

RESIDENT GRIEVANCE SYSTEM

**ANNUAL REPORT
FISCAL YEAR 2015**

**DEVELOPMENTAL DISABILITIES
ADMINISTRATION FACILITIES**

**Rhonda Callum, MS
Director
Department of Health and Mental Hygiene
201 West Preston Street, Room 546
Baltimore, Maryland 21201
1-800-747-7454**

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PART I

RESIDENT GRIEVANCE SYSTEM

FISCAL YEAR 2015

ANNUAL REPORT

BACKGROUND AND STRUCTURE DEVELOPMENTAL DISABILITIES ADMINISTRATION STATE RESIDENTIAL CENTERS and SECURED EVALUATION, THERAPEUTIC AND TREATMENT UNITS

The Resident Grievance System was established in 1985 as part of a negotiated settlement of the class action lawsuit, *Coe v Hughes, et al.* The negotiated settlement, titled the Coe Consent Decree, created a two tiered advocacy program to enforce rights guaranteed by federal and state laws and regulations; to assist patients with claims for benefits and entitlements; to achieve deinstitutionalization; and to assist patients in resolving civil legal problems. The program is governed by the Code of Maryland Regulations (COMAR) 10.21.14, entitled Resident Grievance System, adopted March 28, 1994 and amended January 26, 1998.

The Resident Grievance System is under the auspices of the Deputy Secretary for Behavioral Health within the Department of Health and Mental Hygiene. The program provides services for residents of the seven Behavioral Health Administration (BHA) Psychiatric Inpatient Facilities.¹ The Director of the program is responsible for hiring, evaluating, and assigning Rights Advisors (RA) to each of the seven BHA facilities.

On July 1, 2000, the DHMH Secretary, Dr. Georges Benjamin, decreed that the Resident Grievance System be expanded to provide rights advocacy for residents of the four State Residential Centers, operated by the Developmental Disabilities Administration (DDA). The policy governing the operation of the RGS in DDA facilities was finalized and distributed to DDA facilities by the DDA Director, Diane K. Coughlin, on December 19, 2002. The policy outlines the procedures governing the administrative process for receiving and investigating reports of injuries, death, allegations of physical, sexual, or verbal abuse, and any other rights issues, in a timely manner, in accordance with Health General §7-1003 (g), Annotated Code of Maryland.

In January, 2009, RGS began to provide services to the two Secured Evaluation and Therapeutic Treatment (SETT'S) Units operated by DDA. The units are located on the grounds of Springfield Hospital Center and Clifton T. Perkins Hospital Centers, respectively. The mission of the SETT units is to provide evaluation and assessment services, as well as, active treatment to court-involved, intellectually disabled individuals within a secure and safe environment. RGS uses the same administrative process as the State Residential Centers (SRC), to assist the individuals residing in the SETT Units.

¹ Effective July 1, 2014, the Mental Hygiene Administration and Alcohol and Drug Abuse Administration merged to become the Behavioral Health Administration (BHA).

RGS works collaboratively with the Office of Health Care Quality, the Maryland Disability Law Center and other stakeholders to ensure patient safety and protect their legal rights. RAs are responsible for investigating and mediating allegations of rights violations and providing education on patient's rights to residents and staff in DDA inpatient facilities. They also help protect the civil rights (voting, confidentiality, etc.) of patients. RAs are co-located at the facilities and attend and participate in various committees and facility meetings to address patients' concerns and advocate for patients' rights. To ensure patient services are not interrupted, all RAs are trained to provide RGS services in the absence of an assigned RA.

In January 1996, the Resident Grievance System implemented toll-free telephone access to the Central Office in addition to the two regular lines. This service allows residents to have immediate contact with the Resident Grievance System and has enhanced the ability to respond rapidly to patient concerns. Referrals to the Resident Grievance System can be made directly to the assigned Rights Advisor or the Central Office by using the toll free number, 1-800-747-7454. During Fiscal Year 2015, the Resident Grievance System received a total of 4,014 calls via the toll free telephone number.

Legal Assistance Providers

Legal Assistance Providers (LAPs) are the second tier of the patient rights program. Legal Assistance Providers are a group of independent attorneys, contracted by RGS, to provide the following specific legal assistance and representation services to residents within DDA facilities:

1. Admission Hearings - Representation of individuals proposed for admission to a State Residential Center in accordance with Annotated Code of Maryland, Health General §7-503. HG §7-503 requires a showing – by clear and convincing evidence – that the conclusions leading to the decision to admit an individual are supported by the following findings:
 - a. The individual has mental retardation;
 - b. The individual needs residential services for the individual's adequate habilitation; and
 - c. There is no less restrictive setting in which the needed services can be provided that is available to the individual or will be available to the individual within a reasonable time after the hearing.

In Fiscal Year 2015, the Legal Assistance Providers spent 94.36 hours representing 38 individuals at admission hearings.

2. Annual Reviews – An annual review of the current status of residents to determine whether they continue to meet retention criteria in accordance with Annotated Code of Maryland, Health General §7-505. HG §7-505, requires a determination of the following:
 - a. Whether this individual continues to meet the requirements of this subtitle for admission to a State Residential Center;
 - b. Whether the services which the individual requires can be provided in a less restrictive setting;

- c. Whether the individual's plan of habilitation as required by §7-1006 of this title is adequate and suitable; and
- d. Whether the State residential center has complied with and executed the individual's plan of habilitation in accordance with the rules, regulations, and standards that the Secretary adopts.

In Fiscal Year 2015, the Legal Assistance Providers spent 673.34 hours conducting annual reviews for 95 residents.

- 3. Habeas Corpus / Petition for Release - Representation of individuals who elect to petition for release pursuant to the Annotated Code of Maryland, Health General:
 - a. §7-506 Habeas Corpus - Any individual who has been admitted to a State residential center or any person on behalf of the individual may apply at any time to a court of competent jurisdiction for a writ of habeas corpus to determine the cause and the legality of the detention.
 - b. §7-507 Petition for Release - Subject to the limitations in this section, a petition for the release of an individual who is held under this subtitle from a State residential center may be filed, at any time, by the individual or any person who has a legitimate interest in the welfare of the individual.

In fiscal year 2015, the Legal Assistance Providers spent 0.0 hours representing 0 individuals in habeas corpus/petition for release. This is because, in FY15, no patients elected to apply for a writ of habeas corpus or petition for release.

- 4. Transfer Hearings - Representation of residents at transfer hearings pursuant to Annotated Code of Maryland, Health General:
 - a. §7-801 Authority of Director - The Director may transfer an individual with a developmental disability from a public residential program or a public day program to another public residential program or public day program or, if a private provider of services agrees, to that private program. Such transfers are permitted if the Director finds that the individual with developmental disabilities either can receive better treatment in, or would be more likely to benefit from treatment at the other program; or the safety or welfare of other individuals with developmental disability would be furthered.
 - b. §7-802 Transfer to a Mental Health Program - DDA may ask BHA to accept primary responsibility for a resident in a State residential center or an individual eligible for admission to a State residential center if DDA finds that the individual would be provided for more appropriately in a program for individuals with mental disorders. BHA shall determine whether it would be appropriate to transfer the individual to a mental health program.
 - c. A dispute over a transfer of an individual from DDA to BHA shall be resolved in accordance with procedures that the Secretary sets, on request of DDA or BHA. The

Director shall give the individual with developmental disability the opportunity for a hearing on the proposed transfer.

In fiscal year 2015, the Legal Assistance Providers spent 42 hours representing 7 residents at transfer hearings.

In fiscal year 2015, the Legal Assistance Providers spent 79.36 hours representing 14 residents requesting discharge.

CLASSIFICATION OF RIGHTS

Resident Grievance System Regulations (RGS), COMAR 10.21.14, define “Rights Issues” broadly as “an alleged violation of a resident’s rights, guaranteed by Federal and State constitutions, statutes, regulations, common law, or policies of the Department, Behavioral Health Administration, and the facility.” When the RGS was created, there was a general understanding that all rights issues are not stipulated in the law. Therefore, the RGS remains responsible for protecting all residents’ rights, including those rights not stipulated in the law. The RGS Director has the responsibility for developing the classification system and providing guidelines for its use.

The classification system developed by the Director is divided into three major classifications and 16 rights categories. The data in the Annual Report for Fiscal Year 2015 is reported within the three major classifications - grievances, clinical review panels, and information/assistance. However, DDA facilities do not conduct clinical review panels, therefore no facility data is reported within this classification. For purposes of data collection, form RGS-24 – “Category of Rights Issues” – is used to assign all cases to one of 16 major categories:

- abuse;
- admission/discharge/transfer;
- civil rights;
- communication and visits;
- confidentiality and disclosure;
- environmental;
- freedom of movement;
- money;
- neglect;
- personal property;
- rights protection system;
- treatment rights;
- other;
- no right involved;
- resident-resident assault; and death

Grievances

A “Grievance” is defined as a written or oral statement which alleges either that an individual’s rights have been unfairly limited, violated, or are likely to be violated in the immediate future; or that the facility has acted in an illegal or improper manner with respect to an individual or a group of individuals.

Grievances can be initiated by the individual, an employee of the facility, a family member of the individual, or any interested party.

Grievance management, a major responsibility of the RAs, includes receipt, investigation and resolution of complaints, and compliance with the systematic and orderly 4-stage grievance process. The RA has oversight of the grievance process, ensuring that the 4 stages are completed within 65 working days, as required by COMAR 10.21.14. RAs make every effort to negotiate, mediate and work toward the achievement of a mutually satisfactory resolution at Stage 1.

If unresolved at Stage 1, grievances proceed to Stage 2 for review and recommendations by the Unit Director. Grievances unresolved at Stage 2 proceed to Stage 3 for review, corrective action, if applicable, and/or recommendations by the Chief Executive Officer (CEO), with an optional review by the Resident’s Rights Committee. Unresolved Stage 3 grievances are referred to Stage 4 and reviewed at Stage 4 by the Central Review Committee (CRC), chaired by the Director of the Resident Grievance System. Stage 4 grievance decisions are sent to the resident and, when valid, recommendations for corrective action are sent to the facility’s CEO for implementation.

Following a thorough investigation by the RA, grievances are determined to be Valid, Invalid, or Inconclusive. A grievance is valid when evidence is sufficient to prove an allegation. When there is insufficient evidence to prove an allegation, a grievance is invalid. A grievance is inconclusive when sufficient evidence does not exist to prove or disprove an allegation.

In fiscal year 2015, Rights Advisors processed a total of 8 grievances. Of those 8 grievances, 3 (37.5%) were resolved at Stage 1, 0 were resolved at Stage 2, 2 (25%) were resolved at Stage 3 and 3 (37.5%) was resolved at Stage 4

Information/Assistance

Cases classified as Information/Assistance do not allege a rights violation. In these cases, patients are requesting information, clarification, or assistance with a concern. In DDA facilities, Information/Assistance cases can be initiated by Serious Reportable Incidents that have been investigated and found to have been satisfactorily resolved by the facility.

In fiscal year 2015, Rights Advisors processed **733** Information/Assistance cases, 99% of total patient cases.

**ACTIVITY PER FACILITY
Fiscal Year 2015**

<i>Facility</i>	Grievances	Information/Assistance	Total Cases
<i>HOLLY CENTER</i>	0	33	33
<i>POTOMAC CENTER</i>	4	625	629
<i>SETT - PERKINS</i>	0	5	5
<i>SETT - SPRINGFIELD</i>	4	70	74
TOTAL	8	733	741

**STAGE 4
CENTRAL REVIEW COMMITTEE**

A Stage 4 central review committee appeal is the last and final appeal level of the Resident Grievance System. A Rights Advisor is required to make every effort to negotiate, mediate, and resolve the grievance; however, the ultimate decision to resolve or appeal the grievance belongs to the patient. If the patient elects to appeal, the Rights Advisor is required to assist the patient in filing the appeal, even though the RA may not believe that the request has merit.

The central review committee is comprised of three members: Director of the Resident Grievance System and Director of DDA or their designees. The Committee reviews all prior information concerning the grievance and may conduct a further investigation, if deemed warranted by the Committee. At the conclusion of the review, the Committee issues a written decision, based on their findings, and makes recommendations for corrective action, if warranted. The Director of the RGS is responsible for monitoring the implementation of all corrective action recommended by the committee.

There were a total of 3 grievances appealed to Stage 4 in Fiscal Year 2015, representing 37.5 % of the 8 total grievances filed.

**DDA Trending Data
2007 – 2015**

Year	2007	2008	2009	2010	2011	2012	2013	2014	2015
Grievances	46	19	10	8	18	51	12	27	8
Abuse	18	9	2	2	5	14	5	7	1
Neglect	1	1	1	0	0	1	2	0	0
Treatment	10	5	4	1	3	20	0	2	0
I & A	603	558	358	268	397	579	535	521	733
Abuse	3	2	2	3	10	6	4	7	2
Neglect	4	0	2	10	7	5	2	26	11
Treatment	426	449	280	268	195	339	245	212	263
Stage 4	1	0	0	0	3	5	2	3	3
Deaths	11	13	12	8	7	3	3	8	8

All numbers represent totals

Legend

I & A = Information and Assistance requests

Trending Data indicates a significant decrease in Grievances from 2008 to 2013, with a spike in 2012. The number of grievances for FY 2014 more than doubled the number of grievances reported in FY 2013 and significantly decreased over 60% in 2015. On the other hand, Information and Assistance (I&A) requests began a decline in 2009 that lasted 3 year before another pattern of increases started in FY 2012. I & A cases increased 29% in 2015 from FY 14. Death trends have consistently decreased throughout the years with an increase beginning in 2014. Although FY 2012 recorded the highest number of stage 4 cases, there was no significant amount of annual stage 4 grievances reported the last 9 years.

It is important to note that in January 2009, the RGS began to provide services to the two Secured Evaluation and Therapeutic Treatment (SETT) Units operated by DDA. Prior to 2009, data only included the State Residential Centers. The addition of the SETT Units appeared to have no long term negative impact. On the contrary, the data reflects an interesting decrease in both Grievances, Information and Assistance request the first two years of the SETT Units addition to the RGS and death rates decreased the following 4 years.

PART II

**DEVELOPMENTAL DISABILITIES ADMINISTRATION
FACILITIES DATA
Fiscal Year 2015**

**Rhonda Callum, MS
Director**

**John Hancock
Database Program Manager**

DEMOGRAPHIC INFORMATION FY 2015

**AGGREGATE
GRIEVANCES (DDA)**

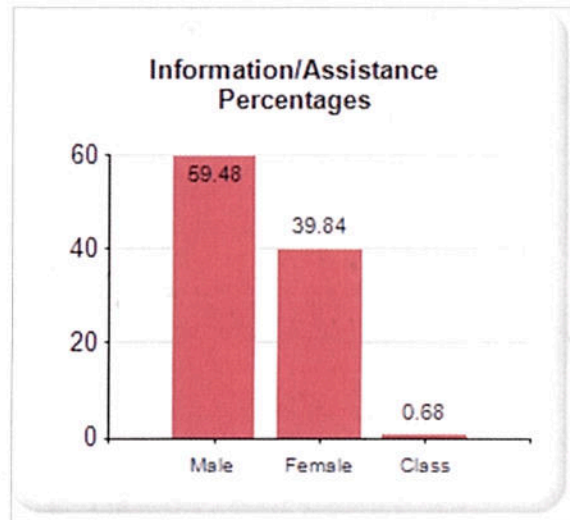
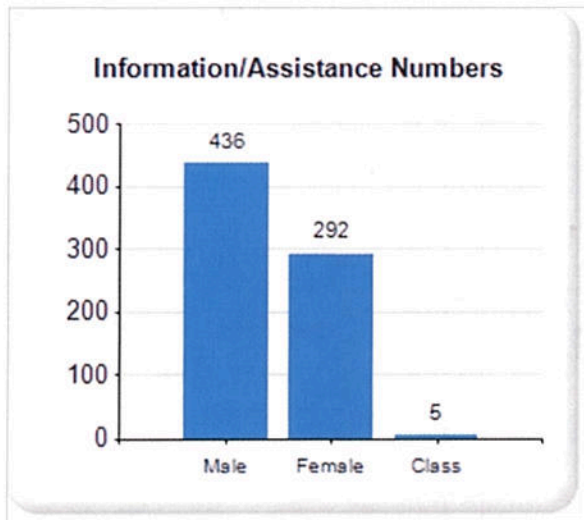
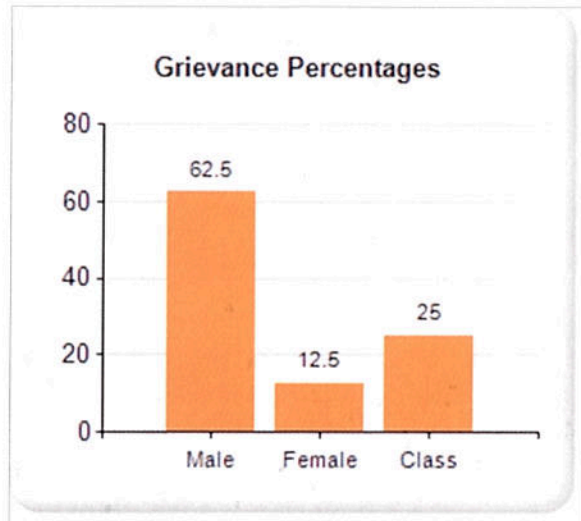
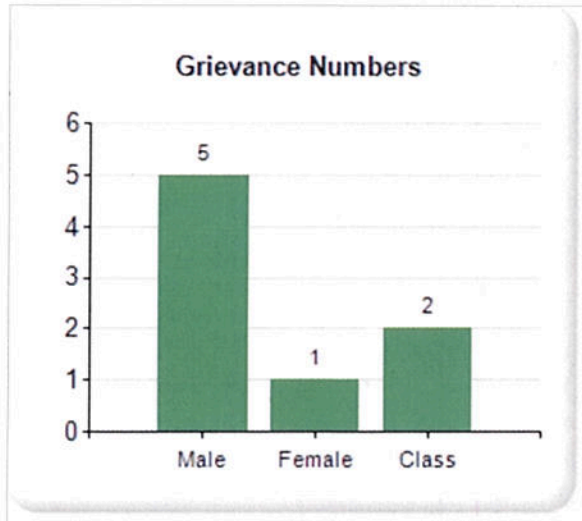
SEX	#	%	AGE	#	%	RACE	#	%
Female	1	12.5	<18	0	0	African American	4	50
Male	5	62.5	18-44	6	75	Asian	0	0
			45-64	0	0	Caucasian	2	25
			65+	0	0	Hispanic	0	0
						Unknown	0	0
Class	2	25	Class	2	25	Class	2	25
Total	8	100	Total	8	100	Total	8	100

**AGGREGATE
INFORMATION/ASSISTANCE (DDA)**

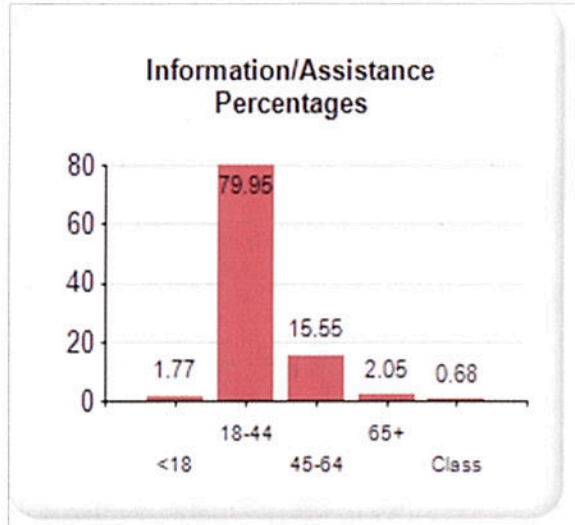
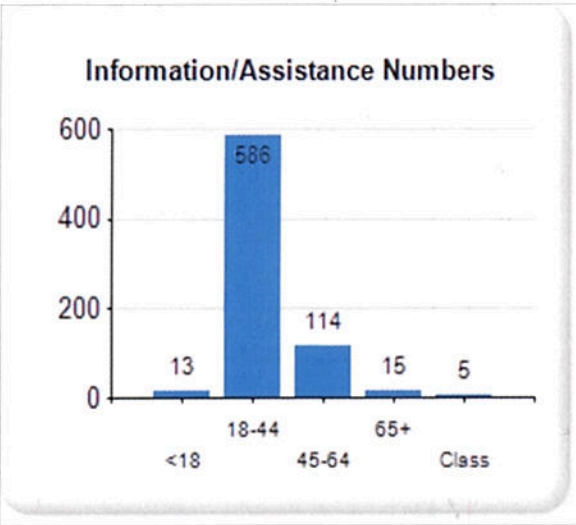
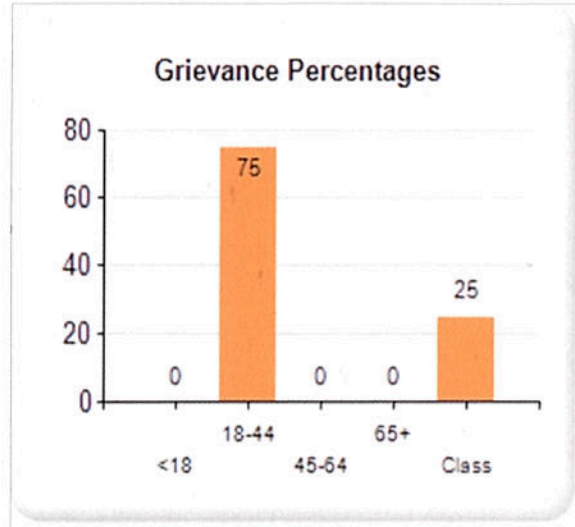
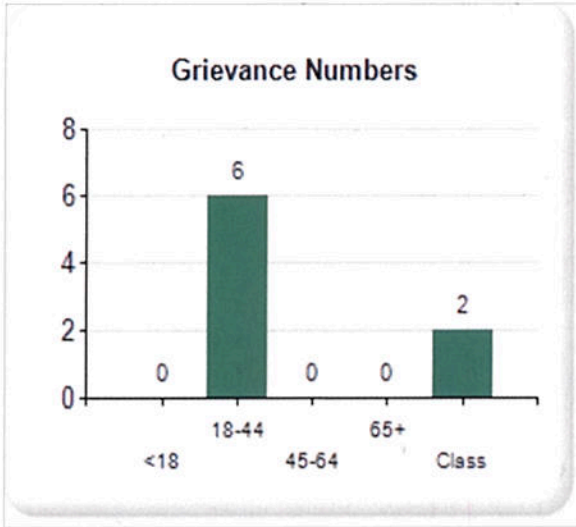
SEX	#	%	AGE	#	%	RACE	#	%
Female	292	40	<18	13	2	African American	352	48
Male	436	59	18-44	586	80	Asian	1	0
			45-64	114	15	Caucasian	333	45
			65+	15	2	Hispanic	42	6
						Unknown	0	0
Class	5	1	Class	5	1	Class	5	1
Total	733	100	Total	733	100	Total	733	100

Note: Class represents demographic information representative of a class action initiated by a group of residents and cannot be assigned to any of the specific demographic areas (sex, age and race) listed on the chart.

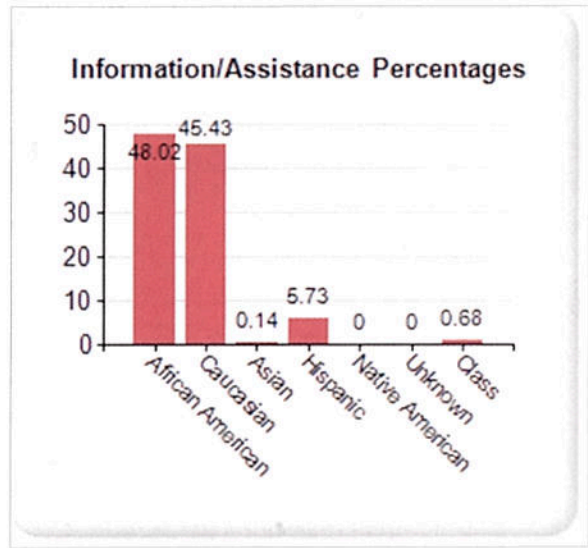
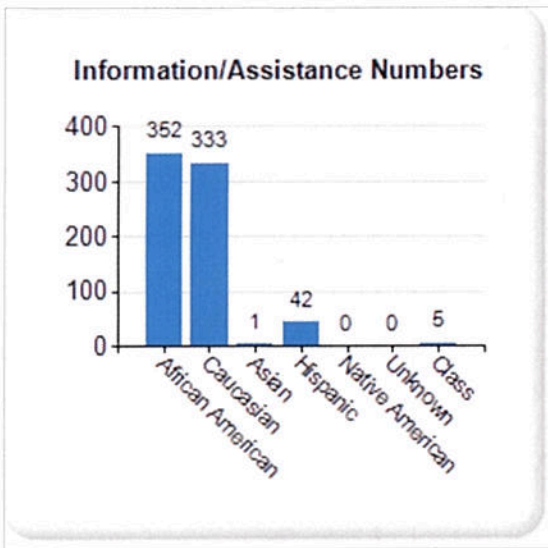
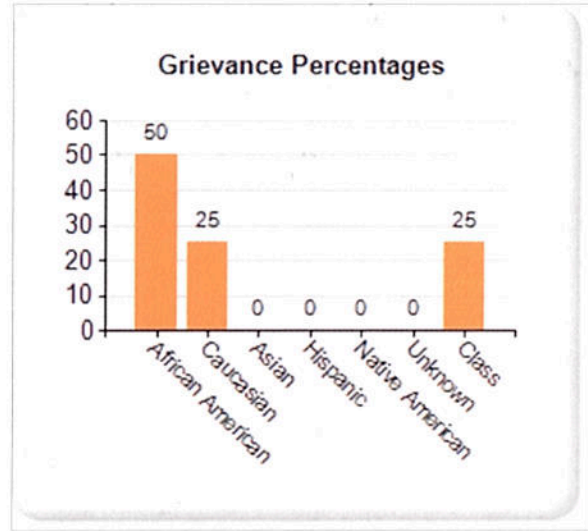
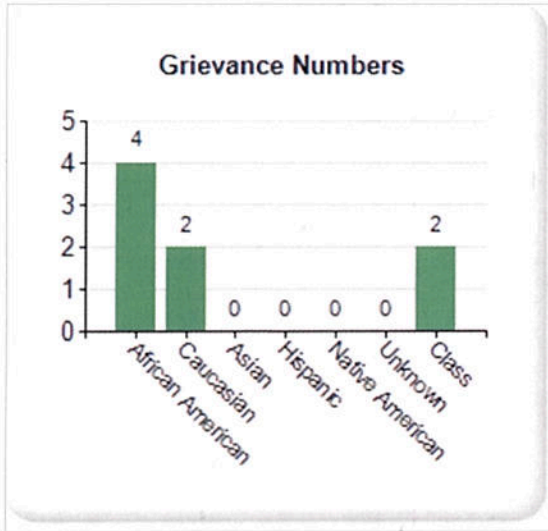
Aggregate Cases for Gender for DDA for FY15



Aggregate Cases for Age for DDA for FY15



Aggregate Cases for Race for DDA for FY15



Grievances – Holly Center

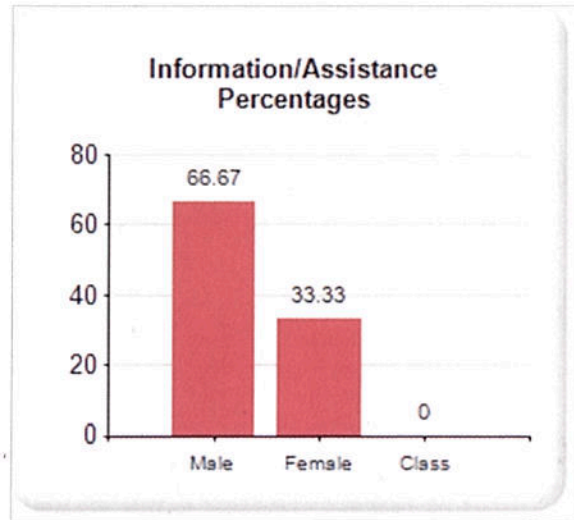
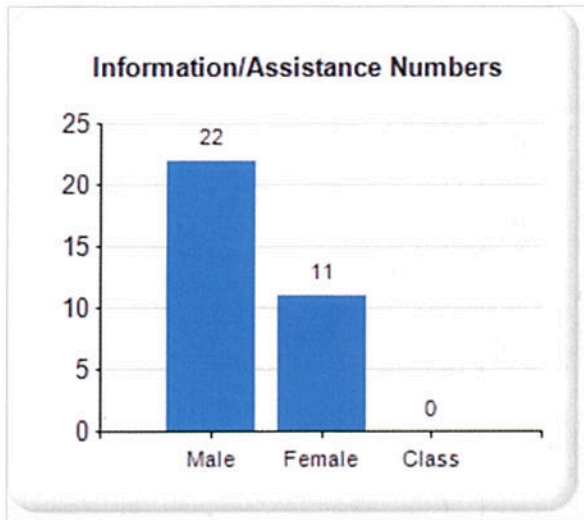
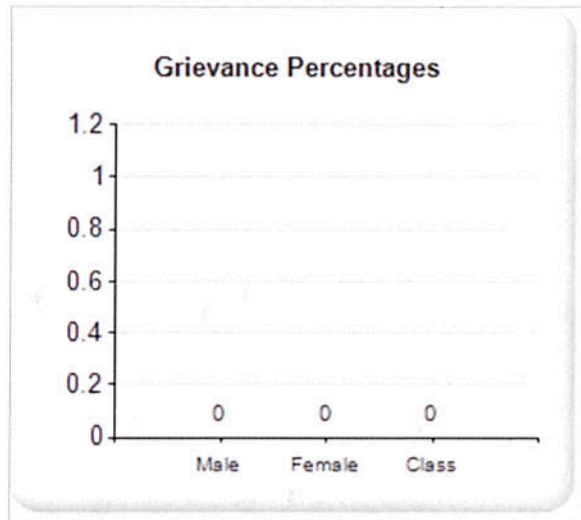
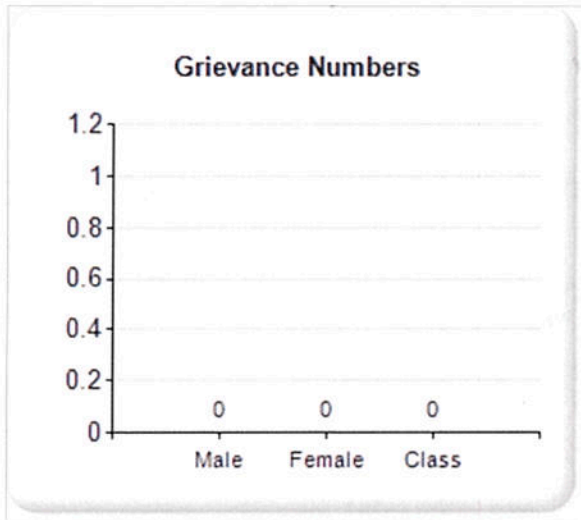
SEX	#	%	AGE	#	%	RACE	#	%
Female	0	0	<18	0	0	African American	0	0
Male	0	0	18-44	0	0	Asian	0	0
			45-64	0	0	Caucasian	0	0
			65+	0	0	Hispanic	0	0
						Unknown		
Class	0	0	Class	0	0	Class	0	0
Total	0	0	Total	0	0	Total	0	0

Note: There were no grievances reported in FY 2015 for this facility.

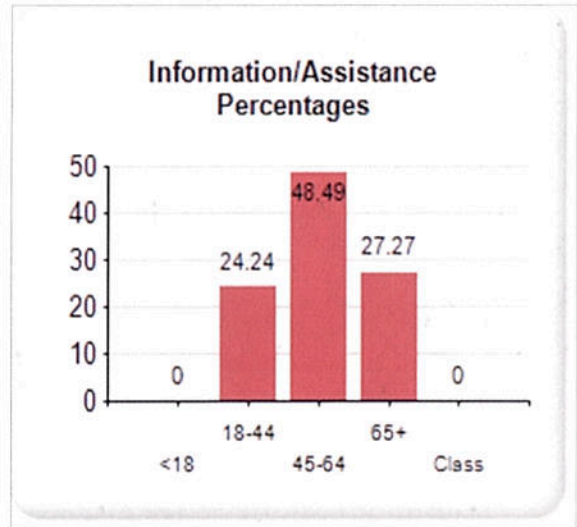
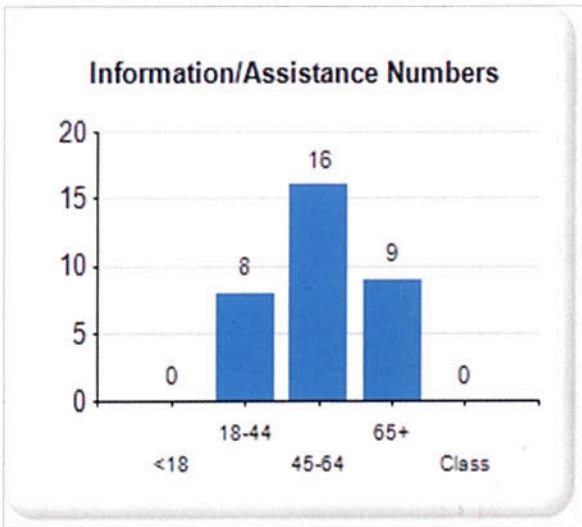
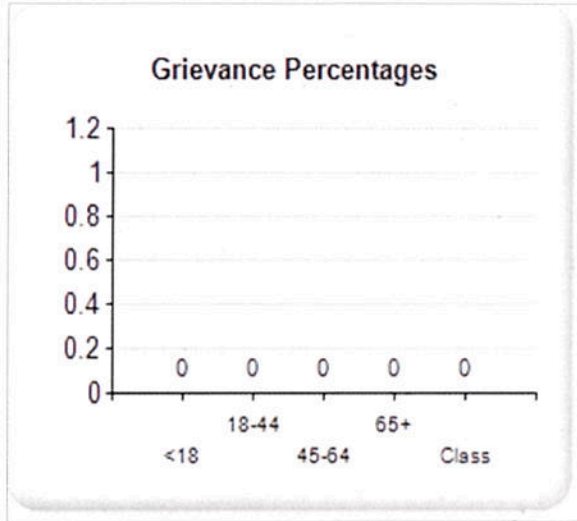
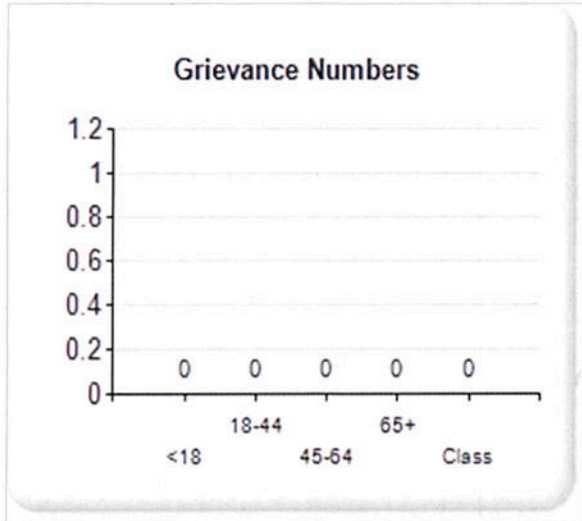
Information/Assistance – Holly Center

SEX	#	%	AGE	#	%	RACE	#	%
Female	11	33	<18	0	0	African American	5	15
Male	22	67	18-44	8	24	Asian	1	3
			45-64	16	49	Caucasian	27	82
			65+	9	27	Hispanic	0	0
						Unknown	0	0
Class	0	0	Class	0	0	Class	0	0
Total	33	100	Total	33	100	Total	33	100

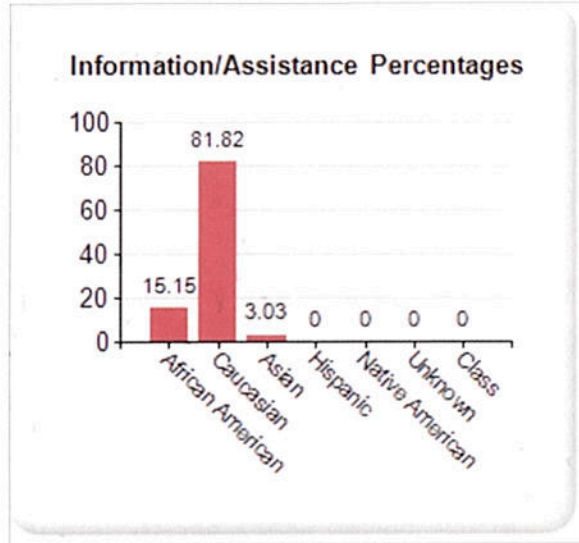
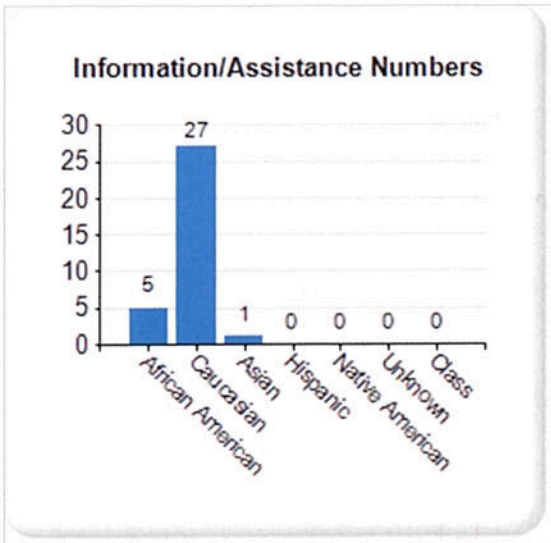
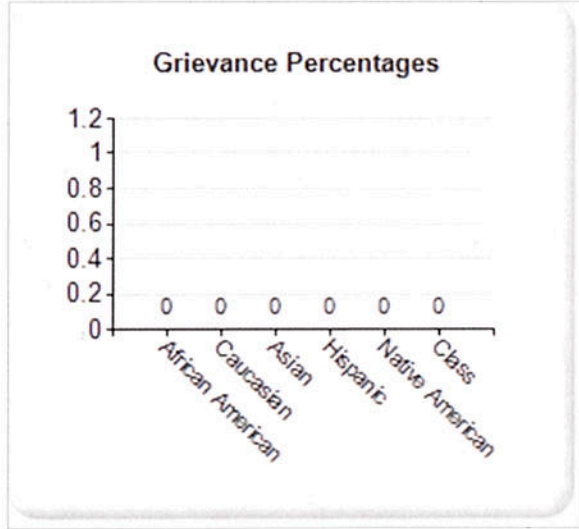
Cases for Gender for Holly Center for FY15



Cases for Age for Holly Center for FY15



Cases for Race for Holly Center for FY15



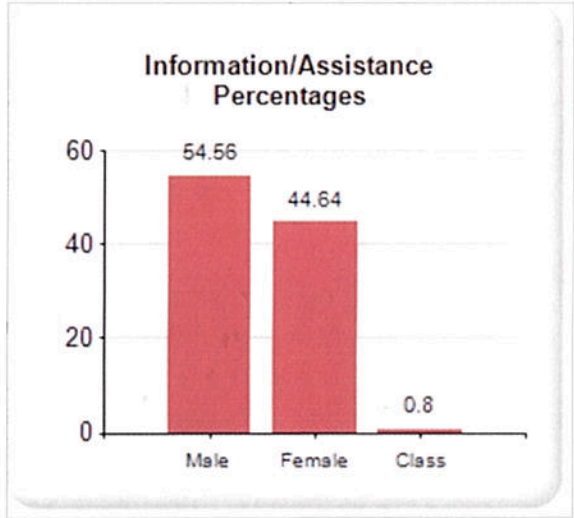
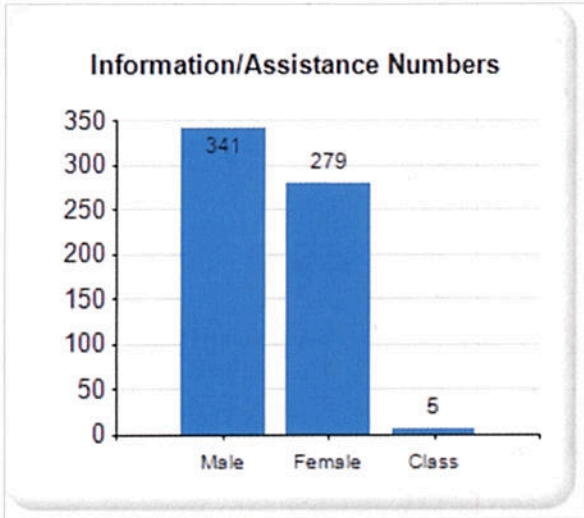
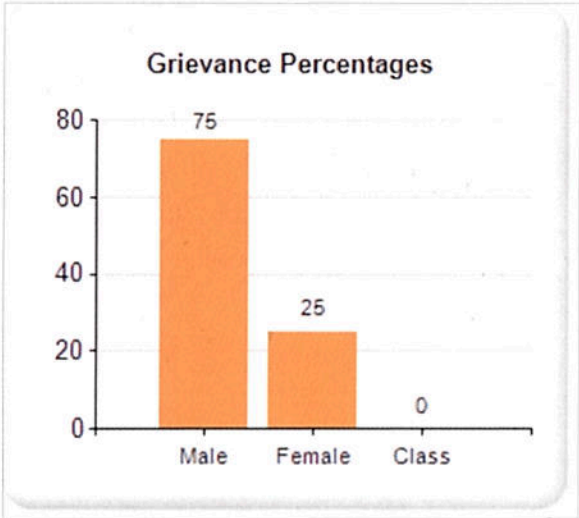
Grievances – Potomac Center

SEX	#	%	AGE	#	%	RACE	#	%
Female	1	25	<18	0	0	African American	3	75
Male	3	75	18-44	4	100	Asian	0	0
			45-64	0	0	Caucasian	1	25
			65+	0	0	Hispanic	0	0
						Unknown	0	0
Class	0	0	Class	0	0	Class	0	0
Total	4	100	Total	4	100	Total	4	100

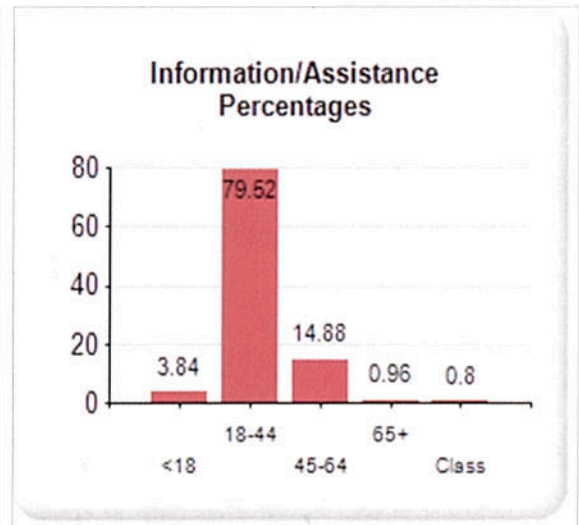
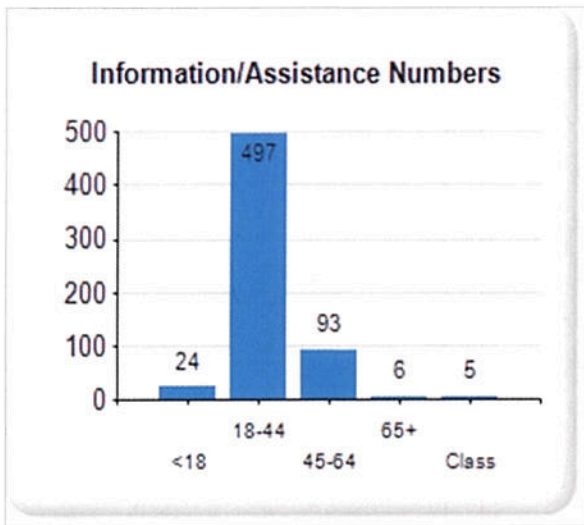
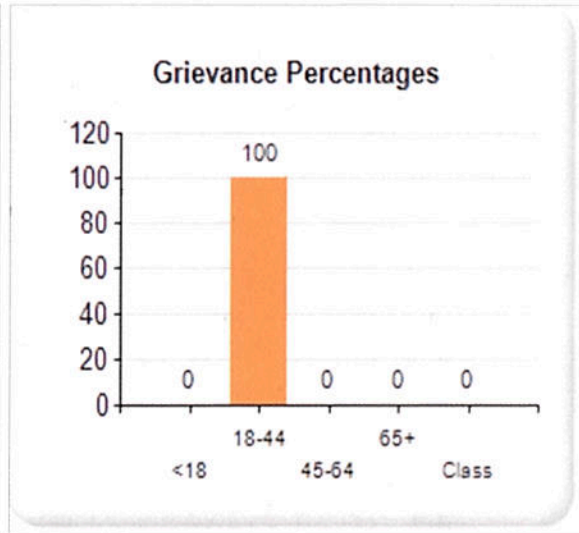
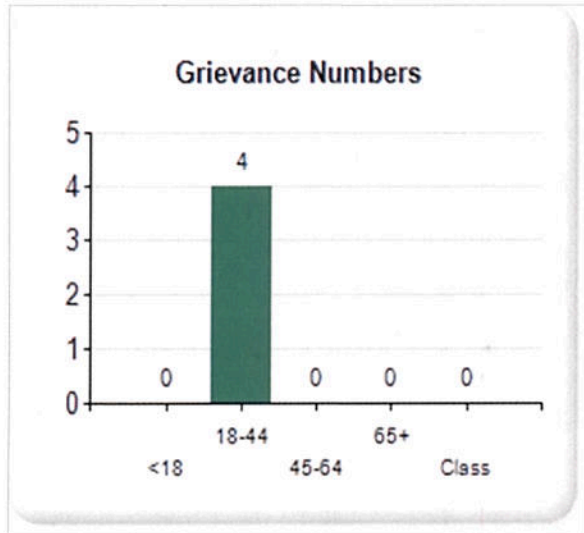
Information/Assistance – Potomac Center

SEX	#	%	AGE	#	%	RACE	#	%
Female	279	45	<18	24	4	African American	318	51
Male	341	54	18-44	497	79	Asian	0	0
			45-64	93	15	Caucasian	302	48
			65+	6	1	Hispanic	0	0
						Unknown	0	0
Class	5	1	Class	5	1	Class	5	1
Total	625	100	Total	625	100	Total	625	100

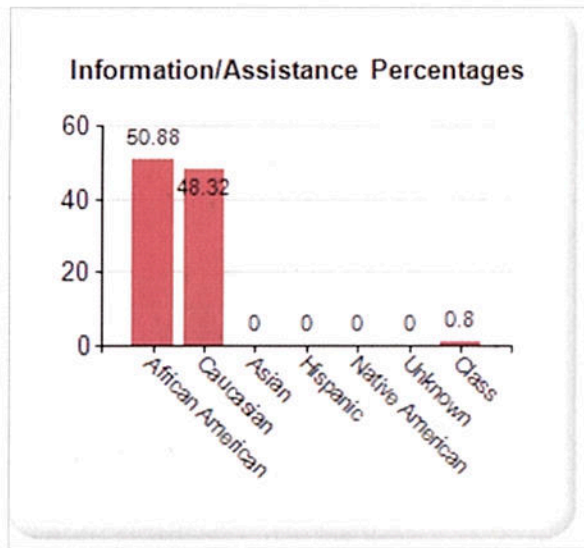
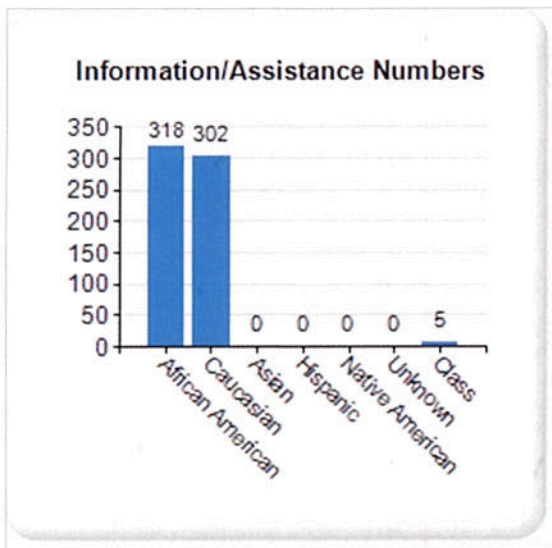
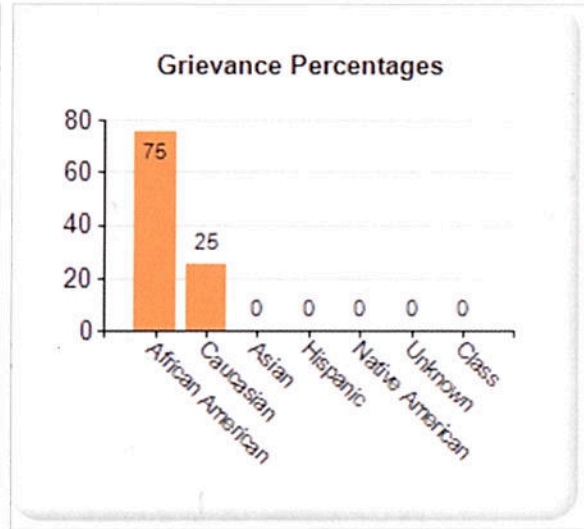
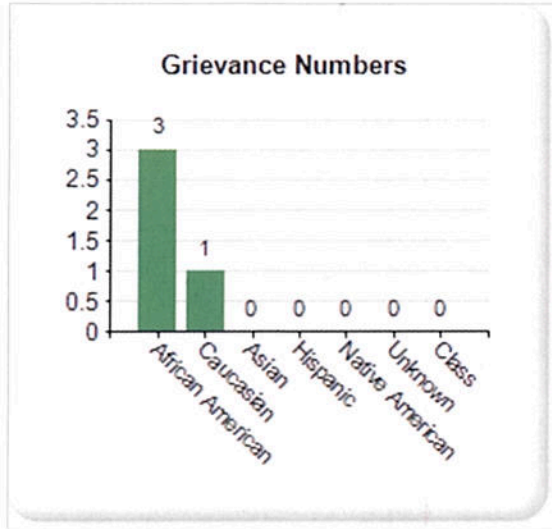
Cases for Gender for Potomac Center for FY15



Cases for Age for Potomac Center for FY15



Cases for Race for Potomac Center for FY15



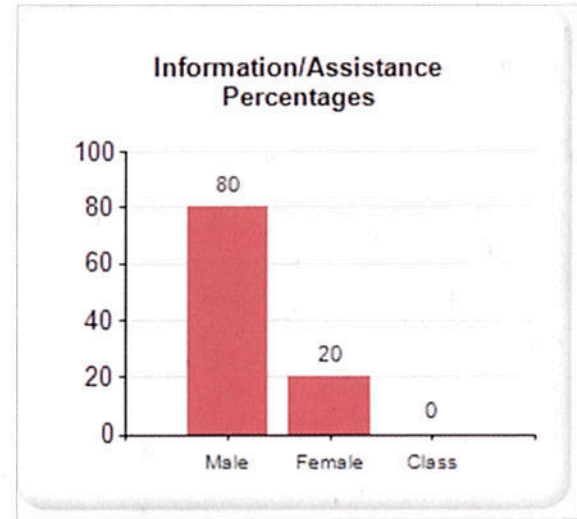
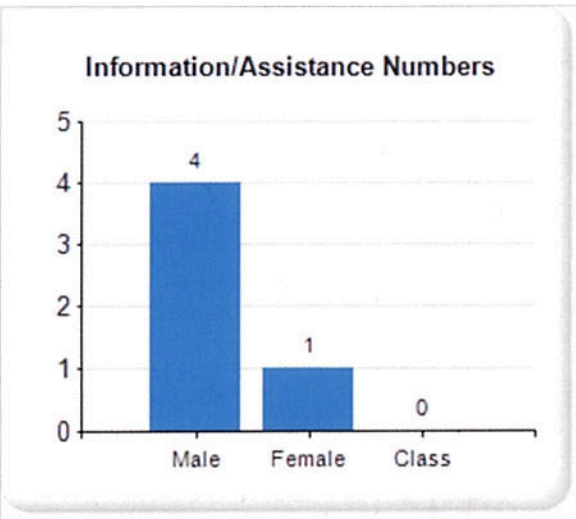
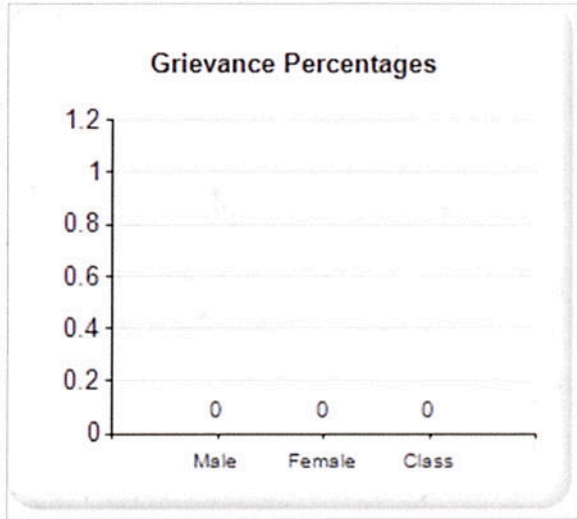
Grievances - Clifton T. Perkins Hospital SETT Unit

SEX	#	%	AGE	#	%	RACE	#	%
Female	0	0	<18	0	0	African American	0	0
Male	0	0	18-44	0	0	Asian	0	0
			45-64	0	0	Caucasian	0	0
			65+	0	0	Hispanic	0	0
						Unknown		
Class	0	0	Class	0	0	Class	0	0
Total	0	0	Total	0	0	Total	0	0

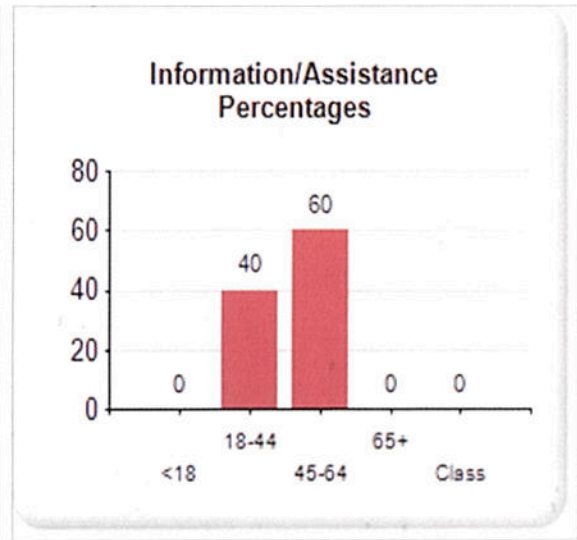
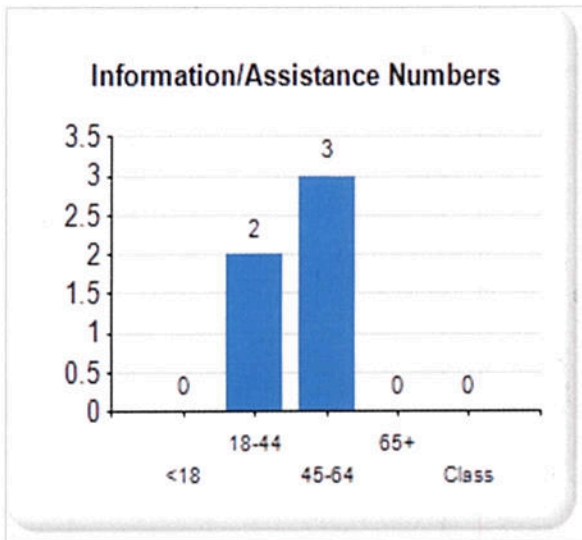
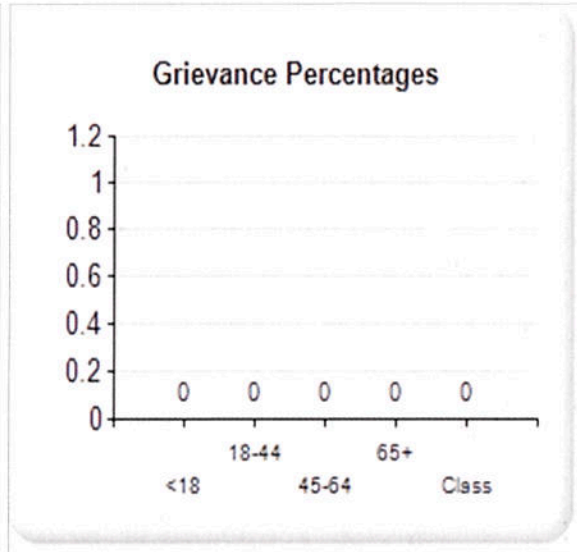
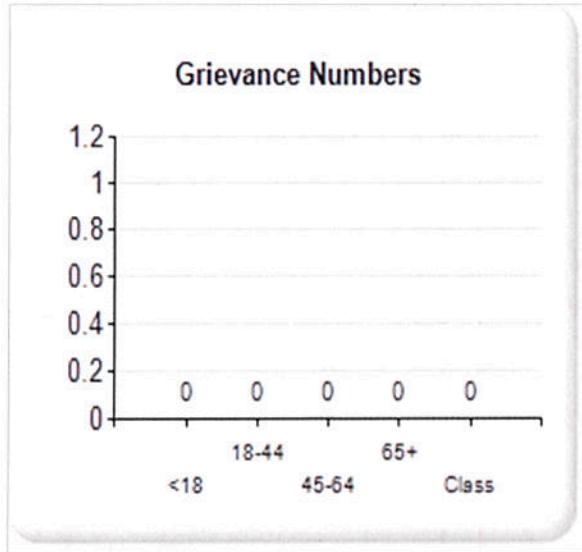
Information/Assistance - Clifton T. Perkins Hospital SETT Unit

SEX	#	%	AGE	#	%	RACE	#	%
Female	1	20	<18	0	0	African American	4	80
Male	4	80	18-44	2	40	Asian	0	0
			45-64	3	60	Caucasian	1	20
			65+	0	0	Hispanic	0	0
						Unknown		
Class	0	0	Class	0	0	Class	0	0
Total	5	100	Total	5	100	Total	5	100

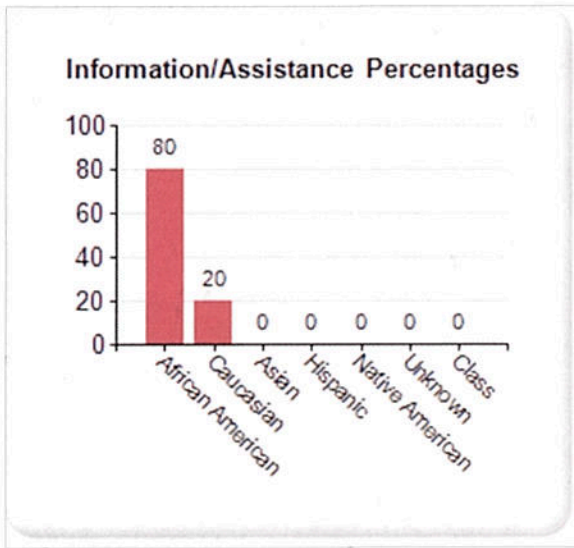
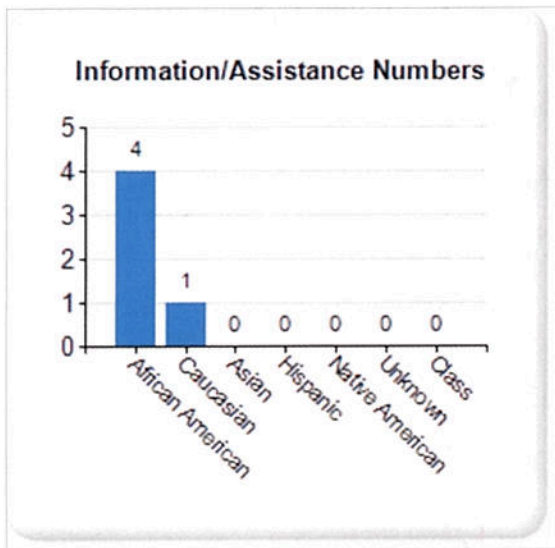
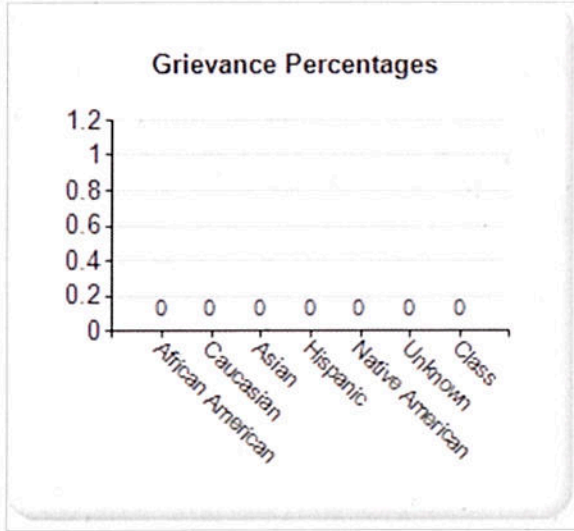
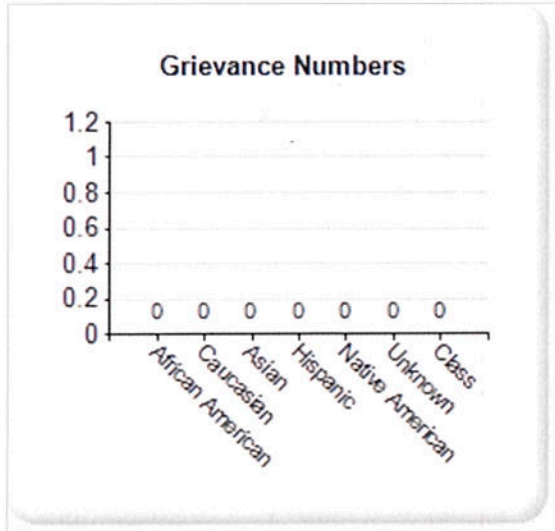
Cases for Gender for SETT Perkins for FY15



Cases for Age for SETT Perkins for FY15



Cases for Race for SETT Perkins for FY15



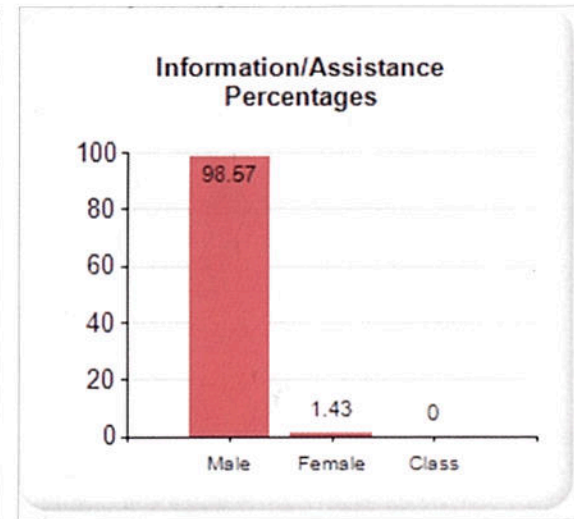
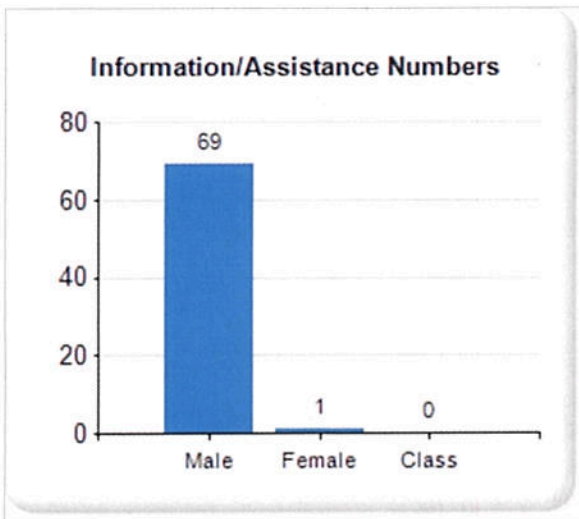
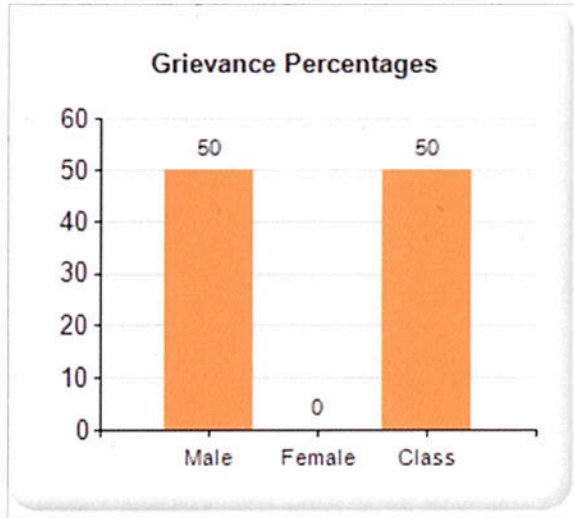
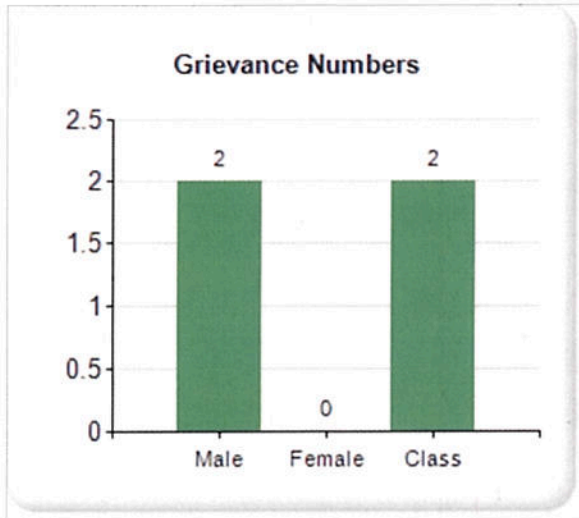
Grievance - Springfield Hospital SETT Unit

SEX	#	%	AGE	#	%	RACE	#	%
Female	0	0	<18	0	0	African American	1	25
Male	2	50	18-44	2	50	Asian	0	0
			45-64	0	0	Caucasian	1	25
			65+	0	0	Hispanic	0	0
						Unknown	0	0
Class	2	50	Class	2	50	Class	2	50
Total	4	100	Total	4	100	Total	4	100

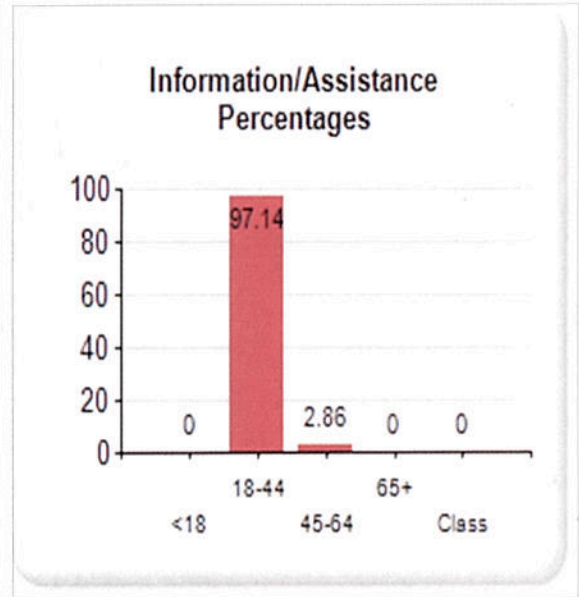
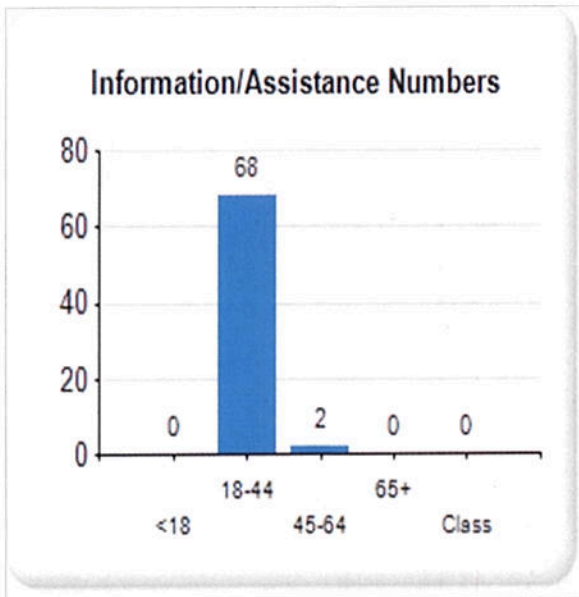
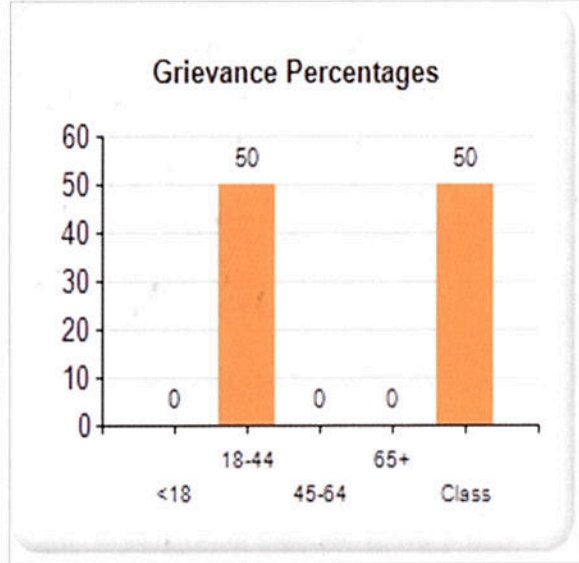
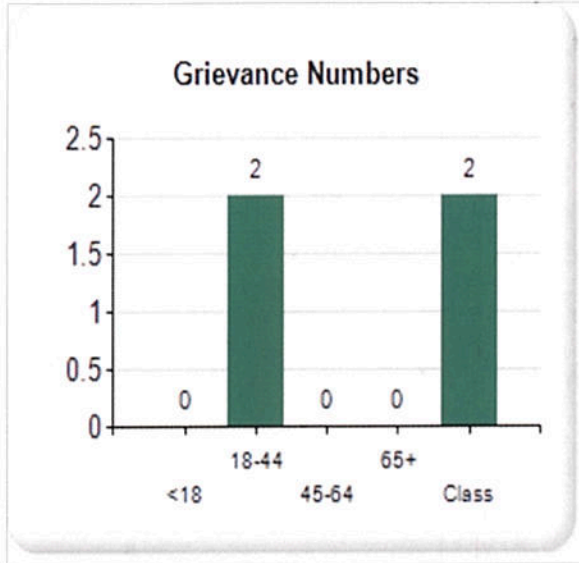
Information/Assistance - Springfield Hospital SETT Unit

SEX	#	%	AGE	#	%	RACE	#	%
Female	1	1	<18	0	0	African American	25	36
Male	69	99	18-44	68	97	Asian	0	0
			45-64	2	3	Caucasian	3	4
			65+	0	0	Hispanic	42	60
						Unknown	0	0
Class	0	0	Class	0	0	Class	0	0
Total	70	100	Total	70	100	Total	70	100

Cases for Gender for SETT Springfield for FY15



Cases for Age for SETT Springfield for FY15



Cases for Race for SETT Springfield for FY15

