

Title IX and the Yale Faculty: A Review

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Table of Contents

Introduction.....	3
Preliminaries.....	4
Public data	4
Methods and division of labor.....	4
Terminology.....	5
Summary of findings and recommendations	6
Summary of findings.....	6
Recommendations for action	7
Where reports are made	9
The parties involved	10
Status of the complainant	10
Status of the reporter	11
Types of behavior	13
Detailed behaviors reported from the case descriptions.....	13
Outcomes	16
Formal vs. informal complaints	16
Substantiation of findings.....	16
Counseling and training.....	17
Continued monitoring	18
Disciplinary sanctions	18
Retaliation	19
Repeat respondents	19
References.....	20
Acknowledgements	20
About WFF	21

Introduction

In the past year, the #MeToo movement has raised public awareness and interest in sexual and gender harassment across a variety of industries and institutions. When comparing the academic workplace with other workplaces, a 2003 survey found that the academic workplace had the second highest rate of harassment, only behind the military (Ilies et al., 2003). The organizational hierarchy of the academy creates particular power asymmetries that leave certain populations vulnerable and others less likely to be sanctioned. Hierarchical rigidity, secrecy, and intense competition for resources create ideal conditions for harassment, bullying, and discrimination to occur, to be condoned, and to go unpunished.

This report examines the public case summaries which are included in the semi-annual reports of sexual misconduct at Yale University, produced by the Title IX Office since 2011.¹ We propose recommendations in several areas based around the reporting and disciplinary process, particularly with a focus on harassment, which constitutes 80% of the cases examined.

In recent years, researchers have investigated a variety of harassment behaviors and cultural factors that shape campus climate. The 2015 Association of American Universities' study of 27 institutions traced harassment, assault, and stalking rates across all members of the university community and placed a particular emphasis on the undergraduate population (Cantor *et al.*, 2015). In contrast, our review focuses on cases where faculty were respondents. Even still, our findings resonate with the trends of the larger AAU survey: inappropriate comments were the most prevalent kind of harassment reported (Spangler, 2015), and 29.5% of women and 18.2% of men who had been harassed identified faculty members as the harassers. Other studies have identified graduate students as an "at-risk" population (Rosenthal *et al.*, 2016) due to power asymmetries in the academy. We urge readers to also consider the vulnerability of postdoctoral fellows in the university system. The recent National Academies of Sciences, Engineering, and Medicine study confirmed the prevalence of harassment particularly towards trainees and its negative impact on climate as well as research quality (NASEM, 2018).

Simply put, harassment is bad scholarship, and as such, harassment is a problem for our community of scholars.

¹ provost.yale.edu/title-ix/reports

Preliminaries

In this section we note a number of points of clarification.

Public data

We are using only publicly available data in this report, sourced from the prose case summaries in the Title IX semi-annual reports released in July and December each year since 2011. We appreciate that each case is different and that a two-sentence summary of a series of complex interactions cannot capture the full circumstances that led to the report. However, this has too often been used as a way to verbally minimize the impacts of actions of misconduct (by implication that if we knew ‘the full story’, things would look different for the respondent). However, aggregating data across years and cases allows us to draw inferences about types of behavior and responses to it.²

Information about the gender of both complainants and respondents was dropped from Title IX public reporting in 2014. We do not include analyses here that reference gender of any participants in those pre-2014 cases. We do not wish to downplay the gender dynamics around harassment, which are substantial, and which also intersect with other social dynamics, including those based around race and ethnicity, about which we have no data either. The absence of data on gender, sexuality, race, and ethnicity, however, makes the dynamics of rank all the more clear.

Methods and division of labor

Emily Stark and Najwa Mayer read case summaries that mention faculty in all semi-annual Title IX reports from the period July 2011 to December 2017. They compiled the information from the reports into a spreadsheet in Excel and used pivot tables to compile the summary material and make the charts. Claire Bovern and Emily Stark analyzed the data and wrote the report, with input from Najwa Mayer and Nancy Ruther.

We clarified a number of points of fact and interpretation with representatives of the Title IX Office in the course of writing this report. This discussion was about the Title IX Office’s processes of constructing case studies and how to interpret specific terms in the summaries. **We did not request, and did not receive, access to any confidential case information.** We emphasize that this is a report compiled on the basis of information solely from public sources.

² If one cannot draw accurate conclusions about rates of types of sexual misconduct and disciplinary outcomes from these case summaries, that in itself is a problem.

Terminology

Most of the terms describing the actions of the respondent are not formally defined in the reports. A variety of terms are used to describe similar actions across reports, including ‘groping’, ‘inappropriate touching’, and ‘unwanted contact’. We amalgamated some near synonyms in the interests of clarity.

A note on the treatment of ‘pending’ cases is warranted. The Title IX semi-annual reports contain instances of cases that are not resolved within the reporting period. Some such cases are subsequently updated (and appear again in subsequent reports), while others do not. By including all cases, we would be double-counting some events. However, because the updated reports do not say which incident (or which prior report) they are updating, it is impossible to know (from the published data) which cases should be grouped together. We solve this by working from all resolved and pending cases for tallying complaints (excluding ‘updated’ cases), and removing all cases marked ‘pending’ from outcomes.

Title IX reports assign two roles to parties: ‘complainant’ and ‘respondent’. We here included three roles: ‘reporter’, ‘complainant’, and ‘respondent’, in order to better examine the distinct roles of people making reports of Title IX issues, and the person or people against whom the behavior is directed. ‘G&P’ student includes graduate and professional students from across the university; Title IX reports are not identifiable by School. The term ‘faculty’ includes all faculty ranks.

Please see provost.yale.edu/title-ix/definitions-terminology for terminology specific to the Title IX Office.

Summary of findings and recommendations

Summary of findings

Sexual misconduct involving faculty primarily takes the form of harassment. Harassment involving faculty is predominantly directed against graduate students, not against other faculty. The types of misconduct reported are in proportion to the problems reported in the AAU 2015 survey (Cantor *et al*, 2015; Spangler, 2015), though the reporting rate is much lower for harassment.

The reported cases cluster around two types of behavior: 1) inappropriate comments of a sexual nature; and 2) unwanted advances and propositions, and violations of the University's consensual relations policy. Thus, while 'campus climate' covers a very broad set of problems and issues, the majority of the complaints coming to the UWC and Title IX Office are about two specific types of problems, and this suggests that action taken to address and prevent harassment should be directed towards these two types of problems.

There is action that can be taken to support students without the requirement of a formal complaint to the University-Wide Committee on Sexual Misconduct (UWC). We have heard anecdotally that students are reluctant to contact the Title IX Office because of a perception that doing so requires them to file a formal report. This is not the case.

The report also shows that there are disciplinary sanctions imposed for committing sexual misconduct. However, these sanctions are often invisible. We recognize that it can be difficult to make sanctions public while protecting the confidentiality of the complainant, but the culture of secrecy around harassment allows respondents' behavior to continue. We are concerned about sanctions that amount to awards (such as suspension from teaching, leaving more time for research), that are indistinguishable from other life transitions such as retirement, or that add to the workload of others in the respondent's department while failing to address the harassing behavior (such as reassignment of committee duties). Moreover, the emphasis on confidentiality reinforces an idea that experiencing harassment is a guilty secret or isolated experience, rather than the reality: after all, more than half of Yale's students reported harassment in the 2015 AAU Campus Climate Survey on Sexual Misconduct (Spangler, 2015).

Recommendations for action

We echo many of the recommendations of the recent NASEM report (2018). We have recommendations around **reporting**, **culture**, and **sanctions** for members of the University.

On reporting:

1. We encourage members of the University community to continue to come forward and report instances of sexual misconduct. Resources are available from smr.yale.edu and include the SHARE Center and the Title IX Office, as well as the UWC. SHARE Center officers are available 24/7 for confidential conversations (203-432-2000).
2. Students (in particular) should note that action can be taken to support them, and to address situations involving misconduct even without formal complaint proceedings. We encourage students to talk to a Title IX coordinator, the SHARE Center, or their Head of College or residential college Dean. Reports can be made individually or as a group.
3. We remind members of the University that those in a 'reportable role' are required to report instances of misconduct that come to their attention. Reportable roles include Directors of Undergraduate and Graduate Studies as well as faculty in a supervisory role. We encourage those in a reporting role to take this role seriously.³

On culture:

4. Clear leadership from the University is crucial: this behavior is unacceptable; it shows a lack of respect for students and colleagues; it is detrimental to good scholarship; and it damages both individuals and the University.
5. Harassment compromises academic integrity, as well as preventing members of the University from doing their best work. Such behavior should be both socially and academically unacceptable. Yet, too often, respondents are sanctioned invisibly (if at all) and remain able to benefit from academic rewards. This must change. Bullying and harassment should have no place in this culture, and we will not make progress in reducing sexual misconduct when respondents are invisibly reprimanded while simultaneously allowed to enjoy the status and power that they have accrued in part through that very behavior. University statements about diversity and inclusion are undermined when there is the appearance that nothing is done and behavior is condoned.
6. We would like to see greater recognition of the role of departmental 'culture' and 'climate' in fostering academic excellence. We see a continued focus on inclusive hiring practices as key here, as well as a focus on best practices in reducing harassment and the culture of impunity, which appears to place some faculty members above sanction.
7. We recommend that meaningful discussion of diversity, inclusion, and climate be included in departmental reviews and Chairs' reports. We also suggest that the quality of mentoring and

³ See further smr.yale.edu/find-policies-information and particularly smr.yale.edu/sites/default/files/files/General-Reporting-Guidance.pdf.

supervision of graduate students and postdoctoral fellows and associates be considered in faculty hiring, promotions and tenure.

8. The isolationist tradition of academic work often leaves individuals—particularly graduate students and postdoctoral affiliates—unsure of what the roles of departmental directors, advisors, and dissertation chairs are. Since departments are academics’ closest relation to the University, we recommend regular department forums for graduate students in particular. These forums reinforce the availability of departmental and University resources as well as providing ways of addressing other professional concerns.
9. While we applaud the current focus on by-stander training as a way of reducing harassment, we are also concerned that many of these instances of misconduct may take place without by-standers present. Future development of harassment prevention resources should also take into account the range of situations under which harassment occurs.

On sanctions:

10. Sanctions need to be more visible. It is important that the University is both taking action, and is seen to be doing so. We recommend that the Title IX Office make a clear summary in each semi-annual report of the disciplinary sanctions resulting from cases.
11. We are concerned about sanctions that amount to awards (such as suspension from teaching, leaving more time for research), that are indistinguishable from other life transitions such as retirement, or that add to the workload of others in the respondent’s department while failing to address the harassing behavior (such as reassignment of committee duties). The impact of sanctions on the colleagues of a respondent should be taken into consideration, and members of the faculty who are disproportionately affected by sanctions given to colleagues should be compensated in some way (for example through a course reduction, research funds, or other appropriate measures).
12. Counseling respondents and/or their departments is the most common type of intervention. Since verbal intervention is so often used with respondents, we suggest that its impact (particularly on the respondents) be evaluated.

Other recommendations:

13. We recommend that greater attention and support be given to postdoctoral fellows and associates. Postdocs are yet even more reliant than graduate and professional students on their advisors for advancement. This creates a strong disincentive for them to report problems.
14. There should be more investment in research into the causes of these behaviors, particularly in the context of higher education, and how to prevent them. Our report has no information on this question, but we are concerned that the current focus on accommodation for the complainants and by-stander interventions addresses neither the reasons that people engage in sexual harassment, nor the University structures that allow such behavior to flourish.
15. Finally, we urge our faculty colleagues to reflect on the ways in which harassing behavior might be excused, minimized, tolerated, reframed, or accommodated in their departments, and to take action to stop it.

Where reports are made

In the past seven years, 138 complainants have been brought against faculty. Our report only includes the 128 cases for which there were case summaries included in the semi-annual reports. Below is a breakdown of where complaints were originally made and where updated cases were addressed:⁴

New Cases	Total
Title IX	116
University Hotline	1
UWC Formal	5
UWC Informal	4
YPD	2
Total	128

Updated Cases	Total
Title IX	17
Provost	1
UWC Formal	8
Total	26

In the reports there are 128 case summaries for complaints where faculty are respondents. In 2016, the Title IX office added two sections to the report (sections II & III) where a case was reported but no further action was taken at the reporter's request (section II) or because a third party reported with no request for further action (III). In total, there are 10 of these instances that are reported as statistics in the report. This accounts for the discrepancy between our total number of cases (128) and the 138 that the Title IX office reports.

⁴ To determine the number of cases heard by the UWC we had to consider which cases were initially and subsequently brought to the UWC. There were 11 unique cases where faculty were respondents heard before the UWC. Our UWC tally adds up to 13 instead of 11 because in 2 instances a case that was heard before the UWC initially (one in 2012A and one in 2016B) appeared as updates in later reports. Because we cannot link new and updated cases directly, which do not know which cases they are updating. These two reports are counted twice.

The parties involved

Status of the complainant

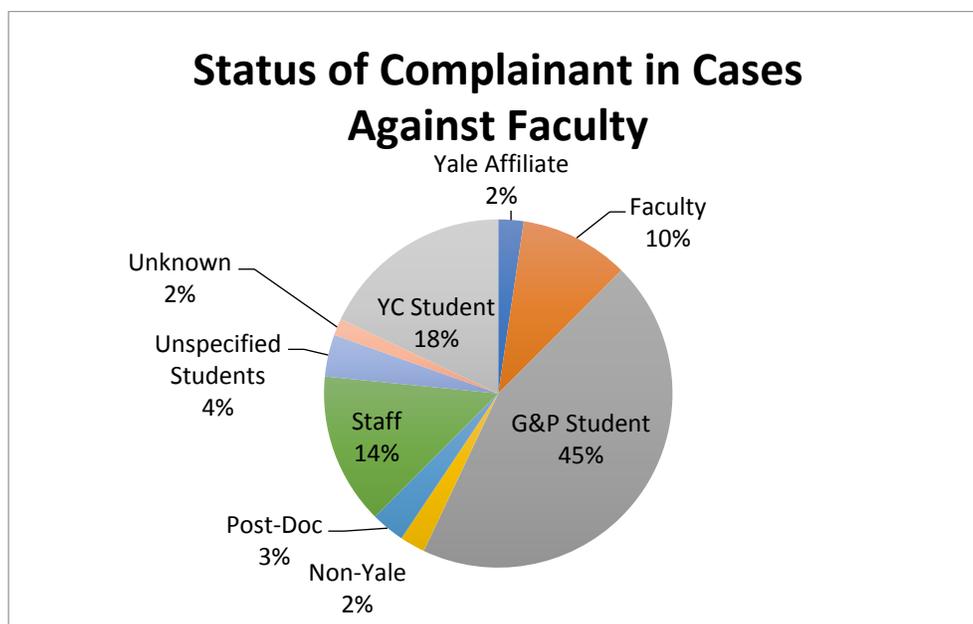
The “complainant” is the person at whom the behavior is directed. It is the term used by the Title IX Office; while we acknowledge the possibility that this term has negative connotations, it is the term widely used in the Title IX literature and beyond Yale. Note that the Title IX Office does not distinguish in their summary between the person making the report and the person against whom the behavior was directed, though both roles are mentioned in their prose case summaries.⁵

Status of Complainant	Cases Against Faculty
Yale Affiliate	3
Faculty	13
G&P Student	57
Non-Yale	3
Post-Doc	4
Staff	18
Unspecified Students	5
Unknown	2
YC Student	23
Total	128

Our report categorizes individuals based on their status (i.e. Yale College or G&P student) at the time the alleged behavior occurred. For example, if a YC alum brings forward a complaint after they graduated about a situation occurred while they were still an undergraduate, they are recorded as a Yale College (YC) student.⁶ Unspecified students refers to cases in which reporters did not specify the rank of the student. Where reporters mentioned the rank (i.e. YC or G&P students), we categorized the complaint under that group.

⁵ The counts given in these tables refer to ‘cases’ (that is, numbers of complaints), not numbers of individuals, since complaints can be brought by individuals or groups.

⁶ In one case (Semi-annual Report 2012B), a staff member reported that a faculty member violated the consensual relations policy with a student when they were an undergraduate and a graduate student. For the purposes of this report, we categorized the complainant as a G&P student and the reporter as a staff member. The categorizing of complaints by role of complainant at the time the event took place leads to several small differences between the figures reported here and those in Title IX aggregations.



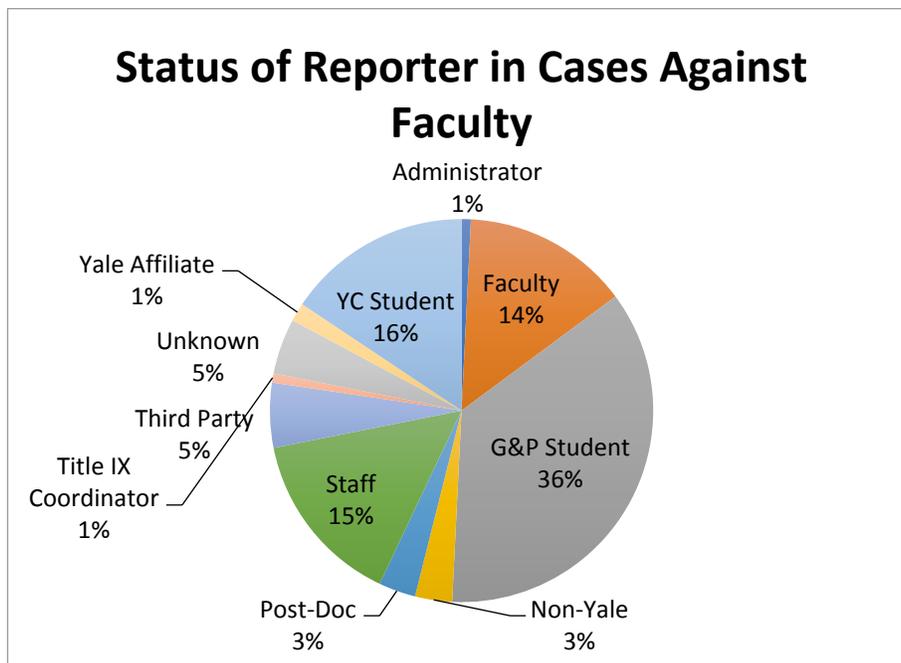
Graduate and Professional students are complainants in nearly half of the cases with faculty as respondents (57/128 or 45%). Yale college students and postdocs together comprise another 21% of cases. Thus, nearly two-thirds of faculty involvement with Title IX as respondents involve issues where the target of behavior is someone over whom they have both power and potential academic supervisory responsibility. Only 10% of the cases involve faculty making reports that involve other faculty, and only 3% involve reports from postdoctoral fellows or associates.

A small number of cases are reported with faculty respondents and faculty complainants. We do not know whether most of the harassment is directed at people with more differential power status (or potentially more temporary contracts). We do not know whether the small number of cases is a result of under-reporting, or whether faculty reported such issues to other offices, such as Deans of Faculty Development, Divisional Deans, or Department Chairs. We look forward to the results of the FAS Senate’s 2017-2018 faculty climate survey for further data on this point.

Status of the reporter

The ‘reporter’ is the person who brings a case to the attention of the UWC or Title IX Office. In most cases, the reporter is the same as the ‘complainant’ – that is, people are reporting cases that happen to them. However, the data also show by-stander reporting. In 10 of the 31 cases where graduate and professional students are the complainants, and in three of the seven cases where students are the complainants, the report was made by a third party.

Status of Complainant	Cases Against Faculty
Administrator	1
Faculty	18
G&P Student	46
Non-Yale	4
Post-Doc	4
Staff	19
Third Party	7
Title IX Coordinator	1
Unknown	6
Yale Affiliate	2
YC Student	20
Total	128

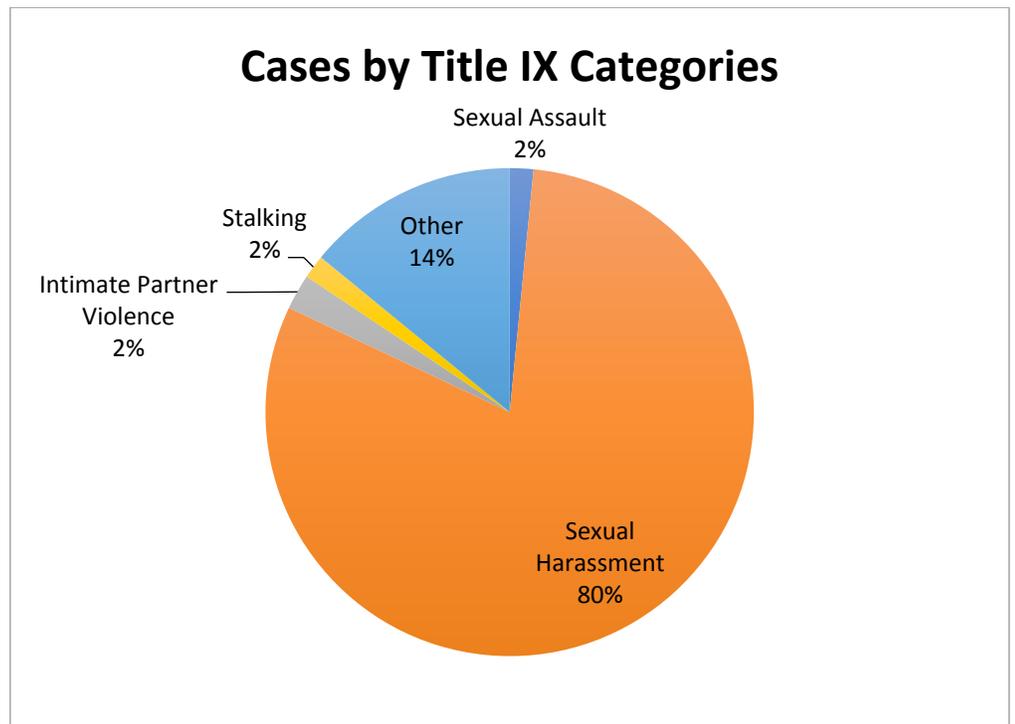


G&P students also report the most cases against faculty (46/128 or 36%). YC students are the next largest group of reporters (20/128 or 16%). Staff also contribute a substantial number of reports (19/128 or 14.8%).

Types of behavior

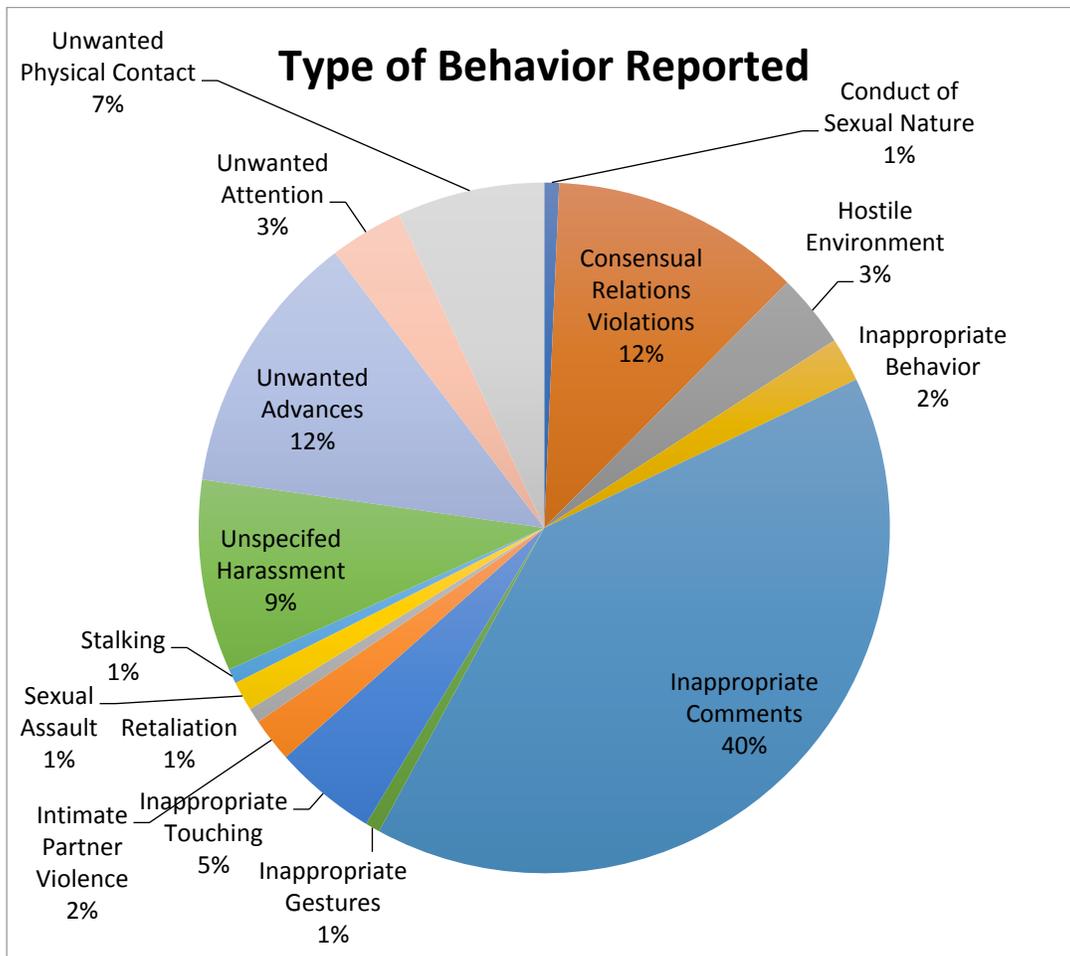
The Title IX Office categorizes complaints in five categories: sexual assault, sexual harassment, intimate partner violence, stalking, and other. These categories encompass a variety of specific behaviors that are detailed in the individual case summaries and further described below. However, for the purposes of tabulating statistics, the Title IX Office uses these five descriptive categories. Below are the tabulations of the overall counts of the Title IX descriptive categories for new complainants over the 7-year period.

Title IX Category	Number of Complainants Reported
Sexual Assault	2
Sexual Harassment	103
Intimate Partner Violence	3
Stalking	2
Other	18
Total	128



Detailed behaviors reported from the case descriptions

To provide more detail about the kind of misconduct that is reported, we compiled the counts of specific behaviors as described in the case summaries. These counts give a glimpse of the kind of 'harassment' that occurs on campus and highlights the prevalence of particular problems. Even though a range of behaviors come to the attention of the Title IX Office and UWC, a few are reported in large numbers.



The single largest category is ‘inappropriate comments’ to students (40%), but a fair number of ‘violations of the consensual relation’ policy (12%) and ‘unwanted advances’ (12%) were also reported. Note that some cases include multiple types of behavior. Thus, the problems most frequently coming to the attention of the Title IX Office involve harassment, particularly verbal harassment, but an array of other issues are also in evidence. Our findings echo the 2015 AAU Survey which identified inappropriate comments about appearance or sexual behavior (37.7%) and sexual remarks or offensive jokes and stories (29.5%) as the two most prevalent kinds of harassment (Cantor *et al.*, 2015).⁷

⁷ For the particulars of the University’s policy on teacher-student consensual relations, see <https://uwc.yale.edu/policies-procedures/teacher-student-consensual-relations-policy>.

Type of Behavior Reported	Cases Against Faculty
Conduct of Sexual Nature	1
Consensual Relations Violations	17
Creating a Hostile Environment	5
Inappropriate Behavior	3
Inappropriate Comments	58
Inappropriate Gestures	1
Inappropriate Touching	7
Intimate Partner Violence	3
Retaliation	1
Sexual Assault	2
Stalking	20
Unspecified Harassment	13
Unwanted Advances	18
Unwanted Attention	5
Unwanted Physical Contact	10
Total	145

Outcomes

Here we examine the outcomes of cases involving faculty. Please see <https://provost.yale.edu/title-ix/definitions-terminology> for the relevant definitions and further information. ‘Outcomes’ in these cases includes disciplinary sanctions for the respondent, but these are a minority of the outcomes across cases.

Formal vs. informal complaints

Complainants and reporters can choose to take formal or informal action. Formal action involves a case brought to the University-Wide Committee on Sexual Misconduct. “Formal resolution of a complaint through the UWC involves an investigation by an external fact-finder, a hearing, adjudication, and possible disciplinary sanctions. See the [UWC Procedures](#) for more information.”⁸ Eleven complaints were heard before the UWC as formal cases. In only two instances, the UWC could not substantiate the reporter’s complaint; for one of these two, the report did not meet the UWC jurisdictional requirements and was therefore referred elsewhere. Formal adjudication passed down the most visible sanctions (see “disciplinary sanctions”). In one case the UWC could not substantiate a formal complaint (made by a staff member); another case against a faculty couple was deemed to not fit the UWC’s jurisdictional requirements. See below for penalties where UWC substantiated the report.

All four of the informal UWC resolutions included counseling or training, one also included continued monitoring.

The majority of cases were initially reported to Title IX Officers (116/128). 33 of the reporters declined to pursue further action after the initial report. Most cases were resolved through counseling or training, as further detailed below. It is important to note that even in the absence of a formal complaint to the UWC, action can be taken. We highlight this point because we have heard anecdotally that some potential complainants are not approaching the Title IX Office or other sexual misconduct resources for help because they believe this inevitably leads to the initiation of formal proceedings. Making a report to the Title IX office begins with a confidential conversation with a Title IX coordinator (in person or by phone); they can advise on options, but the decision on whether to initiate formal proceedings always rests with the complainant.

Substantiation of findings

Some cases could not be substantiated, and so were not further pursued. There was no clear pattern of which cases could not be substantiated, though a fair number of faculty and staff reports could not be substantiated (15/28). In these cases, the reporter was the complainant, so it was not a case of a third-party report not being substantiated.

⁸ provost.yale.edu/title-ix/definitions-terminology

Of the complaints that could not be substantiated, only one was an formal complaint; that is, almost all of the formal complaints were upheld. Moreover, in several of the unsubstantiated informal complaints, accommodations to the complainant were made. Many (though not all) of the unsubstantiated complaints were violations of the university’s policy on consensual relations.

Counseling and training

In more than half the cases, the respondent or their department received training or counseling (52/93).⁹ This was true across the reporters; that is, we do not see any patterns where the reporter or complainant’s position in the University affects the type of sanction given.

Status of Complainant	Faculty Cases
Yale Affiliate	3
Faculty	6
G&P Student	24
Non-Yale	0
Post-Doc	3
Staff	8
Unspecified Students	2
Unknown	0
YC Student	6
Total	52

Counseling and training outcomes were used for a variety of behaviors and constitute the majority of outcomes across the dataset.

Status of Complainant	Faculty Cases
Consensual Relations Violations	4
Creating a Hostile Environment	2
Inappropriate Behavior	1
Inappropriate Comments	22
Inappropriate Touching	3
Retaliation	1
Sexual Assault	1
Unspecified Harassment	7
Unwanted Advances	6
Unwanted Attention	4
Unwanted Physical Contact	2
Total	52

⁹ These are cases in which outcomes are reported.

Continued monitoring

12 of the 93 cases with outcomes resulted in continued monitoring (as stated in the case summaries). It would be helpful to know what form this takes, who does it, how frequent it is, and whether it has resulted in further disciplinary actions.

Disciplinary sanctions

22 of 93 the cases with outcomes had a sanction that might be described as a 'penalty' or disciplinary sanction of some form. The chart below shows that the penalties were wide-ranging. However, only six appear to involve a penalty that had a material negative consequence for the respondent, such as loss of pay. The rest were either status penalties like removal or suspension from leadership positions, or 'monitoring'. Depending on the unit on campus, relief from teaching duties and suspension from leadership positions may simply leave more time for research, and be functionally indistinguishable from research leave. We recognize, however, that the duties of leadership positions like Chairships, and their financial compensation, vary substantially across the University. We are concerned at the number of these penalties that are essentially invisible to the wider University community. Though these semi-annual report case summaries do include information on sanctions, that material is not as visible as it might be.

Penalty	Number of Cases
Written Punishment	7
Suspension	6
Loss of Leadership Position	2
Arrest	1
Resigned	2
Relieved from Teaching Duties	2
Loss of Responsibilities	2
Total	22

One of the reasons frequently given for confidentiality of sanctions is that it protects the complainant. However, we suspect this also serves to reinforce the appearance of a stigma around both experiencing and reporting sexual harassment. Research should be conducted to better understand precisely how confidentiality both 'protects' respondents but also enables the harassing behavior to continue and renders sanctions moot.

Where Complaint was Reported	Number of Penalties
Title IX	12
UWC	8
Provost	1
YPD	1
Total	22

We are also concerned that the impact of the penalties on other faculty members may not be sufficiently taken into account. When students switch advisors, or when committee work is reassigned, it means that others need to take on those tasks. These tasks are often undervalued for promotion, time-consuming, take time away from research, and tend to be disproportionately assigned to women and minority faculty members.

In summary, we are concerned that this concern for accommodation and confidentiality has the result of accommodating the harassing behavior, thereby impeding and possibly even undermining attempts to change culture.

Retaliation

Only one case involved a complaint about retaliation. However, we are concerned that because of the way academia works, many respondents' potential courses of retaliation are invisible to complainants. For example, graduate and professional students seldom know the contents of letters of recommendation written on their behalf (or, in some cases, whether they are even sent). These courses of retaliation are potentially available throughout a complainant's career, including after they graduate and leave the University. Respondents may be in the position of reviewing grants of the complainants in future years, for example. And because the respondent often remains in the field and in a position of power, and because so many of the sanctions are invisible (even when materially affecting, such as suspension without pay), this may end up looking like an objective scholarly evaluation. This makes culture change and harassment prevention all the more important.

Repeat respondents

In only one case did the semi-annual reports note where a respondent violated University sexual harassment policy more than once. In this case, the individual was relieved of their teaching duties. Elsewhere in the report there was no way to trace faculty who were respondents in more than one case. However, the Title IX Office does keep track of repeat reports (per their FAQ page).

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Acknowledgements

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About WFF

WFF was established in 2001 by senior women faculty during Yale's Tercentennial year to highlight the presence of women at the University and the accomplishments of Yale alumnae. Since its inception, and with the support of the President and Provost of Yale, the WFF has evolved into an organization of women faculty who work together to

- Foster gender equity throughout the University through policy initiatives and research;
- Promote scholarship by women and on women and gender across all schools of the University;
- Create mentoring and networking opportunities.

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