATA SNAPSHOT

## Description of Sexual Harassment Cases

From FY 2019 through 2nd Quarter of FY 2022, the DI/DR reported 33 sexual harassment complaints. One complaint is pending.





## Demographics of Respondents Subject to Sexual Harassment

Approximately 9 percent (60 of 636) of respondents said they experienced some form of sexual harassment. The tables below show the demographics of the 60 respondents.

Gender	Online	Paper	Total	%
Male	20	3	23	38%
Female	32	1	33	55%
Non-Binary	1		1	2%
Prefer not to say	3		3	5%
<b>Grand Total</b>	<b>56</b>	<b>4</b>	<b>60</b>	

Ethnicity	Online	Paper	Total	%
Hispanic or Latino	1		1	2%
American Indian or Alaska Native	1		1	2%
Asian	1		1	2%
Black or African American	19	4	23	38%
Caucasian or White	22		22	37%
Multiracial	1		1	2%
Other	1		1	2%
Prefer not to say	9		9	15%
(blank)	1		1	2%
<b>Grand Total</b>	<b>56</b>	<b>4</b>	<b>60</b>	

<b>Employment</b>	<b>Online</b>	<b>Paper</b>	<b>Total</b>	<b>%</b>
Director/Associate Chief	1		1	2%
Deputy Director	1		1	2%
First-Line Supervisor/Manager	8		8	13%
Team Lead (Non-Supervisory)	6		6	10%
Staff (Non-Supervisory)	37	4	41	68%
Other	2		2	3%
(blank)	1		1	2%
<b>Grand Total</b>	<b>56</b>	<b>4</b>	<b>60</b>	

<b>Work Schedule</b>	<b>Online</b>	<b>Paper</b>	<b>Total</b>	<b>%</b>
Telework	4		4	7%
Remote	3		3	5%
Day Shift	34		34	57%
Night Shift	7	4	11	18%
Swing Shift	2		2	3%
Other	5		5	8%
(blank)	1		1	2%
<b>Grand Total</b>	<b>56</b>	<b>4</b>	<b>60</b>	

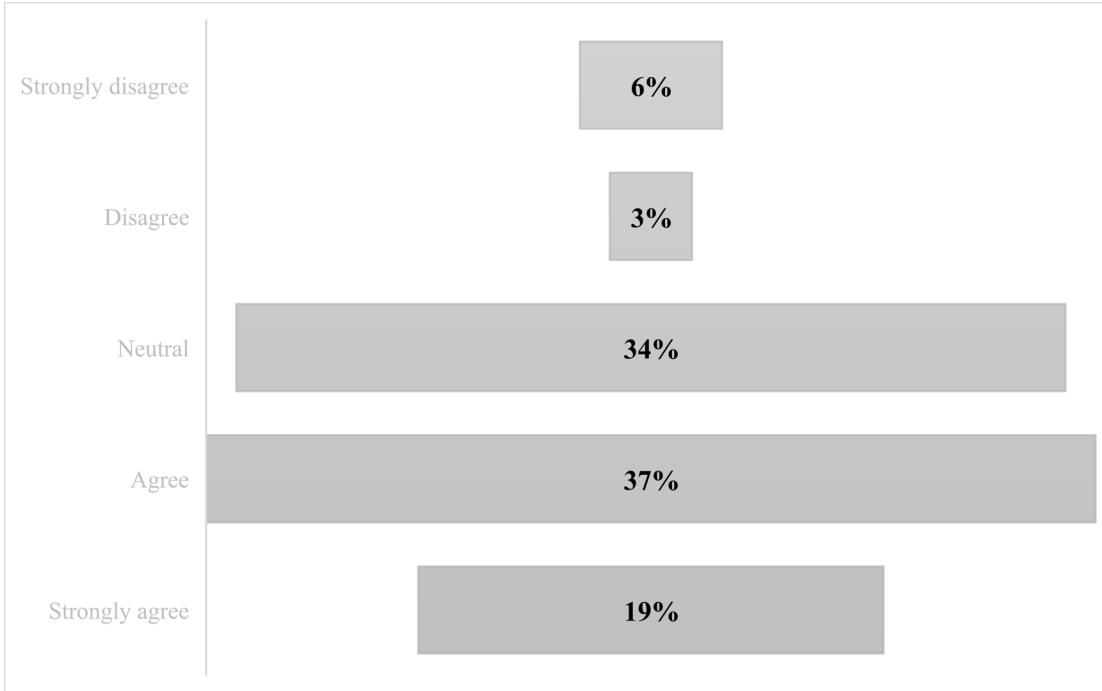
## Experience of Those Who Reported Sexual Harassment

Of the 60 respondents that indicated they were subjected to some form of sexual behavior or harassment, 21 reported the behavior or harassment. The table below shows what the 21 respondents experienced.

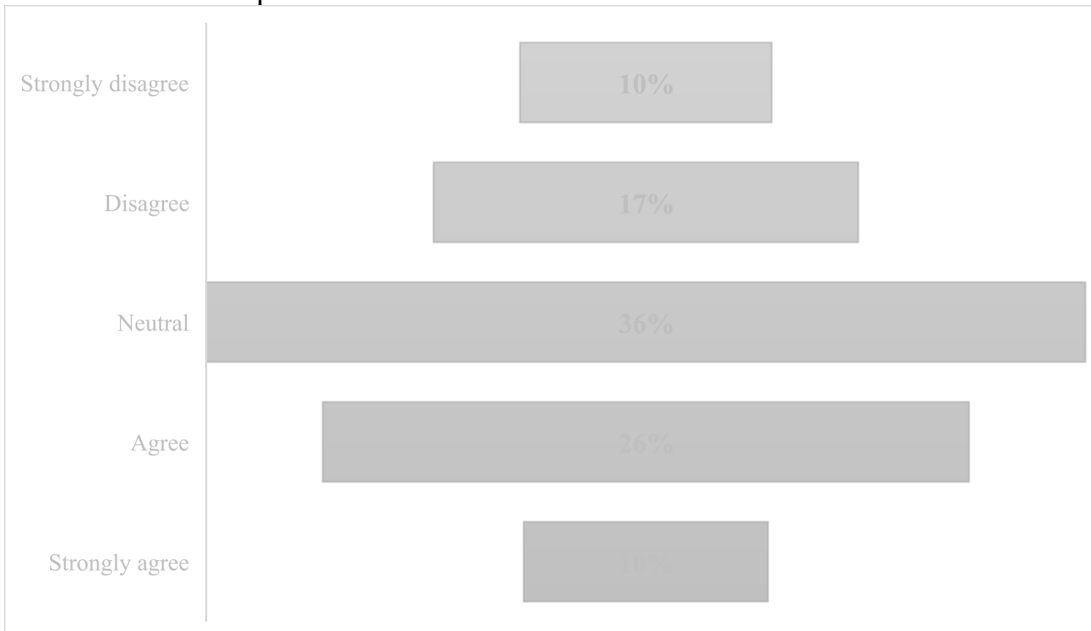
Experience	Strongly Disagree	Disagree	Neutral	Agree	Strongly Agree	Did Not Answer
I felt that the outcome of the complaint process was fair, effective and appropriate.	29%	10%	29%	10%	19%	5%
I felt that I was retaliated against for filing a sexual harassment complaint.	14%	24%	14%	14%	24%	10%
I reported an instance of retaliation after filing a sexual harassment complaint.	29%	19%	19%	5%	14%	14%
I received communication about corrective actions being taken after I filed my complaint.	24%	19%	38%	0%	10%	10%
I felt that the corrective actions taken were fair, effective and appropriate	33%	14%	29%	10%	5%	10%
I was made aware of the process to appeal a final action or outcome.	29%	14%	33%	10%	5%	10%

## Survey Results on AOC’s Sexual Harassment Culture

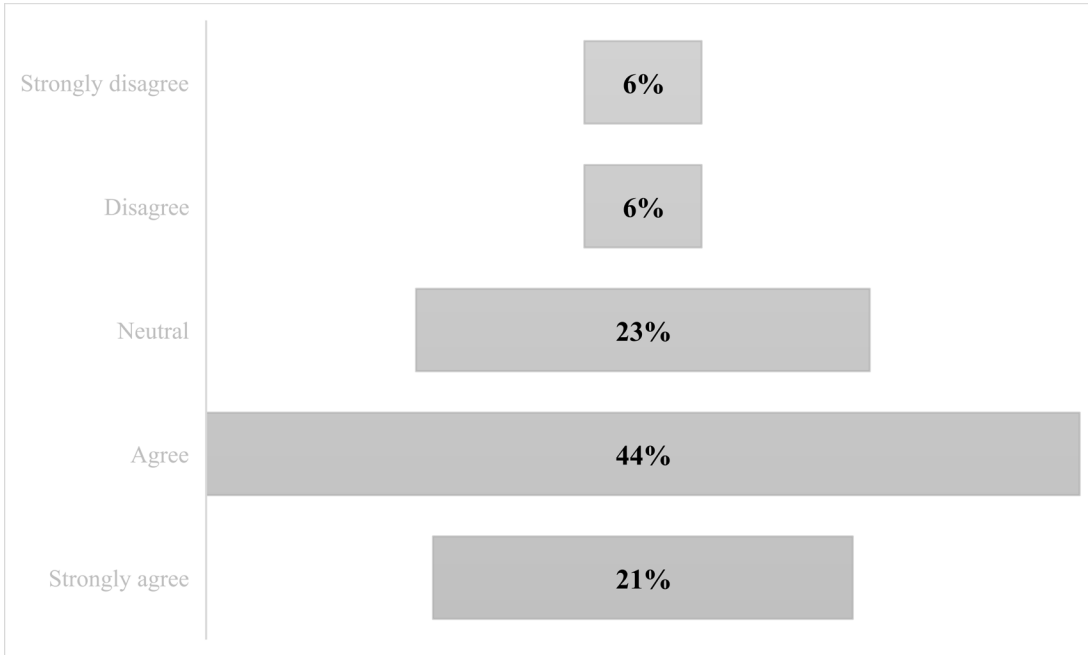
Approximately 56 percent of 642 respondents strongly agree or agree that the AOC's culture and attitudes relevant to sexual harassment have improved within the last three years.



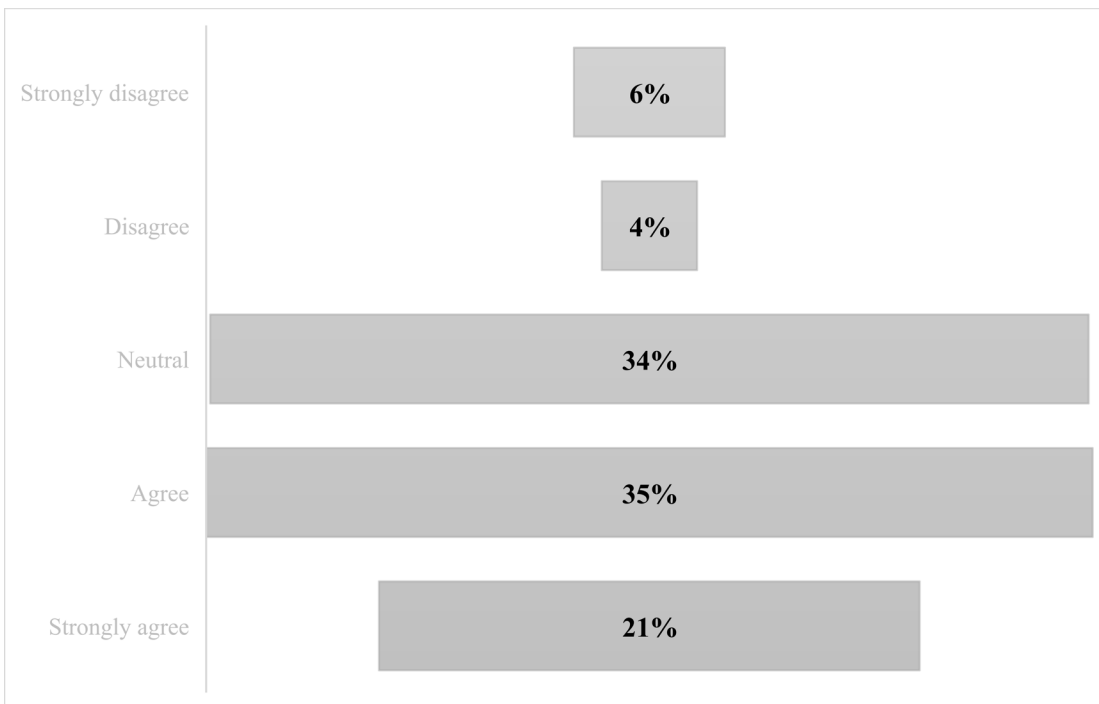
Approximately 27 percent of 651 respondents strongly disagree or disagree that sexual harassment is not a problem within the AOC.



Approximately 65 percent of 642 respondents strongly agree or agree that the AOC fosters a positive workplace environment, wherein reporting sexual harassment is encouraged and met without retaliation.



Approximately 56 percent of 642 respondents strongly agree or agree that AOC's processes, resources, policies and training, relevant to sexual harassment has improved within the last three years.





## APPENDIX A

### Scope and Methodology

We conducted this evaluation from May 2022 - February 2023 in accordance with the Council of the Inspectors General on Integrity and Efficiency's *Quality Standards for Inspection and Evaluation* (also known as the Blue Book).<sup>15</sup> These standards require that we plan and perform the evaluation to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our evaluation objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our evaluation objectives.

This follow-up evaluation was self-initiated by the AOC OIG and was included in our FY 2021-2023 Work Plan. Our objective was to determine whether the AOC implemented corrective actions to address issues identified in the 2019 report, Congressional Request for Office of Inspector General Review of the Architect of the Capitol's Response to Sexual Harassment (2019-0001-INVQ-P).

To address our evaluation objective, we reviewed relevant AOC policies and procedures, interviewed AOC staff and followed up on the implementation of prior related AOC results and recommendations. Additionally, the OIG administered a confidential survey from August 3 to August 24, 2022, to approximately 3,000 staff, interns and contractors to assess AOC's culture, awareness, prevention and response to matters regarding sexual harassment. The survey had an overall 22 percent response rate.<sup>16</sup> The AOC's workforce totaled approximately 2,528 staff as of July 2022. Therefore, the staff response rate was approximately 25 percent.

### Use of Computer-Processed Data

We did not use computer-processed data in the performance of our work.

### Prior Coverage

Prior OIG reports relevant to this follow-up evaluation include: Management Advisory Report (MA-11-01); Congressional Request for Office of Inspector General Review of the Architect of the Capitol's Response to Sexual Harassment (2019-0001-INVQ-P); and Management Advisory Report – 2020-0002-INVVM-P (OIG Interactions with an AOC Agency Avenue of Assistance).

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<sup>15</sup> CIGIE. 2020. *Quality Standards for Inspection and Evaluation* (Blue Book).  
<https://www.ignet.gov/sites/default/files/files/QualityStandardsforInspectionandEvaluation-2020.pdf>

<sup>16</sup> The response rate is calculated by taking the number of completed and submitted surveys and dividing it by the survey population.

## APPENDIX B

### Notification Letter




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Fairchild Bldg.  
499 S. Capitol St., SW, Suite 518  
Washington, D.C. 20515  
202.593.1948  
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United States Government

MEMORANDUM

**DATE:** May 24, 2022

**TO:** J. Brett Blanton  
Architect of the Capitol

**FROM:** Christopher P. Failla, CIG   
Inspector General

**SUBJECT:** Announcement for Follow-Up Evaluation of the Congressional Request for Architect of the Capitol's (AOC) Response to Sexual Harassment (2022-0001-FLD-P)

This is to notify you that the Office of Inspector General (OIG) is initiating a follow-up evaluation of the AOC's Response to the 2019 OIG report, Congressional Request for Office of Inspector General Review of the Architect of the Capitol's Response to Sexual Harassment (2019-0001-INVQ-P). Our objective is to determine whether the AOC implemented corrective actions to address issues identified in the report.

Please provide an agency point of contact for this evaluation. We will contact the appropriate AOC offices to schedule an entrance conference in the upcoming weeks. If you have any questions, please contact Brittany Banks at [Brittany.Banks@aoc.gov](mailto:Brittany.Banks@aoc.gov) or 202.436.1445.

**Distribution List:**

Antonio Edmonds, Acting Chief of Operations  
William O'Donnell, Chief Administrative Officer  
Teresa Bailey, Chief Human Capital Officer  
Liz Buday, Diversity, Inclusion & Dispute Resolution Director  
Peter Bahm, Chief of Staff  
Mary Jean Pajak, Deputy Chief of Staff  
Jason Baltimore, General Counsel

# APPENDIX C

## Management Comments




**Architect of the Capitol**  
U.S. Capitol, Room SB-16  
Washington, DC 20515  
202.228.1793  
www.aoc.gov

United States Government

### MEMORANDUM

DATE: May 22, 2023

TO: Christopher P. Failla  
Inspector General

FROM: Chere Rexroat, RA   
Acting Architect of the Capitol

SUBJECT: Follow-Up Evaluation of Architect of the Capitol's Response to Sexual Harassment 2022-0001-FLD-P

The Architect of the Capitol (AOC) appreciates the opportunity to review and provide comments on the official draft report provided by the Office of Inspector General (OIG) on March 31, 2023. This follow-up evaluation was thorough, and the time spent reviewing the AOC's response to sexual harassment is appreciated. The AOC found many of the recommendations helpful. Of the 12 recommendations made by the OIG, the AOC plans to implement nine, and partially implement one. The AOC does not plan to implement two of the OIG's recommendations. However, we also believe the OIG has not fully appreciated the nuance and scope of the AOC's Diversity, Inclusion and Dispute Resolution (DI/DR) Office, the Equal Employment Opportunity (EEO) complaint process or the distinction between EEO complaint processing in the executive branch and the legislative branch. The AOC provided responses on September 30, 2022, November 30, 2022, and March 17, 2023, to assist the OIG with discerning these distinctions, and provided substantial background into these matters, but many of these responses appear to have not been incorporated in the preparation of the official draft report. As a result, the OIG's report identified 12 findings. Six of these findings do not reflect the current status of the AOC's response to sexual harassment and the progress made to date:

- Finding A: Data quality issues found despite implementing a new case management system.
- Finding B: Again, the AOC declined to provide the OIG with access to all agency records.
- Finding C: More can be done to prevent nonemployee sexual harassment.
- Finding D: DI/DR staff training efforts show progress, but shortcomings identified.
- Finding E: The AOC could better support accusers of sexual harassment.
- Finding F: Gaps in communication hinder employee trust.

The AOC is providing the following formal responses to the findings and recommendations.

**Finding A: Data quality issues found despite implementing a new case management system.**

The OIG based this finding on data the AOC provided in early 2022. As of September 2022, all sexual harassment case data has been accurately and effectively tracked, monitored and stored. DI/DR audited all cases related to sexual harassment and provided the OIG with an updated, accurate and fully complete data set in the September 30, 2022, response (pages 19 and 20 of the AOC response). As of November 30, 2022, all data from Fiscal Year (FY) 2022 onward for all case types has been accurately and effectively tracked, monitored and stored.

**Recommendation A.1 The DI/DR develop and implement office-specific internal policies and procedures for documenting, monitoring and reporting cases in Entellitrak to ensure quality non-EEO and EEO data.**

Concur. DI/DR does have office-specific internal policies and procedures for documenting, monitoring and reporting cases in Entellitrak, but they are not yet documented in writing. DI/DR has established a Plan of Action and Milestones (POA&M) to process map all DI/DR programs. It is important to capture these policies in writing, and DI/DR will do so when the POA&M is complete.

**Finding B: Again, the AOC declined to provide the OIG with access to all agency records.**

The OIG's initial request for information asked for names. However, during a September 29, 2022, meeting the OIG and the DI/DR Director discussed the inclusion of names and relationships in the data submission to the OIG. At that time, the OIG informed the DI/DR Director they were no longer seeking the names and relationships. Once the OIG communicated this, AOC understood revealing names and relationships was no longer an issue for this evaluation. The report states that the OIG determined that names were not pertinent to this evaluation's results and has included a finding disconnected from a current circumstance and has included a speculative finding oriented around a potential future issue.

**Finding C: More can be done to prevent nonemployee sexual harassment.**

The AOC continues to improve its sexual harassment response program. Of the 3,000 individuals surveyed, 644 responded. Of those respondents, 60 out of 644 employees responded to the question regarding external sexual harassment; of those 60, 11 responded to having experienced issues. While no incidents of sexual harassment are acceptable, these 11 employees represent 1.7 percent of respondents and 0.44 percent of its workforce.

Review of the data shows two matters involving external sexual harassment were raised with DI/DR as management referrals during the OIG's follow-up evaluation period (May 2022 through February 2023). Both cases involved contract employees. In one case, the contractor removed the employee promptly upon substantiation of the claim; in the second case, the employee who raised the allegation declined to pursue the matter and requested closure of the matter. Neither of these cases represent a trend or challenge with external sexual harassment.

Additionally, the OIG report references the U.S. Capitol Visitors Center (CVC) specifically. DI/DR determined the allegations to be credible, and the CVC was advised on the appropriate actions to take in response to the allegations. Later, in November 2022, DI/DR re-engaged with

CVC leadership to review the CVC Visitor Guidelines, and to confirm procedures for reporting external harassment matters. CVC leadership informed DI/DR that all CVC staff are educated on addressing immediate concerns on any matter, specifically to report external harassment to any shift supervisor and to the U.S. Capitol Police for immediate action. CVC leadership also committed to continued reinforcement of these procedures to all CVC staff.

**Recommendation C.1 The DI/DR performs a climate assessment for jurisdictions that frequently work with the public to identify and address concerns regarding nonemployee harassment and hostile work environments.**

Concur. While there is no evidence supporting a challenge or trend with external harassment, the AOC will implement this recommendation, limiting the scope to nonemployee harassment concerns.

**Recommendation C.2 AOC jurisdictions that frequently work with the public review and update all visitor guidelines and communications, as needed, to include language that promotes an anti-harassment workplace.**

Concur. All the AOC jurisdictions fall under AOC Order 24-2, Workplace Anti-Harassment Policy, which is buttressed by annual policy memorandums, annual workforce training and materials distributed and posted throughout the Capitol complex. While AOC records show a continuous dialogue with our workforce on these matters, DI/DR will meet with each jurisdiction and office to remind AOC leadership and managers of the need to reinforce our policies throughout the workforce. The AOC will review the public-facing visitor guidelines for appropriate behavior.

**Recommendation C.3 The AOC develop or update policies and procedures to address how the agency will document and investigate nonemployee harassment.**

Concur, in part. The AOC claims process covers all allegations of discrimination, including sexual harassment by employees and nonemployees. The AOC will continue to apply standard investigative procedures to document track, monitor trends, and investigate non-employee harassment allegations. The AOC policies on workplace anti-harassment and sexual harassment are reviewed periodically.

**Finding D: DI/DR staff training efforts show progress but shortcomings identified.**

All DI/DR staff that handle claims have been trained through Cornell University in the last two years in:

- Advanced Internal Investigations Processes
- EEO Law
- Advanced Internal Investigation Reports
- Harassment Prevention in the Workplace
- Advanced Internal Investigation Practices



DI/DR staff assigned investigative responsibilities are all trained in investigative techniques. Outside of scheduled training courses that DI/DR staff attend, they also have standing subscriptions to the National Business Institute and CyberFEDS<sup>®</sup>, which provides them with continuous access to on-demand trainings, seminars, webinars, continuous legal education credits and Society for Human Resources Management credits, as well as a variety of professional resources. Additionally, CyberFEDS<sup>®</sup> provides a large array of tools to effectively train and support case determinations through case law decisions from the EEOC and related courts, the Federal Labor Relations Authority, classification appeals, the Americans with Disabilities Act Amendments Act and the Rehabilitation Act, Arbitrations, Merits Systems Protections Board, workers compensation and other authorities. CyberFEDS<sup>®</sup> also provides Quick Start Guides that provide training and relevant case citations on a broad variety of topics including harassment, sexual harassment and all other discrimination-related matters. Finally, CyberFEDS<sup>®</sup> also provides a repository of laws and regulations and allows DI/DR staff to fully and effectively research matters for legal requirements and best business practices.

Additionally, these individuals have been trained in conflict resolution. As there is no formal claim process in the legislative branch, there is no certification class for claim processing. The Cornell University classes attended by DI/DR staff cover investigating claims of harassment, sexual harassment, discrimination and employment disputes.

**Recommendation D.1 The DI/DR establish and document minimum training requirements for its staff related to the staff's field and area of expertise.**

Concur, in part. Executive branch EEO programs are governed by the Equal Employment Opportunity Commission's (EEOC) Management Directive 110, which outlines the regulatory process, including processing timeframes and training requirements for the executive branch complaints process. As the legislative branch does not have a formal process, there is no formal external training for claims the agency can use to establish a minimum training requirement. Additionally, DI/DR staff do not perform the same role as EEO counselors in the executive branch and cannot be trained in the same manner. However, DI/DR will establish minimum training requirements in writing that articulate the need for initial and refresher training in this area. Outside of this, the AOC will continue to develop training plans specific to each staff member's position and developmental need.

According to Appendix A of this report, the follow-up evaluation occurred between May 2022 and February 2023. While the current DI/DR Director has been on staff since August 29, 2022, she was not interviewed as a part of this follow-up. However, since she arrived, the office has established a multi-year training plan for staff development in their relevant fields.

**Finding E: The AOC could better support accusers of sexual harassment.**

The AOC has serious concerns over the presentation of information in this finding. In response to the discussion draft on March 17, 2023, the AOC informed the OIG that this report will become public information, and the OIG's inclusion of details specific to a case is inappropriate.

In this specific case:

- DI/DR, as the authorized office to investigate claims of discrimination at the AOC, did so in this case.
- The employee in question did not file a claim, rather this was investigated by DI/DR as a Management Referral.
- DI/DR investigated this matter using the appropriate legal framework and analysis and determined the matter to be unsubstantiated.

By referencing an *investigated, unsubstantiated* case in terms of victim advocacy and in relation to implementing strategies to reintegrate victims, the OIG assumes DI/DR's investigative process. The AOC takes prompt and appropriate corrective action for all substantiated matters, and the AOC's internal policies make it clear retaliation is illegal and will not be tolerated. Additionally, the AOC communicates regularly through AOC policy, initial training for new employees, annual Prevention of Harassment and Discrimination training, through a variety of training resources available on AOC Learn/Percipio and is reinforced by the DI/DR staff during the counseling, processing and disposition stages of claims. When matters are not substantiated, the AOC must take care not to take inappropriate actions against involved parties that have not been found to have violated policy. The AOC also offers victim advocacy support through the Employee Assistance Program, the AOC Ombuds, the Office of Safety and Code Compliance, the Employee Labor Relations Branch (ELRB), the Workplace Violence, program, the Human Capital Management Division (HCMD) and the OIG. Each of these programs has various services to respond to articulated fears of safety and reintegration. The AOC also publishes an Avenues of Assistance brochure for the staff that provides an overview of agency support services, and DI/DR ensures all employees engaged with the office are aware of the resources available.

**Recommendation E.1 The AOC document and implement a process to conduct follow-up inquiries after resolution to identify employee concerns, verify safety, address fears of retaliation and ensure effective reintegration (as appropriate) to minimize negative impacts on its workforce.**

Non concur. It is inappropriate to implement victim advocacy in the DI/DR program, because the neutrality of an EEO office is paramount to its effective operations and mission. For this reason, "victim support and advocacy" is not an appropriate charge for DI/DR. Rather, the AOC provides other, more appropriate avenues for employee support (listed above).

Cultivating trust under the lens of an EEO program arguably goes back to the consistent application of the process. Accordingly, the guidelines outlined in AOC Order 24-2, Workplace Anti-Harassment Policy, are the appropriate source for addressing concerns about retaliation and providing a communications strategy. An essential tenet of EEO is confidentiality, and there is great consideration given to striking the balance between confidentiality and transparency. Party communications are limited to ensure the integrity of an investigation and ward against a chilling effect. Further, while DI/DR investigates and makes determinations of policy violations, its scope does not extend to the disciplinary process. This division in authority is proper and consistent with best practices. Appropriate mechanisms are already in place to identify employee concerns (DI/DR investigations, climate assessments, the 24-hour Hotline, ELRB, the Employee Assistance Program, the Ombuds), to verify safety concerns (Office of Safety, Workplace Violence Program) and to address fears of retaliation (DI/DR investigations).

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5

**Recommendation E.2 The AOC update AOC Order 24-1 2013 Conciliation Program Guide to ensure it is providing consistent and current information about the conciliation process and resources available.**

Concur. While AOC Order 24-1 2013 Conciliation Program Guide is still accurate, the AOC is currently updating several orders, including AOC Order 24-1.

**Finding F: Gaps in communication hinder employee trust.**

Dispute Resolution Specialists routinely and promptly respond to employees when contacted. However, DI/DR does not conduct follow-up inquiries unless the management chain or complainant returns with additional concerns consistent with the office's neutral role and purview.

AOC management consults with the appropriate programs (ELRB and the Office of General Counsel (OGC)), not DI/DR, for guidance on personnel actions. Due to both privacy and potential defamation concerns, federal agencies typically do not share disciplinary matters outside of the chain of command. As such, no employee would be advised of, nor would it be appropriate to advise them of, specific actions taken.

The AOC has an effective complaint system in place that is responsive to the allegations. There is a process in place to convey the resolution of the complaint. And, as stated above, the AOC shares information appropriate to legal requirements to proceed with the DI/DR processes or to file a claim with the Office of Congressional Workplace Right.

However, a more appropriate reference would be the EEOC's Model EEO program requirements, which applies to federal employers, and against which EEO programs assess themselves. Here the EEOC describes an effective anti-harassment program's complaint procedures containing:

- A clear explanation of prohibited conduct
- Assurance that employees who make complaints of harassment or provide information related to such complaints will be protected against retaliation
- A clearly described complaint process that provides accessible avenues for complainants
- Assurance that the employer will protect the confidentiality of the individuals bringing harassment complaints to the extent possible
- A complaint process that provides a prompt, thorough, and impartial investigation
- Assurance that the employer will take immediate and appropriate corrective action when it determines that harassment has occurred.

The OIG report continues to discuss an AOC failure to disclose the status or outcome of allegations raised, and that this creates the perception that cases are being swept under the rug. The AOC can implement more frequent case updates to the complainant in the investigative process. However, complainants are always informed of the outcome of the case.



The OIG discusses the potential of publication of summary-level case information for the workforce. While it is common to find published outcomes for matters involving fraud, waste and abuse, it is ill-advised for internal investigations into EEO matters to be shared. Aggregated EEO data is tracked internally for program accountability, the analysis of trends and prevention of unlawful discrimination. It is unnecessary to pierce the veil of confidentiality to demonstrate the AOC's commitment to the EEO program. More detail on this is provided in response to recommendation F.2 below.

**Recommendation F.1 The DI/DR develop office specific internal policies and procedures that require regular communication and updates to individuals on the status of their complaints and cases.**

Concur. The AOC will provide more frequent case updates to the complainant in the investigative process.

**Recommendation F.2 The AOC develop and implement a process to report Equal Employment Opportunity-related information, as appropriate, to increase transparency and employee trust.**

Non concur. While the AOC understands the importance of perception in the EEO process, studies have consistently shown the primary tools to increase reporting are the ability to pursue matters anonymously, the ability to raise claims informally and transparency of the process for the individual case. The AOC provides a 24-hour hotline that allows individuals to report anonymously. DI/DR's processes provide the ability to reach informal resolution. The AOC's Ombuds program also provides informal resolution for employees. The AOC has addressed individual case transparency in Finding F.

The AOC believes the potential negative effects of publicizing statistical case data outweigh the perceived benefits. This is supported by the fact that no federal agency requirement to report this type of information exists. Federal notification of case information is covered by sections 1133 and 1134 of the Elijah E. Cummings Federal Employee Antidiscrimination Act, which amends the No FEAR Act. The Elijah E. Cummings Act only requires agencies to post findings of intentional discrimination (including retaliation), not statistical aggregate data, and while the act does not apply to the legislative branch, the AOC briefs information monthly to the House and Senate Committees of Oversight and Administrations.

A significant percentage of the matters raised with DI/DR are done so by employees seeking dispute resolution support, which is not addressed by publishing case information. Additionally, data reporting does not effectively message the AOC's response to sexual harassment allegations. The AOC communicates its response to sexual harassment more effectively through training, targeted messaging through all levels of leadership, and continued enforcement of the AOC's anti-discrimination policies.

**Recommendation F.3 The DI/DR develop and implement a process to receive and document recommendations and actions taken by AOC jurisdictions and deciding officials involving sexual harassment allegations.**

Concur. However, DI/DR will request this information from ELRB, the advisor to and repository of this information, not the jurisdictions.

**Finding G: Training was successfully implemented but needs improvement.**

**Recommendation G.1 The DI/DR to update the sexual harassment training to include language options that are commonly used by employees; examples specific to the AOC workplace and workforce; consequences for supervisors if they fail to fulfill their responsibilities related to reporting and preventing harassment, retaliation, and other prohibited conduct; consequences for misconduct; and explanations of the complaint process.**

Concur. Outside of accessibility for those with disabilities, the AOC is not legally required to provide language options. However, as a best practice, the AOC is currently working on a Language Access Plan for various aspects of employment at the AOC.

**Recommendation G.2. The DI/DR update and make its anti-harassment training a mandatory annual training requirement for the workforce.**

Concur. The AOC requires Prevention of Discrimination and Harassment training for all employees annually. However, during 2022, the training was being revised, so it was not implemented in 2022. Prevention of Discrimination and Harassment training will be required of all AOC employees and supervisors in April and May 2023, and will be required annually thereafter.

**Finding H: DI/DR was realigned to improve independence, but risks remain.**

This recommendation is under evaluation. Risk exists regardless of alignment of the agency EEO program, and steps are taken to mitigate risks as follows:

- Organizationally the DI/DR Director reports to the Chief Administrative Officer (CAO) (position currently vacant). The Director also directly reports to the agency head (currently the Acting Architect of the Capitol), as evidenced by the AOC Operations Organization Chart.
- Case information is neither shared with, nor reported to, the CAO at any time. Case trend analysis and any pertinent information related to AOC case processing is reported directly to the agency head, not the CAO.
- Administrative alignment of DI/DR under the CAO provides the office with more logistical support than alignment directly under the agency head. The operational reporting relationship to the agency head provides the office with independence.

Further, as already provided in the March 17, 2023, response, the OIG states that there is an employee perception that HCMD, DI/DR and the OGC are too close and have shared information informally during the early stages of case processing. DI/DR fiercely protects the EEO process and does not share information unless necessary or until appropriate. This is essential for the credibility of the EEO program and is communicated to employees in the Prevention of Harassment and Discrimination training and all other trainings issued or facilitated by the DI/DR office.

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## **ACRONYMS AND ABBREVIATIONS**

AOA	Avenues of Assistance
AOC	Architect of the Capitol
CAO	Chief Administrative Officer
CVC	U.S. Capitol Visitor Center
DI/DR	Diversity, Inclusion and Dispute Resolution Office
EEO	Equal Employment Opportunity
EEOC	Equal Employment Opportunity Commission
ELRB	Employee Labor Relations Branch
FY	fiscal year
GAO	U.S Government Accountability Office
HCMD	Human Capital Management Division
IG	Inspector General
OCAO	Office of the Chief Administrative Officer
OCWR	Office of Congressional Workplace Rights
OGC	Office of General Counsel
OIG	Office of Inspector General
POA&M	Plan of Action and Milestones
SOP	standard operating procedure

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