



Secretary of State **Oregon Audits Division**



Department of Administrative Services
**DAS Needs to Provide Oversight to Improve
Investigations of Workplace Discrimination and
Harassment at State Agencies**

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Report 2020-34

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Executive Summary

Department of Administrative Services

DAS Needs to Provide Oversight to Improve Investigations of Workplace Discrimination and Harassment at State Agencies

Why This Audit is Important

» The public is increasingly aware of and responsive to instances of discrimination and harassment in the workplace.

» The Oregon Legislature has recently changed laws to enhance reporting and tracking of allegations and better protect victims of workplace discrimination and harassment.

» The Department of Administrative Services (DAS) is responsible for the statewide human resources (HR) system, which includes workplace discrimination and harassment investigations.

» Workplace discrimination and harassment leaves employers liable for lawsuits and negative publicity, as well as low employee morale and self-esteem.

What We Found

1. DAS does not provide sufficient oversight of agency workplace discrimination and harassment investigations, as it does not track or analyze allegation or investigation data. We found agencies are inconsistent in how they conduct investigations, with differing timelines, procedures, and documentation standards. DAS could use investigation data to assess whether allegations are handled appropriately and to identify other potential root causes, statewide trends, and risks that require proactive mitigation. ([pg. 9](#))
2. Agencies can be slow to begin investigations and take an average of 56 business days to complete them. Longer investigations can result in significant costs to the state. HR personnel conduct most investigations, but some agencies use dedicated investigators to increase independence and expertise in this area. Dedicated investigators generally took longer to complete investigations, but had higher quality files and documentation that complies with DAS's revised policies. ([pg. 11](#))
3. The state lacks formal training for staff who perform discrimination and harassment investigations. There are no requirements investigators receive initial or ongoing training specific to investigations and investigators do not feel the training they are able to obtain is adequate. ([pg. 15](#))

What We Recommend

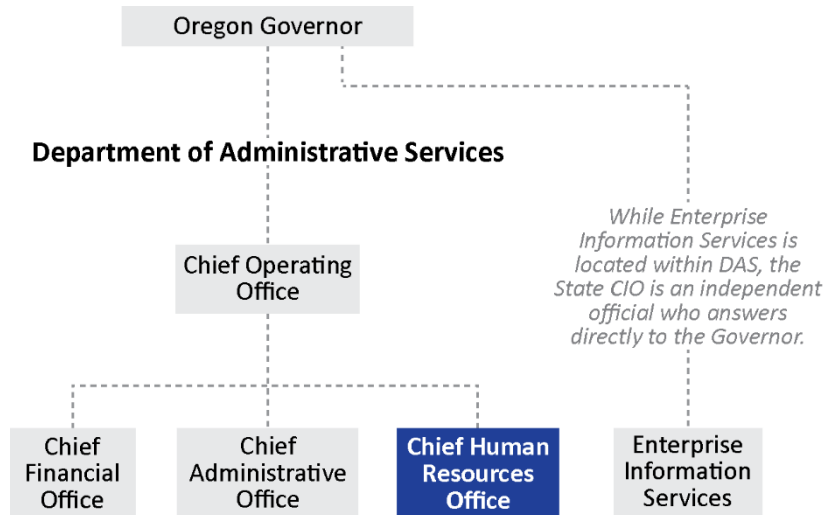
Our report contains six recommendations to DAS intended to enhance oversight of workplace discrimination and harassment investigations.

DAS agreed with all of our recommendations. Their response can be found at the end of the report.

Introduction

The Oregon Department of Administrative Services (DAS) is the central administrative agency that supports state government by coordinating statewide services and administrative policies. DAS is comprised of five offices. This audit focuses on the work of the Chief Human Resources Office (CHRO).

The CHRO oversees the statewide personnel system and related policies to help agencies recruit, hire, and retain the state's workforce. The CHRO is also responsible for managing Workday, the state's human resources information system. The objective of this audit was to determine if DAS ensures effective management over workplace discrimination and harassment complaints. This audit focused only on complaints and investigations pertaining to state government employees.



DAS Human Resources oversees state agency human resource functions

Per state law,¹ DAS is the administrative arm of the state. It houses multiple functions for state government, including general human resource (HR) functions. For the most part, DAS delegates HR functional responsibilities to the roughly 400 state agencies, boards, and commissions in Oregon, although these delegations have never been formally documented. The CHRO provides enterprise-wide policy leadership to maintain a reliable and qualified workforce for the state of Oregon.

The CHRO has a variety of responsibilities for overseeing the state's HR function, including:

- Classification & Compensation, which maintains the state's compensation plan for all state employees;
- Information Management, which develops reports and metrics for workforce decision making;
- Workforce Management & Innovation, which provides training to the state's workforce;
- Policy Consultation & Research, which develops statewide policies and provides guidance, reviews complaints, and conducts investigations;
- Labor Relations, which collaborates with the state's 10 labor organizations; and
- Enterprise Human Resources, which provides comprehensive HR staff to support DAS and agencies in delivering technical assistance to agencies regarding personnel issues.

¹ Oregon Revised Statute (ORS) 240

To fulfill these functions, the CHRO received funding for 76 employees to help serve nearly 42,000 state government employees, with a 2019-21 biennium budget of just over \$29 million. DAS has 916 employees and a budget of just over \$1.3 billion in the same biennium; the budget of the CHRO represents just 2% of DAS's overall budget. Due to the 2020 COVID-19 pandemic, the budgeted dollars for all state agencies' General Fund monies were reduced by 8.5% for the remainder of the biennium, per the Governor's request.

Oregon law makes DAS responsible for state personnel

State law gives DAS responsibility for the state's personnel system. The law also gives DAS the authority to delegate its functions to agencies, including HR management. Many state agencies, particularly larger ones, maintain their own HR functions. However, over 20 of the state's smaller agencies, boards, and commissions do not have internal staff to perform HR functions and pay assessment fees for six CHRO staff to provide HR support services. Agencies can also choose to share HR services with one another; for example, the Oregon Board of Dentistry and Oregon Medical Board share the same HR director.

Some common agency-level HR duties include recruitment and selection of new employees; developing position classifications; advising managers and others in the interpretation and application of rules, policies, and collective bargaining agreements; coaching managers on employee motivational or performance management techniques; designing and presenting training sessions on HR-related topics; employee health and safety measures; and investigating claims of discrimination or inappropriate workplace behavior.

DAS also provides investigation services to all state agencies for an hourly standalone fee, should an agency not have the resources to conduct the investigation. The services can include investigations of discrimination and harassment complaints, though other entities, such as the Oregon Department of Justice or private law firms, can conduct these investigations as well. Investigation services include research; advice on workplace complaints or performance-related concerns; conflict mediation and resolution; management advice, counsel, and coaching; or a variety of other solutions as recommended.

ORS chapter 240 requires DAS to investigate the operation and effectiveness of the chapter and related rules periodically and report findings and recommendations to the director of DAS. The chapter includes provisions regarding the delegation of authority, communicating DAS's responsibility and right to investigate and conduct periodic reviews to ensure compliance with the law.

Workplace investigations in Oregon government are complex

Discrimination and harassment are not new to the workplace, although laws against them were only established within the last 60 years. The main federal legislation, the Civil Rights Act of 1964, continues to receive additions to its list of protected classes, even as of the writing of the report. On June 15, 2020, the U.S. Supreme Court declared sexual orientation and gender identity as protected classes under the Act, a protection Oregon had already allowed within law.

Workplace discrimination and harassment laws are ever evolving

Discrimination and harassment have been in the workplace for centuries. The United States has a poor history of discriminatory practices. It was not until the 1960s that the first laws were enacted to prevent harassment and prejudice in the workplace. Anti-discrimination and harassment policies were put in place to help protect both the employee and the employer.

Currently, the federal government has many categories for discrimination and several laws that establish protected classes. Most Federal laws governing discrimination protection were

Workplace Discrimination

Discrimination is when employment decisions related to hiring, firing, transferring, promoting, demoting, benefits, compensation, and other terms and conditions of employment are based on or because of an employee’s protected class status.

enacted over fifty years ago, starting with the Equal Pay Act of 1963 and followed with the passage of Title VII of the Civil Rights Act of 1964, one of the most important anti-discrimination laws. In 1965, the United States Equal Employment Opportunity Commission (EEOC) was established to enforce laws against discrimination of protected classes. Oregon law includes the federal protected classes, but also goes further in identifying additional protected classes.

Figure 1: Federal and Oregon laws identify protected classes

Protections	Federal law ²	Oregon law ³
Race, color, and national origin	●	●
Sex (includes pregnancy-related conditions; sexual harassment)	●	●
Religion	●	●
Age (40 and older)	●	●
Age (18 and older)		●
Equal pay	●	●
Physical or mental disability	●	●
Veterans and/or military status	●	●
A person using leave covered by the Federal Family and Medical Leave Act	●	●
A person using leave covered by the Oregon Family Leave Act		●
Genetic information	●	●
Sexual orientation/gender identity	● ⁴	●
Retaliation ⁵	●	●
Whistleblower		●
Marital status and family relationships		●
Injured worker		●
A person associated with someone in a protected class ⁶	●	●
Any other protected class as defined by federal law	●	●
Any other protected class as defined by state law		●

Major reform at the federal level began in 1977, when three landmark court cases confirmed a woman could sue her employer for harassment under Title VII of the Civil Rights Act of 1964. The passage of the Civil Rights Act of 1991 allows plaintiffs the right to a jury trial in federal

² Includes the following: Title VII of the Civil Rights Act of 1964, the Equal Pay Act of 1963, the Age Discrimination in Employment Act of 1967, The Pregnancy Discrimination Act, Title I of the Americans with Disabilities Act of 1990, Sections 102 and 103 of the Civil Rights Acts of 1991, Sections 501 and 505 of the Rehabilitation Act of 1973, Vietnam Era Veterans Readjustment Assistance Act of 1974, Uniformed Services Employment and Reemployment Right Act of 1994, Family and Medical Leave Act of 1993, and the Genetic Information Nondiscrimination Act of 2008.

³ Oregon follows all the federal discrimination protections and expands on the federal protect list to include many more under Chapter 695A.

⁴ Prior to the Supreme Court Ruling on June 15, 2020, sexual orientation and gender identity were not protected classes.

⁵ Including against a person who opposes unlawful employment practices, files a complaint, or testifies about violations or possible violations.

⁶ An example of association would be treatment due to a relative’s or spouse’s disability; marriage to someone of a different race; or a parent or caregiver of minor children.

court and to collect compensatory and punitive damages from their employers. Additionally, a ruling in 1998 made employers liable for sexual harassment by their employees, even if threats or favors are not carried out. However, if the employer can prove they took prompt action to prevent or to respond to harassment complaints, they can legally defend themselves.

Workplace harassment is considered a form of employment discrimination that violates the Civil Rights Act. The harasser can be a direct supervisor, another division supervisor, coworker, or non-employee. Sexual harassment includes unwelcome sexual advances, request for sexual favors, and other verbal or physical harassment of a sexual nature directed toward an individual because of gender.

Workplace Harassment

Harassment is unwelcome conduct based on race, color, religion, sex, national origin, age, disability or genetic information. Harassment becomes unlawful where 1) enduring the offensive conduct becomes a condition of continued employment, or 2) the conduct is severe or pervasive enough to create a work environment that a reasonable person would consider intimidating, hostile, or abusive.

Many entities investigate workplace discrimination and harassment

State employees in Oregon have a variety of complaint avenues, including the originating entity or agency. In some cases, the agency might have the Oregon Department of Justice or another entity, such as DAS or a private law firm, conduct the investigation.

Many agencies told the audit team they use another entity for investigations. Agencies stated the main reason for contracting investigation services are to avoid conflicts of interest, complexity, workload, and to minimize agency risk. However, these agencies also said that since workplace investigations took priority, these investigations could stall other necessary HR functions. Contracted investigations also come at a cost, so an outside entity may be used sparingly.

State employees can file complaints with their own agency or other agencies:

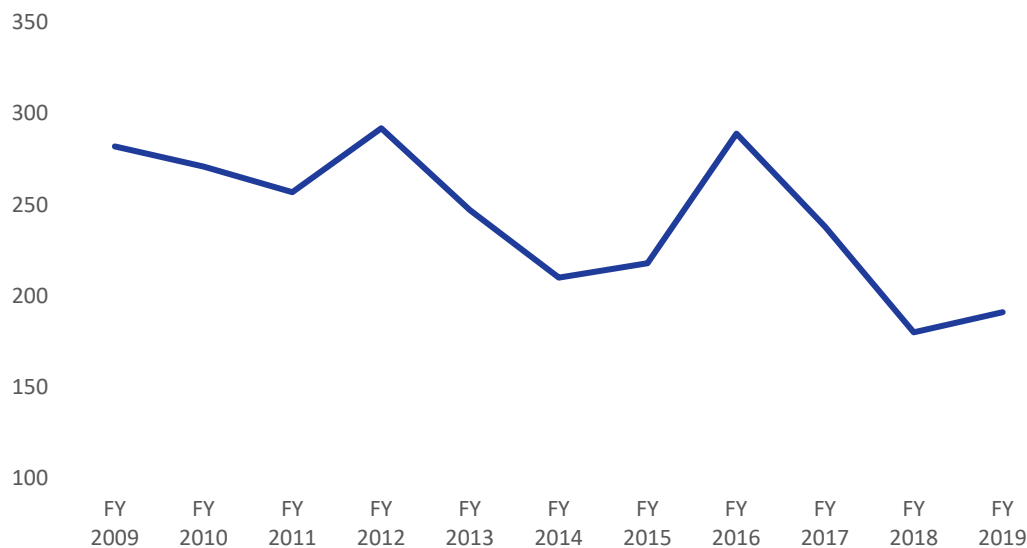
- **Individual Agency, Board, or Commission:** With a couple of exceptions, most complaint investigations are administered through the agency's HR department. Additionally, the Legislature passed Senate Bills 479 and 726 in 2019, mandating that every Oregon employer shall identify a "Designated Individual" who is responsible for receiving complaints at an agency. Complaint reporting can come from the employee, a supervisor, another department manager, or other workers.
- **EEOC:** This federal office is responsible for enforcing federal laws that make it illegal to discriminate against employees. The EEOC has authority to investigate charges of discrimination against employers who are covered by the law (employers with at least 15 employees, or at least 20 in age discrimination cases). The role of the EEOC investigators is to fairly and accurately assess the allegations and make findings. If they find discrimination, the first course of action is to try to settle the charge; if there is no settlement, the EEOC has the authority to file a lawsuit.
- **Bureau of Labor and Industries (BOLI):** This state agency investigates all complaints statewide, not just those in state government. The agency's neutral fact finders cover four complaint types: employment, housing, public accommodation, and vocational/career schools. BOLI fact finders cannot offer legal advice or recommend specific attorneys. If the basis for employment-related complaints violates both state and federal law, complaints are automatically filed with the EEOC. BOLI will sometimes deliver the complaint to the employee's agency for that agency to perform the investigation. In that case, BOLI has strict time guidelines for completion of the investigation.

- **Employee’s Union:** State employees who are union members can file complaints with their chapter. Union contracts guide the grievance and arbitration procedures that the employer must follow for all types of discrimination, including sexual harassment, gender identity, or sexual orientation investigations. Many complaints are redirected to BOLI, DAS, or the agency for investigation.
- **DAS CHRO:** DAS has two dedicated staff within the CHRO for enterprise-wide complaints and investigations. During the 2019 legislative session, legislators approved these two full-time investigation positions, replacing two policy analyst employees that had been performing investigations on top of their other policy duties. Like BOLI, DAS might choose to have the agency perform the investigation.
- **Other Avenues:** These include the Secretary of State’s Government Fraud, Waste, or Abuse Hotline; Office of the Governor; or an agency-provided ombudsman. However, the Secretary of State and Governor’s Offices may not formally investigate HR complaints, but passes along to the proper agency for investigation.

Complaints for workplace discrimination and harassment have varied over the years

Overall, employment discrimination complaints against private employers, as well as state and local government employers,⁷ increased from the fiscal years 1992 to 2016, before dropping 22% nationwide since then, the EEOC reports. For 27 years, from fiscal years 1992 to 2019, complaints totaled over 2.3 million. In fiscal year 2019, there were 72,675 complaints lodged with the EEOC. In 2019, the EEOC received over 7,500 sexual harassment charges resulting in direct settlements of \$68.2 million.

Figure 2: Oregon discrimination and harassment complaints with the EEOC decreased from 2009 to 2019



Source: FY 2009 - 2019 EEOC Charge Receipts for Oregon

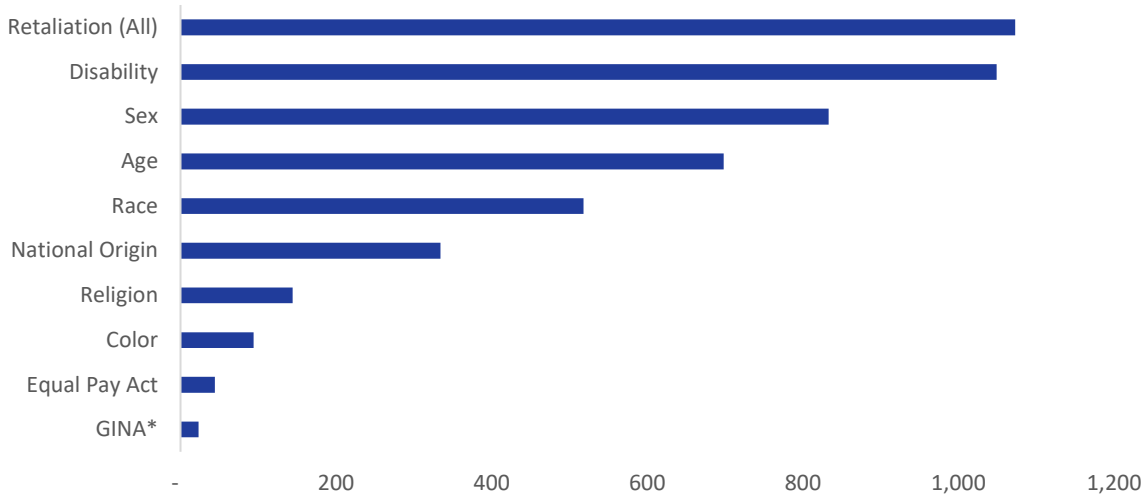
Overall, complaints lodged with the EEOC from Oregon employees are relatively low, having accounted for only 0.3% (or 191) of all complaints nationally in fiscal year 2019. In fact, Oregon complaints to the EEOC have decreased over the past 10 years. Mirroring national trends, in

⁷ Figures do not include federal employee complaint data.

2018 and 2019, Oregon had the lowest number of complaints filed since 2009. The reasons for these trends, both federal and state, are not clear.

Federal law states that employers are liable for harassing behavior by their employees. For a non-employee, the employer is liable if the non-employee is within the employer's control (e.g., an independent contractor or customer on the premises). However, employers can avoid liability if they can prove they took reasonable action to prevent and promptly correct the harassing behavior and if the employee unreasonably failed to take advantage of any preventive or corrective opportunities provided by the employer.

Figure 3: Oregon discrimination and harassment complaints with the EEOC vary by protected class



*Title II of the Genetic Information Nondiscrimination Act (GINA) of 2008, which prohibits genetic information discrimination in employment, took effect on November 21, 2009.

Source: Fiscal Years 2009 - 2019 EEOC Charge Receipts for Oregon.

Not all investigations relate to discrimination and harassment

Complaint investigations is a process by which an investigator gathers information based on allegations and provides a factual basis for management decision making. The investigation should reveal whether any policy or law violations occurred and identify actions to stop further wrongful actions.

Common investigations elements include:

- Recognizing when an investigation is necessary;
- Selecting an appropriate investigator;
- Planning the investigation;
- Collecting necessary documentation;
- Conducting interviews of witnesses or involved parties; and
- Creating a report of findings.

In addition to alleged instances of discrimination and harassment, there are other situations where employers are legally mandated to investigate. Some examples are health and safety violations for an unsafe workplace, ethical issues, workplace drug use, abuse of worktime, and potential fraud allegations.

Many complaints relate to respectful workplace or physical work environment. Some of these can be lack of personal space, concentration issues due to noisy or distracted workspace, and interpersonal challenges between co-workers or managers.

Recent social movements draw more attention to workplace discrimination and harassment prevention and response

Workplace discrimination and harassment allegations are gaining widespread public attention and can damage the reputation and finances of employers. In the fall of 2017, many women called for a change to the alleged pervasive sexual harassment environment within Oregon's Capitol. The Governor issued a statement condemning sexual harassment in October of 2017. In response to the increased pressure, the Legislature passed several bills to address the necessary changes; however, these changes came only after the state had already paid \$1.6 million on a single sexual harassment settlement.

Attention regarding discrimination and harassment has increased substantially

Agencies have started to pay closer attention to diversity and inclusion within state government. Some agencies have departments specifically dedicated to address workforce diversity and inclusion such as Office of the Governor's the Office of Diversity, Equity, and Inclusion/Affirmative Action and Department of Education's Office of Equity, Diversity and Inclusion. Ongoing protests, civil unrest, and social justice movements have gained momentum in recent years, drawing further attention to issues of racial inequity and discrimination throughout existing organizations and systems – including state government. Issues of discrimination based on gender and race are further complicated since some individuals might identify with more than one social category, such as gender, disability, class, race, or nationality to name a few, creating an overlap of possible discrimination areas.

In 2006, Tarana Burke created the MeToo phrase to provide a slogan for the anti-sexual harassment movement. In October of 2017, several individuals in the entertainment industry reignited the phrase as a hashtag on Twitter when they shared their stories of surviving sexual harassment and assault. Following these allegations, people in many types of workplaces began sharing stories.

In January 2018, more than 300 women created an anti-harassment coalition called Time's Up, a movement of women working for gender equality and opposing sexual harassment. Since then, many well-known people have been accused of sexual harassment or assault. Toward the end of 2018, the U.S. House Ethics Committee pushed for reform to the process for reporting misconduct to include additional accountability. As of the release of this report, publications, accusations, workplace dismissals, lawsuits, and court judgements continue nationwide.

Oregon government has also faced substantial harassment allegations in recent years, at great cost to taxpayers. In October 2017, about 130 women — lawmakers, lobbyists, and activists — signed a letter calling for change in the Oregon State Capitol's pervasive sexual harassment environment. Four women subsequently filed a BOLI complaint. The investigation found substantial evidence of sexual harassment in the Capitol. In March 2019, a lawsuit against the Oregon State Legislature was settled for \$1.32 million, which included more than \$277,000 in investigation and legal fees for a total cost to taxpayers close to \$1.6 million for this single complaint.

Similar lawsuits have also cost other state agencies. Litigation against the Department of Corrections for sexual abuse at the Coffee Creek Correctional Facility resulted in over \$500,000 in settlements. Additionally, there are multiple discrimination and harassment lawsuits pending against the Department of Corrections which could potentially cost the state \$12 million. In 2016, the Oregon Military Department paid nearly \$1 million to a former director for retaliation due to a claim of whistleblowing on misspending and sexual harassment.

New Oregon legislation seeks to reduce workplace sexual harassment, discrimination, and abuse

Prompted in part by the harassment allegations, on October 24, 2017, the Governor released a statement to address reports of sexual harassment in Oregon. In 2018 and 2019, the Legislature passed four anti-harassment bills and one concurrent resolution.

- Senate Bill 1559 established a pilot program that requires four state agencies (the Oregon Health Authority and Departments of Transportation, Human Services, and Environmental Quality) to create procedures for anonymous disclosure to protect whistleblowing activity. It also requires BOLI to report whistleblowing data and prepare a whistleblower’s manual to advise employers and whistleblowers of their rights. The retaliation whistleblowers can experience for sharing complaints is a protection under the Civil Rights Act of 1964.
- Senate Bill 479, effective January 1, 2020, requires public employers to adopt policies to prevent workplace harassment, including prompt harassment investigation and follow-up with reported harassment victims.
- Senate Bill 726, effective in full by October 1, 2020, establishes Oregon’s Workplace Fairness Act to prevent harassment for every employer in the state. It includes written policies, procedures, and practices for reduction and prevention of discrimination and a process for an employee to report prohibited conduct. It increases the statute of limitations on discrimination, sexual harassment, and sexual assault claims from one year to five years, and includes other preventive measures.
- House Bill 3377 and House Concurrent Resolution 20 established an independent, nonpartisan office — the Legislative Equity Office — and a legislative Joint Committee on Conduct to respond to harassment at the Oregon State Capitol. The legislation also requires investigation to be completed within 84 days after complaints are initiated.

Audit Results

DAS is responsible for creating and supporting the statewide HR system. This system enables agencies to attract, hire, and retain employees to carry out the mission of the state. A key component of retaining employees is ensuring their safety. Recent state harassment issues and actions taken to address these issues, including new statutory requirements, as well as the unknown impacts of the COVID-19 pandemic on the state workforce, make it an ideal time and opportunity for DAS to enhance its leadership, oversight, and analysis of statewide workplace discrimination and harassment trends and risks.

DAS should provide oversight and direction for state workplace discrimination and harassment investigations

Currently, DAS does not provide systemic oversight and analysis of the state workforce. Specific to discrimination and harassment investigations, we interviewed DAS and surveyed other agencies and found that while some agencies track investigations, there is no statewide system for doing so. DAS included new funding for tracking software in its 2019-21 budget proposal to the Governor, but the proposal was not included in the Governor's requested budget to the Legislature. Tracking and analysis of these data would allow DAS to assess whether allegations are handled appropriately and to identify other potential root causes, statewide trends, and risks that require proactive mitigation.

As a result of a lack of statewide oversight, based on a review of investigation files at nine agencies, we found inconsistencies in investigation duration and quality. We did not attempt to determine whether the outcomes of investigations were appropriate; rather, we focused on assessing how agencies conduct investigations without centralized oversight. We observed some promising practices at agencies that align with DAS's revised policies and leading practices contained in our literature review.

Though responsible for statewide HR administration by state law, DAS is not monitoring and assessing HR investigations or identifying statewide workforce trend and risks

ORS 240 identifies DAS as the entity responsible for oversight of the statewide HR system. However, DAS has largely delegated HR responsibilities to individual agencies and does not formally monitor, track, or perform trend assessment of employee investigations.

DAS management views the agency's role as one of informal support rather than formal oversight and assessment of state agency HR actions. DAS officials believe that, since DAS has delegated HR operations to agencies — including investigations — those agencies are solely responsible for oversight. From this management perspective, DAS views its role as providing training, policies, and investigative support when requested. DAS leadership indicated that they have an idea of how investigations are going statewide, however, this is an informal process that they do not document. While statute does outline DAS's role in supporting agencies, the law includes language indicating DAS should have a system of oversight that includes periodic reviews and reports to the DAS director.

Four statutes support a greater role for DAS in managing the state workforce. ORS 240.145 makes DAS responsible for personnel services at the state level. This includes establishing a roster of all state employees, developing policies and procedures, and working with agencies to develop employee training programs. ORS 240.215 includes language making DAS responsible for developing and maintaining job classifications, and ORS 240.235 charges DAS with setting salary ranges. Additionally, ORS 240.311 "Delegation of authority and responsibility by division;

post-audit review... Delegations of authority and responsibility to operating agencies shall be subject to appropriate post-audit review by the Personnel Division.”⁸

ORS 240.311 is admittedly unclear in that it does not define what post-audit means, specify who is supposed to conduct the post-audit review, or provide DAS with guidance on what exactly it should be doing to comply with the law. However, the existence of the statute indicates that any delegation of authority to agencies from DAS is subject to a level of review and, perhaps, approval. The statute also indicates a legislative intent to have an independent review/audit of agency HR actions and investigations.

The fact that the Legislature tasked DAS with these responsibilities conveys an expectation that DAS will perform them or otherwise ensure these responsibilities are properly fulfilled. Regardless of how DAS has managed these in the past, there is now a stronger statewide focus and urgency on preventing discrimination and harassment in the workplace. Without oversight, there is no accountability. Without guidelines and expectations, there are no standards for DAS to use when evaluating the performance of those agencies to which DAS has delegated these functions. Since DAS is unclear as to what the statute requires of them, a legal interpretation by the Oregon Department of Justice would help ensure DAS provides proper oversight.

Additionally, at the beginning of our audit, we found DAS could not list all the agencies subject to its authority under law. DAS was ultimately able to develop this list at our request, providing the list prior to the issuance of this audit.

DAS does not track investigation information

One mechanism of oversight is documenting operational information and analyzing it to identify areas for improvement. We found that DAS has never documented or analyzed statewide workforce information relating to allegations or investigations of discrimination or harassment.

DAS did anticipate an increase in the need for investigations as a result of legislation passed in 2019 and recently began an effort to acquire a statewide tracking system. As part of its preparation for the agency’s 2021-23 budget request, DAS issued a request for information on a tracking system. This request allowed vendors to provide information on potential software solutions. DAS viewed a system that allowed investigators to timely, easily, and accurately input, assign, track, and report these investigations as essential to successful compliance with the new legislation.

In 2019, the Legislature passed two bills that require employers to document instances of workplace discrimination and harassment.⁹ In response, DAS updated its statewide discrimination and harassment free workplace policy with a list of what information agencies should track.¹⁰ While these changes to law and policy were intended to help protect employees by preventing instances of discrimination and harassment and provide victims avenues for reporting and resolving allegations, there are some flaws with the law and with its implementation.

Senate Bill 479

The legislation requiring agencies to document information about investigations of discrimination and harassment does not specify what agencies should do with that information to better fight discrimination and harassment.

First, the law does not specify what agencies should do with the information they gather; it includes no directive to analyze, share, or use the information to better prevent discrimination and harassment in the workplace. Second, neither DAS nor any other state entity is monitoring

⁸ The CHRO’s title at the time the statute was written was Personnel Division.

⁹ Senate Bill 726 and Senate Bill 479, 2019

¹⁰ DAS Policy 50-010-01: Discrimination and Harassment Free Workplace, 2020

whether agencies are complying with these new requirements or using the data to reduce risks of discrimination and harassment.

We surveyed 48 HR directors and investigative personnel, representing 64 agencies, on a variety of topics, including tracking of allegations and investigations. From the 33 directors and investigative personnel that responded (69% response rate), we learned many agencies have never formally tracked investigation data, while others have software systems in place, or use spreadsheets to track investigations. Some of these agencies even track categories like allegation types, subject of the allegation, length of investigation, and outcome. Tracking requirements have recently changed, and state agencies are now required to document more to comply with DAS's revised policy. Agencies are beginning to capture these data; however, the DAS policy does not contain guidance for what agencies should do with the information once documented.

Though a more robust solution will likely be needed in the future, tracking investigations now would not require an expensive or complex information system. By law and DAS policy, agencies should be tracking important information regarding allegations and investigations. DAS could obtain this information from agencies and analyze it to assess if DAS-provided training and policies need revision.

Furthermore, DAS could use the data to determine if there are problems across the state or whether agencies could use additional guidance, support, and accountability. For example, our analysis of 86 investigative files revealed that four of the nine agencies we reviewed had investigations that took at least 127 business days to complete. DAS could use information like this to assess whether allegations receive a prompt response, or if overall investigation lengths are appropriate and to identify other potential root causes, statewide trends, and risks that require proactive mitigation. DAS's planned budget request for a statewide workforce data system supports a need for greater statewide data and analysis of workforce trends and risks.

Given the serious issues facing the nation regarding systemic discrimination and harassment, as well as the unknown impacts of the COVID-19 pandemic on the state workforce, being able to identify potential trouble spots in the state's HR system would allow DAS to fulfill its legal responsibilities, provide targeted support to agencies in real-time, and better protect employees of the state and the interests of the state. As a consequence of this lack of oversight, the actual investigations themselves at state agencies vary widely.

Investigation timing and quality varies among agencies

Independent investigators

DAS, the Oregon Department of Corrections, the Oregon Health Authority, and the Oregon State Police employ independent investigators.

Investigations into allegations of discrimination or harassment should be prompt, thorough, fair, transparent, and independent from outside influence. Investigators should also have the necessary time to thoroughly and adequately conduct investigations. Two of the agencies surveyed have opted to employ independent investigators, while a third agency uses employees outside of HR to conduct investigations; however,

most agencies use general HR personnel to conduct investigations. One agency mentioned they use independent investigators to increase independence and expertise.

These differing approaches impact the speed at which agencies conduct investigative processes and the quality of investigatory documentation. Investigations performed by independent investigators generally took longer than those performed by HR personnel. However, independent investigator's files generally contained higher quality documentation, like investigation reports.

Figure 4: Our investigation file review showed the timelines to conduct investigations vary widely

Response to allegations within 48 hours?		Investigation started within one week?		Do files contain an investigation plan?		Do files contain an investigation report?		Investigation length?	
Yes	47 (55%)	Yes	49 (57%)	Yes	16 (19%)	Yes	64 (74%)	Median days	56
No	18 (21%)	No	16 (19%)	No	69 (80%)	No	21 (24%)	Median months	2
Unclear	21 (24%)	Unclear	21 (24%)	Unclear	1 (1%)	Unclear	1 (1%)		

Total Cases Reviewed: 86

Disparities exist in the timeliness and quality of state agency workplace harassment and discrimination investigations

The EEOC has developed a list of five core principles generally considered effective at preventing and addressing workplace harassment.¹¹ One principle is consistent and demonstrated accountability. Investigations are an accountability mechanism and part of an effective anti-discrimination and harassment system in the workplace. One of the risks associated with a lack of oversight is disparity in how allegations are treated and investigated.

To test how agencies respond to allegations and conduct investigations, we reviewed investigation files and found investigation procedures, documentation, and lengths varied substantially among the agencies. We also surveyed agencies subject to DAS authority and found that, while most agencies have HR personnel conduct investigations, some have opted to employ independent investigators to increase independence and develop expertise in conducting these investigations. These differing approaches appeared to impact timeliness of investigations.

While there is no generally accepted timeframe for an employer to respond to discrimination or harassment allegations, leading practice suggests investigations should be prompt or immediate, without delay. The Society for Human Resource Management states employers are legally obligated to investigate allegations in a timely manner and that quick investigations are critical.¹² Many laws, such as the Americans with Disabilities Act and Age Discrimination in Employment Act, state employers are “legally obligated to investigate allegations (harassment, discrimination, retaliation, safety, and ethical) in a timely manner.”

An immediate response is more than a means for an employer to show they take allegations seriously; it demonstrates a commitment to employee safety. Unnecessarily conducting an investigation over a lengthy period may communicate to employees that allegations of misconduct are unimportant. In addition, as time goes by, it becomes more difficult to collect evidence and get witnesses to talk and recall details accurately, as details are forgotten, documentation disappears, and the bad behavior continues. A responsive investigation will not only yield the best information and evidence, but enhances the credibility of both the employer and the investigator.

In response to the Governor’s October 2017 press release speaking out against allegations of sexual harassment in the Legislature,¹³ DAS developed an investigations toolkit to provide general guidance and considerations to personnel when conducting investigations. Included in

¹¹ [EEOC: Promising Practices for Preventing Harassment, 2017](#)

¹² Society for Human Resource Management, How to Conduct an Investigation, 2018

¹³ Office of the Governor, October 24, 2017

the toolkit are steps for investigators to take within the first week of receiving an allegation of discrimination or harassment.

Agencies must also abide by the expectations established in collective bargaining agreements between the state and various employee unions. For example, the collective bargaining agreement between the state and the Service Employees International Union, which has more than 22,000 members in Oregon government, states employees have 30 days to file their grievance when they believe a violation of the collective bargaining agreement has occurred. The collective bargaining agreement also says employers must respond to this within 30 days.

Similarly, the legislation supporting the newly created Legislative Equity Office mandates that investigations be conducted promptly and shall be completed as soon as is practicable.¹⁴ Investigations must be completed within 84 days from the date the allegation is filed.

There are circumstances that allow for an extension to investigation timeframes. Some entities like BOLI, and the EEOC have processes that allow for such extensions. Specifically, BOLI's process requires an accused entity to respond to BOLI's inquiry within 14 days. During that 14 days, the accused entity should do its own internal investigation and develop its response to the allegation, explaining its actions. Upon request, BOLI's process allows the accused entity an additional 14 days to respond. This process is quick when compared to the timeframes of the investigation files we reviewed, but there are no expectations like these currently in place.

In our file review, we assessed how quickly agencies responded to allegations, if they began an investigation within a week, and overall length of investigations from receipt of the allegation to when investigators closed a case. The review revealed investigations do not consistently align with leading practices, including the areas covered by the DAS toolkit.

For example, in its investigation toolkit, DAS suggests acknowledging receipt of an allegation within 24 to 48 hours, yet only 55% of the files we reviewed included a documented response within 48 hours of receipt of an allegation. Our review showed agencies with independent investigators responded within 48 hours more frequently than those without.

Beginning investigations

Only 57% of the investigations we reviewed began within a week of receiving the allegation.

The DAS toolkit also states interviews and other fact-gathering activities should begin within a week of receiving an allegation, yet only 57% of the files we reviewed contained evidence, to support that the investigation began within a week. Agencies with HR personnel serving as the investigators started their investigations within a week

more often than those with independent investigators, yet they still experience the occasional delay. In one case, it took an agency 39 business days to begin the investigation. This agency uses HR personnel to conduct investigations and cited workload as the reason for the delay. Additionally, 24% of the cases we reviewed did not contain any date showing when the agency began its investigation. Delays in acknowledging allegations and initiating investigations adds to the overall length of investigations and can negatively impact employees.

Lengthy investigations can cost millions

There is no agreed upon best practice that defines how long an investigation should take, as there are many factors that can impact the length of investigation. These are sensitive and complex situations that require time and care, and often, circumstances outside of the investigator's control add time. Further, the victim, accused, or witnesses may not be immediately available for interviews due to being on protected leave. By law, an employer

¹⁴ House Concurrent Resolution 20, 2019.

cannot interfere with an employee's protected leave, even if that employee is under investigation. In these circumstances, it is often best that investigators wait for an employee to return to work. Likewise, an investigator may not be available to begin immediately due to other work constraints, or it may take longer than expected to gather evidence such as video recordings, emails, witness interviews, or other electronic documents. While there may be valid reasons for delays, they should be documented and communicated to those involved to demonstrate they were not due to carelessness or lack of priority.

Benchmarks for investigators to follow, like those in the union contracts and BOLI example, along with expectations that investigators record delays and reasons for those delays would not only ensure the process is transparent, but also holds investigators accountable if delays could have otherwise been avoided.

Regardless of the potential reasons that may extend their length, investigations that appear to take long can negatively impact the accuser who may feel unsafe, unvalued, and unwelcome in the workplace; they can impact the accused, as delays may cause uncertainty about their employment; and they can impact the state, which may pay large sums of money to employees on duty station home.

Employees under investigation on paid leave

From July 2011 to February 2020, the state paid about \$18 million in duty station home to employees under investigation.

For example, depending on the allegation, an accused employee may be removed from the workplace while the agency investigates the allegations. This work status is called duty station home. In some cases, employees are placed on unpaid disciplinary leave. We reviewed payroll records for these two groups of employees. From July 2011 to February 2020, we found 51 state agencies that placed

employees on duty station home and paid these employees \$18 million while under investigation. We also found 22 agencies that placed employees on unpaid disciplinary leave. During the period of our review, we also found:

- More than 2,000 employees were placed on one of these two groups, some more than once;
- On average, the state paid about \$175,000 a month to employees on duty station home with the most expensive month being January 2020 around \$310,000;
- The ten agencies we selected for our file review made up 88%, or \$16 million, of the duty station home totals;
- One employee was placed on a combination of duty station home and unpaid disciplinary leave two separate times, for nearly 45 months and at a cost of more than \$166,000;
- Another employee at the same agency was on duty station home for an average of 31 months at a cost of more than \$133,500; and
- Another agency had more than 655 employees on a combination of duty station home and unpaid disciplinary leave costing the agency more than \$6.15 million, an average of almost \$60,000 a month.

In the investigations we reviewed, agencies took an average of 56 business days from the date they received an allegation to complete an investigation. Agencies with HR investigators had shorter investigations, taking 36 business days on average, while agencies with independent investigators had longer investigations, taking 76 business days on average. Though the independent investigators took longer, our review provided insight into the differences in practices between the two approaches.

There are inconsistencies in how agencies document investigations

The quality of investigatory work shows in what investigators include in their files. This includes investigation plans, reports, interview notes, and other documentation used in reaching a conclusion regarding any allegations. The work of investigators can become part of a lawsuit should a party take legal action; the quality of investigators' work should reflect this high standard.

In the files we reviewed, there was a marked difference in what investigators included and the level of professionalism these expressed. For example, in some of the files we reviewed, we found information from unrelated cases, handwritten documentation, missing dates, and missing key documents. We also observed differences between what HR investigators and independent investigators documented their files.

One of the commonly missing documents was an investigation plan. These plans help guide an investigator through the investigation, including who they will need to interview and what evidence they will need to gather. One of the biggest mistakes an investigator can make is not planning before beginning investigative work. In the 86 investigations we reviewed, only 16 (19%) had a plan. HR investigators' files accounted for nearly all of these. A lack of planning can lead an investigation off track or even cause an investigator to miss key evidence or steps.

Finally, 26% of the cases we reviewed did not include a complete report on the outcomes of the investigation. Further, independent investigators' files were more likely to include a report. Failure to report on the outcome of an investigation and errors in documenting a report undermine a process otherwise intended to be fair, objective, and credible. Missteps like these can cost employers large sums for back pay, legal damages, and legal fees.

One legal firm who represents a wide range of employers, including Fortune 500 companies, stated that a full, detailed report should summarize the relevant facts based on the information obtained from interviews, documents, and other investigatory work, and should include a detailed analysis and conclusion section. This section should include credibility determinations, should outline the reasons for reaching a decision, and should clearly state the investigator's conclusion or finding regarding each allegation.

The inconsistencies we observed highlight the need for improved oversight to ensure that investigators provide timely, fair, and thorough investigations. Shortcomings in these areas reveal opportunities to better train investigators for these increasingly common, and complex, investigations.

DAS should develop a statewide training program for personnel assigned to investigate discrimination and harassment allegations

Responsible leadership involves overseeing not only policies, procedures, and corrective actions, but the training of one's employees. Employees must be trained for the duties they are expected to perform, and though some agencies in our review have made efforts to provide this training, many have not.

To learn about investigator training, we conducted interviews, and sent a survey to HR directors and investigative managers. We learned DAS provides little to no training and there are no requirements for investigators to receive periodic and ongoing training, leaving agencies to seek training themselves. We also learned over half the agencies who responded to this survey question provide their investigators with training on how to conduct these investigations. In all, training hours for investigators over the previous two years ranged from zero to more than 80 hours.

DAS is charged with the responsibility for developing training programs. The agency can do more to support investigators and ensure consistency in the investigative process by working with agencies to develop proper training programs.

DAS does not provide a comprehensive HR investigations training program

As established by ORS 240.145, one of DAS's duties is to work with agencies to carry out employee training programs to improve the quality of service provided by state employees. DAS provides mandatory statewide employee training on preventing discrimination and harassment in the workplace. All employees are required to complete this training annually. However, DAS does not provide introductory and ongoing training for investigators of workplace discrimination and harassment.

In addition, there are no requirements statewide or at the agency level that investigators receive periodic or ongoing training. Instead, agencies rely on prior experience, on-the-job training, and occasional outside training. Learning on the job is a valid means of training, but workplace discrimination and harassment investigations require more specialized knowledge, such as legal requirements, investigation planning, confidentiality, interviewing skills, note-taking, and report-writing.

DAS officials told us they asked for funding to develop a training program in their 2019-21 budget request to the Governor; however, this initiative was not included in the Governor's recommended budget to the Legislature. As DAS could not provide support for this claim, we could not independently verify its validity.

The survey we sent to HR directors and investigative managers provided us their perspective on available training, and what they do to ensure investigators are adequately prepared to conduct workplace investigations. We learned:

- DAS provides little or no training in this area;
- Some investigators receive little to no training;
- Most training for investigators is provided by DOJ or another outside entity;
- Investigator estimates of all training received in the previous two years varied from unknown to more than 80 hours; and
- Nearly half of those who responded to this question felt the amount of training investigators receive in this area is inadequate, though some were not tracking training hours at all.

The HR directors and HR personnel we surveyed made clear the amount of training they receive is not enough and they believe DAS is in position to support their need for training in this critical area. As we have highlighted, there are financial and organizational risks associated with mishandling of, or delays in, completing these investigations. There are also equity risks when some employees' allegations are investigated differently. Consistent training for all investigators can help mitigate some of these risks.

Emerging workload and a critical public health issue affect investigations

Increased oversight and guidance for investigations are needed not just for the safety of employees and the overall wellbeing of Oregon's workforce, but because competing priorities are constantly a threat to these employees' time.

For example, when DAS introduced Workday to the state, it led to a large increase in work for HR shops across state agencies. In response, some HR shops have added additional positions,

including the CHRO, to address this additional work. This increased workload creates more competition for employees' time.

While no qualitative data are yet available to capture the impact of the COVID-19 pandemic on the statewide workforce, it has undoubtedly created situations in which HR offices are adjusting practices to account for employees working remotely. These employees will still require training, feedback, payroll, benefits, and other services to complete their work. All of these could impact investigations if there are no formal systems in place to guide these personnel.

Recommendations

To enhance its ability to oversee state government workplace discrimination and harassment investigations, DAS should take the following actions:

1. Identify and document which agencies, boards, and commissions are subject to DAS CHRO oversight, and maintain this list if legislative changes affect those agencies, boards, and commissions.
2. Work with agencies to develop a tracking system for all discrimination and harassment allegations and investigations.
3. Periodically analyze allegation and investigation data to identify risks and root causes related to cases alleging discrimination and harassment.
4. Obtain legal advice from DOJ, seeking interpretation of ORS 240.311, and what DAS should be doing to fulfill its legal responsibility when delegating its authority.

To better support state government employees conducting workplace discrimination and harassment investigations, DAS should work with agencies to:

5. Develop a training curriculum for investigators that includes introductory and regular ongoing training.
6. Develop guidelines for investigation timeframes, including exception processes if investigators have legitimate reasons they cannot adhere to these guidelines.

Objective, Scope, and Methodology

Objective

Our objective was to determine if DAS ensures effective management over workplace discrimination and harassment complaints.

Scope

The audit focused on DAS oversight of state government's discrimination and harassment prevention and response practices, specifically: tracking and investigation of complaints, training for employees investigating complaints, and employee availability to conduct investigations. This audit focused only on complaints and investigations pertaining to state government employees.

Methodology

To address our audit objectives, we used a methodology that included, but was not limited to: conducting interviews, reviewing documentation and investigation files, surveying agency HR and investigative employees, and reviewing tort claim and employee pay code data.

To learn about the views, opinions, and perspectives of major stakeholders, we conducted interviews with the DAS CHRO, select agencies, and surveyed 48 HR and investigative staff representing 64 agencies. Of these 48 employees, 27 completed the survey, while six partially completed the survey. While most of these agencies are subject to DAS oversight as authorized by ORS 240, some agencies we surveyed are not.

To gain an understanding of internal controls for discrimination and harassment prevention and response, we reviewed relevant state laws, policies, and guidelines.

For our examination of investigation practices, we reviewed 86 files and conducted follow-up work as needed at nine agencies:

- DAS (enterprise and agency HR support functions);
- Department of Corrections;
- Department of Human Services;
- Department of Revenue;
- Oregon Department of Transportation;
- Oregon Employment Department;
- Oregon Health Authority;
- Oregon State Police; and
- Oregon Youth Authority.

We selected these agencies by analyzing DAS tort claim data from the period of January 1, 2016, through August 8, 2019. We analyzed 279 claims, totaling the claims by agency and selecting the top ten agencies with the most claims that are also subject to DAS as authorized by ORS 240. We then requested from each agency a list of investigations completed between November 1, 2017, and January 7, 2020, in which the original complaint related to allegations of discrimination or harassment. From the lists provided by agencies, we randomly selected ten investigation files for review. If an agency did not have ten investigations in the timeframe, we reviewed all available files. We did not attempt to project our results to the entire population of discrimination and harassment investigations.

To gain an understanding of practices in other states, at the federal level, and in the field, we reviewed audit reports and literature from: Utah, Colorado, Louisiana, the City of Austin, and the City of Seattle, Association of Workplace Investigators, Equal Employment Opportunity Commission, and Society for Human Resource Management.

Internal Control Review

We determined that the following internal controls were relevant to our audit objective.¹⁵

- **Control Environment**
 - We considered management’s responsibility for overseeing discrimination and harassment complaints and investigations.
 - We considered management’s responsibility to assign responsibility and delegate authority to carry out human resource functions including discrimination and harassment complaints and investigations.
 - We considered management’s responsibility to demonstrate a commitment to recruit, develop and retain competent staff to receive discrimination and harassment complaints and conduct any associated investigations.
- **Risk Assessment**
 - We considered whether management has defined clear objectives and measurable terms to assess the performance around these discrimination and harassment complaints and investigations to enable identification of risks and response to risks.
 - We considered whether management identifies, analyzes, and responds to significant changes that could impact the discrimination and harassment complaint and investigative processes.
- **Control Activities**
 - We considered whether management has defined objectives for the discrimination and harassment complaint and investigative processes and set control activities through policies, procedures, techniques, and mechanisms to enforce management’s directives to achieve those objectives.
- **Information and Communication**
 - We considered whether management uses quality information to achieve its discrimination and harassment complaint and investigative objectives.
 - We considered whether management has internally and externally communicated the quality information needed to achieve discrimination and harassment complaint and investigative objectives.
- **Monitoring Activities**
 - We considered whether management is monitoring the system of controls around discrimination and harassment complaints and investigations and the results of these discrimination and harassment complaints and investigations.
 - We considered whether management evaluates issues and remediates internal control deficiencies on a timely basis.

Deficiencies with these internal controls were documented in the results section of this report.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions

¹⁵ Auditors relied on standards for internal controls from the U.S. Government Accountability Office, report [GAO-14-704G](#).

based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

We sincerely appreciate the courtesies and cooperation extended by officials and employees of DAS and the other agencies during the course of this audit.

Audit Delays and Scoping Limitation

As required by Government Auditing Standards, “Auditors should also report any significant constraints imposed on the audit approach by information limitations or scope impairments, including denials or excessive delays of access to certain records or individuals.”¹⁶ Though the fallout of the COVID-19 pandemic has undeniably impacted workplaces in both government, and private sectors, the pandemic had minimal effect on one of the following significant constraints in our audit.

During the audit, we experienced an information limitation and delays of access to records in the following ways.

When we notified DAS of our intent to review investigation files, they instructed the agencies we selected to not provide information until they could confer with DOJ to determine whether we had the authority to review the files. Once DOJ informed DAS we do have authority to review these files, we partnered with DAS to develop instructions for agencies.

DAS’s instructions led to another delay, as agencies believed they were not to provide the requested documentation until DAS could hold a meeting to answer agency questions related to our request. As a result of this delay, we did not receive the first list of case files until nearly two months after informing DAS of our objective, and nearly a month after providing the instructions to agencies.

The scoping limitation occurred once we sampled the files for review. In some instances, we had to make several requests with agencies. A few agencies took weeks to respond to our requests. DOJ was one agency whose delays prevented us from including their files in our work as the delayed timing of our agreed upon review coincided with the Governor’s executive order¹⁷ to implement social distancing in response to the COVID-19 pandemic.

Despite several requests for electronic copies, DOJ was unwilling to provide electronic access to their records, limiting the scope of our review.

¹⁶ United States Government Accountability Office Yellow Book, 2011 Revision, Chapter 7, paragraph 11. <https://www.gao.gov/assets/590/587281.pdf>

¹⁷ Office of the Governor, State of Oregon, Executive Order 20-25 https://www.oregon.gov/gov/admin/Pages/eo_20-25.aspx



Oregon

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October 8, 2020

Kip Memmott, Director
Secretary of State, Audits Division
255 Capitol St. NE, Suite 500
Salem, OR 97310

Dear Mr. Memmott,

This letter provides a written response to the Audits Division's final draft audit report titled: DAS Need to Provide Oversight to Improve Investigations of Workplace Discrimination and Harassment at State Agencies.

Thank you for providing the Department of Administrative Services (DAS) the audit report. We appreciate the work and collaborative approach of the Audits Division staff. The report highlighted potential risks in each of the three areas reviewed. We look forward to working on our responses to the recommendations to enhance our commitment to improvement.

Below is our detailed response to each recommendation in the audit.

RECOMMENDATION 1		
Identify and document which agencies, boards, and commissions are subject to DAS CHRO oversight, and maintain this list if legislative changes affect those agencies, boards, and commissions.		
Agree or Disagree with Recommendation	Target date to complete implementation activities	Name and phone number of specific point of contact for implementation
Agree	This was completed during the audit	Carol Williams 503-798-2743

Narrative for Recommendation 1

We completed creating this list and will continue to revise and update as any changes occur that affect agencies, boards, and commissions.

RECOMMENDATION 2 Work with agencies to develop a tracking system for all discrimination and harassment allegations and investigations.		
Agree or Disagree with Recommendation	Target date to complete implementation activities	Name and phone number of specific point of contact for implementation
Agree	Post 2021-23 legislative budget approval	Heath Lawson 503-949-6355

Narrative for Recommendation 2

CHRO currently has a POP to request funding for a tracking system. Depending on the outcome of this request will determine the type of tracking CHRO will be able to implement.

RECOMMENDATION 3 Periodically analyze allegation and investigation data to identify risks and root causes related to cases alleging discrimination and harassment.		
Agree or Disagree with Recommendation	Target date to complete implementation activities	Name and phone number of specific point of contact for implementation
Agree	This is also contingent upon post 2021-23 budget approval	Heath Lawson 503-949-6355

Narrative for Recommendation 3

CHRO Policy and investigation units both currently do monitor for trends that they observe as they interact with agency HR offices across the state. To do anymore will depend on financial resources and personnel resources available to CHRO. The requested funding for an investigation tracking software in the 2021-23 budget would substantially increase the ability of CHRO to monitor for these types of trends.

RECOMMENDATION 4 Obtain legal advice from DOJ, seeking interpretation of ORS 240.311, and what DAS should be doing to fulfill its legal responsibility when delegating its authority.		
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Agree or Disagree with Recommendation	Target date to complete implementation activities	Name and phone number of specific point of contact for implementation
Agree	April 2021	Madilyn Zike 503-378-2065

Narrative for Recommendation 4

CHRO will obtain legal advice from DOJ seeking interpretation of ORS 240.311, and what DAS should be doing to fulfill its legal responsibility under this statute.

<p>RECOMMENDATION 5 Develop a training curriculum for investigators that includes introductory and regular ongoing training.</p>		
Agree or Disagree with Recommendation	Target date to complete implementation activities	Name and phone number of specific point of contact for implementation
Agree	Dependent upon resources	Madilyn Zike 503-378-2065

Narrative for Recommendation 5

Depending on the availability of resources both budgetary and personnel DAS agrees to work to develop curriculum for investigators that includes introductory and regular ongoing training.

<p>RECOMMENDATION 6 Develop guidelines for investigation timeframes, including exception processes if investigators have legitimate reasons they cannot adhere to these guidelines.</p>		
Agree or Disagree with Recommendation	Target date to complete implementation activities	Name and phone number of specific point of contact for implementation
Agree	May 2021	Heath Lawson 503-949-6335

Narrative for Recommendation 6

October 8, 2020

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It is the intention of CHRO to publish guidelines for investigation timeframes that are in keeping with currently negotiated collective bargaining agreements. The guidelines will also provide for exceptions to the generally accepted guidelines for instances when there are legitimate reasons it is not possible for the completion of the investigation within the recommended timelines.

Please contact Lisa Upshaw, DAS Chief Audit Executive at 971-719-3114 with any questions.

Sincerely,



Katy Coba
Chief Operating Office/DAS Director

cc: Lisa Upshaw
Madilyn Zike



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