



Workforce Plan

Fiscal Years 2015-2019

The Office of Injured Employee Counsel

Norman Darwin, Public Counsel

June 23, 2014

APPENDIX E

Workforce Plan

As part of the strategic plan required under Texas Government Code, Section 2056.002, each state agency is required to conduct a strategic staffing analysis and develop a workforce plan according to guidelines developed by the State Auditor. Workforce planning is an organized process for:

- Identifying the number of employees and the types of employee skill sets required to meet agency goals and strategic objectives; and
- Developing a plan of action to ensure that the appropriate workforce will be available to provide quality services to the citizens of Texas.

I. OVERVIEW

OIEC Mission

To assist, educate, and advocate on behalf of the injured employees of Texas

OIEC Philosophy

The Office of Injured Employee Counsel (OIEC) is committed to protecting the rights of the injured employees of Texas in the workers' compensation system. OIEC provides the highest level of professional, efficient, and effective customer service and maintains a work environment that values a diverse workforce, ethical management practices, teamwork, respect, and dignity.

OIEC Strategic Goals and Objectives

Goal 1 -- To assist injured employees in the workers' compensation system and protect their rights.

Objective 1.1 -- To provide assistance to all unrepresented injured employees requesting assistance each year.

Goal 2 -- To increase injured employee education regarding their rights and responsibilities and refer them to local, state, and federal programs.

Objective 2.1 To increase the knowledge of all injured employees and refer them to local, state, and federal programs each year.

Goal 3 -- To advocate on behalf of injured employees as a class.

Objective 3.1 -- To advocate on behalf of injured employees as a class in judicial, legislative, rulemaking, and administrative processes and ensure injured employee's rights are protected each year.

Core Business Functions

OIEC was established to represent the interests and provide services to all unrepresented injured employees when assistance is requested. OIEC's core business functions include:

- Assisting injured employees in the workers' compensation system by providing free Ombudsman services in TDI-DWC's administrative dispute resolution system;
- Educating injured employees about their rights and responsibilities and improving their ability to effectively navigate through the workers' compensation system; and
- Advocating on behalf of injured employees as a class in order to achieve a balanced workers' compensation system and protect their rights.

OIEC also refers injured employees to the Department of Assistive and Rehabilitative Services, the Texas Workforce Commission, TDI-DWC or other social or regulatory services, such as the Health and Human Services Commission or licensing boards, to assist injured employees with 1) finding employment, 2) training opportunities, 3) returning to work, 4) filing complaints with appropriate licensing boards or other regulatory agencies, 5) obtaining financial assistance, and 6) reporting alleged administrative violations.

Additionally, OIEC provides outreach presentations, workshops, seminars, speaking engagements, or other forums to workers' compensation system stakeholders regarding OIEC, its role, and its services.

Anticipated Changes to the Mission, Strategies, and Goals Over the Next Five Years

The 2014-2015 budget structure was carefully reviewed and recommendations for changes to the 2016-2017 budget structure were submitted to the Legislative Budget Board and the Governor's Office of Budget, Planning, and Policy on April 7, 2014.

Changes to the mission, strategies, and goals through the 2018-2019 biennia are not anticipated at this time.

II. CURRENT WORKFORCE PROFILE (SUPPLY ANALYSIS)

Demographics information, including age, gender, and length of service

Aging Workforce. Only seven percent of the employees are under the age of 30 while 40 percent of the agency's employees are 50 or older. The average age of an OIEC employee is 46.6.

Gender of OIEC Employees. According to the latest State Auditor's Office Workforce Summary Report (2012), 56 percent of state employees in Texas are female. The percent of female employees at OIEC is well above this number at 87 percent.

Average State Tenure. OIEC employees have an average of 11.5 years of state service, and 12.4 years of workers' compensation experience. Retaining and recruiting employees with workers' compensation knowledge is important to the agency, and 89 percent of OIEC employees see themselves working for this agency in one year, according to OIEC's 2014 Survey of Employee Engagement. Additional information regarding the survey can be found in Appendix F.

Ethnicity. OIEC's percentage of Hispanic employees is well above the 2012 statewide civilian workforce with 54 percent. The statewide civilian workforce is comprised of 33 percent Hispanics. OIEC's percentage of Black employees – 13 percent – is comparable to the statewide composition of 12 percent. The statewide composition of the Anglo workforce is 55 percent and OIEC's percentage is 32 percent.

Office of Injured Employee Counsel – Workforce Statistics by Equal Employment Opportunity (EEO) Category

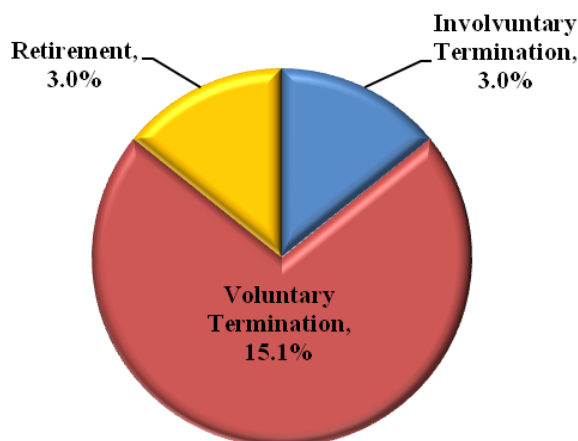
	Black	Hispanic	Anglo	Other	Male	Female
Officials, Admin. (A)	14.29%	50.00%	35.71%	0.00%	35.71%	64.29%
Professional (P)	13.64%	49.09%	35.45%	1.82%	14.55%	85.45%
Technical (T)	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%
Para-Professional (Q)	11.36%	68.18%	20.45%	0.00%	2.27%	97.73%
Admin. Support (C)	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%
Skilled Crafts (S)	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%
Service & Maintenance (M)	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%
All Categories	13.10%	54.17%	31.55%	1.19%	13.10%	86.90%

Employee Turnover. OIEC employee turnover has increased within the past few years. OIEC's turnover rate (including interagency transfers) was 16.2 percent in FY 2012 and 21.1 percent in FY 2013. Reasons for the departures cited on exit interviews include low salary, personal reasons, and retirement. The turnover rate is anticipated to be lower in FY 2014. As of the end of the second quarter of FY 2014, the turnover rate was five percent.

OIEC's most vulnerable program area is the Ombudsman Program. Ombudsmen are required to go through extensive training and obtain a workers' compensation adjuster's license, which makes them targets for companies wanting to hire qualified and trained adjusters.

More than half of employees who leave OIEC resign voluntarily for reasons other than retirement as shown in the chart below. Most cited personal circumstances as the reason for leaving. Agency turnover and reasons for turnover are expected to change markedly within three to six years based on an analysis of employee retirement eligibility.

**OIEC Employee Turnover Justification
FY 2013**



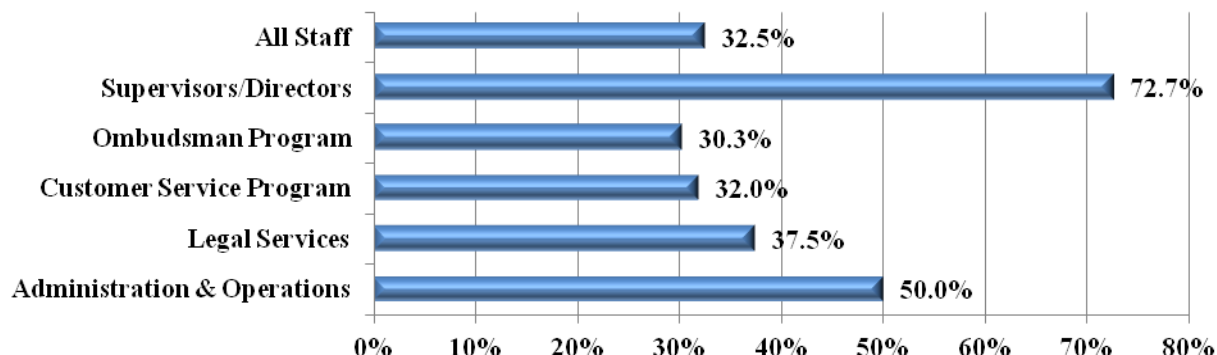
Projected Employee Turnover Rate over the Next Five Years

OIEC anticipates that the turnover rate over the next five years is likely to be relatively stable at approximately 15 percent.

Employee Retirement. Approximately 27 percent of all agency staff is currently eligible to retire. The percentage increases to 33 percent through August 31, 2019.

More than 27 percent of OIEC management staff is currently eligible to retire. The percentage increases to 73 percent through August 31, 2019.

Percent of Agency Staff Eligible to Retire Within 5 Years



Currently, seven percent of OIEC Ombudsmen (not including management staff) are eligible to retire. At the end of August 31, 2019, the percentage jumps to 30 percent.

Workforce Skills Critical to the Mission and Goals of the Agency

The agency is staffed with professional, skilled, and well-qualified employees. Maintaining a workforce with particular knowledge and skill sets is critical to the agency's ability to operate effectively and efficiently in achieving its mission and goals. These skill sets include:

- Providing exceptional customer service;
- Interpreting, implementing, and explaining legal/regulatory statutes;
- Providing and applying legal and workers' compensation research and analysis;
- Managing and providing leadership to staff;
- Planning and coordinating outreach efforts to stakeholders;
- Communicating effectively in English and Spanish;
- Recognizing and responding appropriately to mental and emotional stress among customers; and
- Performing audit, quality assurance, and administrative functions.

III. FUTURE WORKFORCE PROFILE (DEMAND ANALYSIS)

Expected Workforce Changes Driven by Factors such as Changing Missions, Goals, Strategies, Technology, Work, Workloads, and Work Processes

OIEC does not foresee the elimination of any of its responsibilities over the next five-year period nor a change in its mission and goals.

Future Workforce Skills Needed

OIEC needs staff that can provide medical research and analysis to help OIEC customers prove their entitlement to workers' compensation benefits.

Anticipated Increase or Decrease in the Number of Employees Needed To Do the Work

Additional employees are currently not necessary as long as the agency is able to fill positions that become vacant.

Critical Functions that Must Be Performed to Achieve the Strategic Plan

- Customer service functions
- Ombudsman functions
- Legal research and analysis functions
- Medical research and analysis functions
- Workers' compensation research and analysis functions
- Managerial and training functions
- Audit, quality assurance, and administrative functions.

IV. GAP ANALYSIS

Anticipated Surplus or Shortage in Staffing Levels

There is currently no surplus or shortage in staffing levels.

Anticipated Surplus or Shortage of Skills

As experienced staff retires over the next few years, the agency anticipates a greater need for skills in training, mentoring, and transferring knowledge to less-experienced employees in all program areas. In addition, greater skill in medical research and analysis is required to address the trend of declining prevail rates for injured employees due to the ever-increasing evidentiary standard required to prove entitlement to benefits.

V. STRATEGY DEVELOPMENT

Specific Goals to Address Workforce Competence Gaps or Surpluses

Recruitment and Retention. Recruiting and retaining the depth of knowledge and experience necessary to navigate the complexities of the workers' compensation system is a key factor in fulfilling OIEC's mission of assisting, educating, and advocating for Texans who are injured on the job. Therefore, OIEC carefully selects the most qualified applicant for each position. OIEC has been fortunate in the ability to hire and retain strong employees with varied skill sets who can perform in high-stress, demanding situations.

OIEC has been successful in hiring individuals that possess the necessary knowledge, education, and experience that has enabled the agency to continue to provide injured employees excellent assistance. OIEC has been able to keep some of its most knowledgeable and experienced employees even after their retirement eligibility date.

OIEC provides extensive training and development opportunities to assist employees in performing their job to the best of their abilities. OIEC also provides incentives and utilizes various tools to retain its staff, such as the following.

Alternative Work Schedule Program. This program extends the number of hours that agency staff is available to provide services while also providing employees with work-schedule flexibility. Every effort is made to accommodate the needs of individual employees who are working extended or alternate hours; however, in all instances, business necessity is the overriding factor.

The Performance Planning and Development System (PPDS). This evaluation process provides Supervisors the tools to develop an employee's performance, address performance that does not meet expectations, and handle performance problems in a manner that encourages individual responsibility for results. This system also presents an opportunity for the Supervisor and the employee to look to the future and identify opportunities for the employee's growth and

development. Regular assessment of performance levels against expectations increases productivity and morale.

Merit Awards. For OIEC employees who meet the criteria for a merit award, OIEC may provide deserving staff with administrative leave for outstanding performance. The total amount of leave granted may not exceed 32 hours per employee during a fiscal year pursuant to the Government Code. OIEC may also grant merit salary increases and one-time merit payments to eligible classified employees who meet various administrative qualifications and whose job performance exceeds expectations.

Performance Excellence Awards. The annual performance excellence awards are intended to recognize employees who exhibit superior performance or special efforts significantly beyond their regular duty requirements and directly related to fulfilling OIEC's mission. The Directors and the Associate Directors of the Ombudsman and Customer Service Programs make the final decision about the Ombudsman and Customer Service Representative who will receive the performance excellence award for their respective program area. The selected employee will receive a certificate, an award, 16 hours of administrative leave and, when budget allows, a one-time merit. Whenever possible, the Performance Excellence Awards will be announced at the Annual OIEC Conference.

Sick Leave Pool. The Sick Leave Pool has been established to benefit OIEC employees and their immediate family members who suffer a catastrophic illness or injury. The Pool is intended to provide for the alleviation of a hardship caused to an employee and the employee's immediate family if a catastrophic illness or injury forces the employee to exhaust all leave earned by that employee and to lose compensation from OIEC. The program allows employees to voluntarily contribute sick leave time to the Pool.

OIEC's rule Title 28, Texas Administrative Code Section 276.4 was adopted as a result of a requirement of Texas Government Code Section 661.002(c). The Government Code requires state agencies to adopt rules relating to the agency's Sick Leave Pool program. OIEC's Deputy Public Counsel administers this program.

Policy Development Program. OIEC's Policy Development Program was initiated to better communicate and receive ideas from all employees. Recognizing the value and ideas of each employee, this program was designed to serve as a channel of communication for "great ideas." While participation in this program is optional, all OIEC employees are encouraged to submit their ideas on how to improve OIEC, its policies or procedures, or work environment. OIEC's executive management team reviews the ideas or recommendations submitted monthly. Confidentiality of employees who submit policy recommendations is provided to encourage all OIEC employees to participate in providing suggestions to improve or increase the efficiency of the agency and its resources. Since its inception, many ideas have been proposed and implemented. Administrative leave for outstanding performance has been awarded to OIEC staff whose ideas have been implemented.

Return-to-Work Program. The intent of the Return-to-Work Program is to allow employees with injuries or illnesses, both job-related and non-job related, to return to work as quickly as possible in a meaningful and productive capacity. Participation in the program is handled on a case-by-case basis in consultation with the employee's physician. It is the employee's responsibility to make all reasonable effort to return to work at the earliest possible time to full duty, or alternatively, to a light- or restricted-duty capacity.

OIEC recently spoke to the Texas State Human Resources Association (TSHRA) about "Return-to-Work Best Practices." The presentation included the latest research highlighting the physical and mental benefits to injured employees who return to work in temporary or modified work positions. Employer benefits such as cost containment, office morale, and productivity were emphasized along with the need for employers to be proactive long before a work injury. OIEC's internal return-to-work policy was also reviewed several revisions were adopted by the agency and shared at OIEC's recent stakeholder meeting.

Organizational Training and Employee Development. Training is a year-round, continuous requirement for OIEC staff. The many complexities of the workers' compensation system and the agency's core value of providing premier service necessitate ongoing training. Various committees and training activities are discussed below.

New Employee Training. All new employees are required to participate in new employee training. Training courses are available on the intranet and may include a course description page with prerequisite reading, the course itself, and helpful links. Several training modules are available and include the following: Ethics in the Workplace, Employment Law, Computer security, and Workplace Conduct. The training courses consist of slideshows, videos, or videos with a handout. Some courses include audio. All employees are also required to read the employee manual, read and sign the *OIEC Attestation Concerning Confidential Information*, and take core training offered by OIEC and TDI, such as Ethics, Confidentiality, Sexual Harassment, Discrimination, and agency-related policy and law training.

Emergency Preparedness, Risk Management, and Continuity Plan Training. OIEC conducts periodic training regarding emergency preparedness, risk management, and the agency's Continuity Plan to ensure staff understands what to do in case of emergencies and to circumvent any confusion or adversity resulting from possible disasters. The agency periodically runs drills regarding procedures for handling situations with a potentially threatening injured employee, disaster drills for the Coastal field offices in preparation for the hurricane season, or other various safety drills and tests.

Ethics Training and Committee. OIEC is dedicated to operating under the highest standards of ethical and professional behavior. To ensure that every effort is made to achieve this goal, the agency conducts ethics training and created an Ethics Committee. Ethics training is conducted for new employees and annually thereafter. The Ethics Committee has been vital to the development of our agency's superior reputation for being a professional and ethical organization. Created in June 2008, the OIEC Ethics Committee addresses the ethical questions and issues presented to it by OIEC employees.

The Committee is comprised of a cross- section of OIEC staff, which includes employees from all divisions of the agency who hold both supervisory and non-supervisory positions. The Ethics Committee convenes as necessary to discuss the issues presented to it by OIEC employees, and a quarterly update on the issues is sent to all agency employees.

The agency's Ethics Committee has a revolving membership to ensure that new voices are heard. OIEC's ethics statement is below:

Each OIEC employee has an obligation to maintain high ethical standards in the performance of their work responsibilities and in their personal life, realizing that lapses in such judgment will reflect negatively on OIEC. OIEC employees must seek to enhance and implement ethical values based on established principles of sound reasoning and the highest standards of business conduct.

Ombudsman Training Program. Generally, employees in the Ombudsman Program are hired as Ombudsman Associates and begin up to a year-long training program at the end of which they will have earned their workers' compensation adjuster's licenses and will be reclassified as an Ombudsman I. The training program for an Ombudsman Associate consists of up to one year of training divided into two parts. In Part I, the Ombudsman Associates complete new employee orientation courses, classroom studies, customer services training, and observation of activities. After completing Part I, the Associates enter Part II of the program. In Part II, the Ombudsman Associates begin conducting meetings with unrepresented injured employees in preparation for dispute resolution hearings and assisting in proceedings while being observed and evaluated by their mentor, trainer, and Supervisor of the Ombudsman Program. The Ombudsman Associates are required to obtain a workers' compensation adjuster's license before they finish their training program. Upon successful completion of the training program, Ombudsman Associates are eligible for reclassification to an Ombudsman I.

The Ombudsman I must have at least one year of workers' compensation experience as required by Texas Labor Code Section 404.152. They participate in proceedings; assist injured employees to obtain supporting documentation and to appropriately and timely exchange evidence; and work closely with the Customer Service Representatives to effectively assist injured employees.

The Ombudsman II is required to have at least two years of experience as an Ombudsman I. The Ombudsman II must maintain all of the requirements of an Ombudsman I and may be required to assist Ombudsman Supervisors and Associate Directors in the training and mentoring of Ombudsman Associates and Customer Services Representatives. Each field office has an Ombudsman Lead who serves as a mentor for all staff in their particular field office. They are vital in administrative efforts, such as disaster recovery and staff services coordination.

Ombudsmen must remain current on continuing education requirements in order to maintain their workers' compensation adjuster's licenses. These credits are offered through the annual agency conference and practical skills training conducted by the agency's Regional Staff Attorneys. Training is also provided through monthly teleconferences. Additional information

regarding the Ombudsman training program and continuing education can be found in Title 28, Texas Administrative Code Section 276.10.

Practical Skills Training Program. The practical skills training is designed to help Ombudsmen refine their skills in assisting injured employees in proceedings before TDI-DWC and to ensure injured employees' rights are protected. Practical skills training courses are offered periodically by Regional Staff Attorneys in regional locations across the State or are available through video. Ombudsmen receive continuing education credits for participating in the training, which helps them fulfill the requirements for maintaining their legally required workers' compensation adjuster's license.

The courses are designed to give practical, useful information to the Ombudsmen, which they can immediately implement into the performance of their job duties. There is a lecture and discussion component at each training session. In addition, written material is prepared to provide more detailed resource material than can be presented in a lecture. The written materials from each practical skills training are posted on OIEC's intranet for future reference. Finally, each practical skills training includes some practical application of the material to test the participants' knowledge of the subject matter covered in the training. These exercises provide an excellent opportunity to provide feedback from the trainer and for the participants to learn from each other, determine best practices and strategies, and learn more about the workers' compensation and insurance laws.

Practical Skills Training topics include the following:

- Direct Examination and Cross Examination;
- Direct Examination and Cross Examination of Expert Witnesses;
- Discovery Tools, Objections and Responses;
- Pre-Hearing Dispute Resolution: Case Management, Assessment and Development;
- Advanced Case Development and Formulation of Oral and Written Arguments;
- Occupational Disease and Repetitive Trauma Injuries;
- Formulation of Arguments to Assist Injured Employees Through the Medical Dispute Resolution Process;
- Effectively Questioning Physicians;
- Case Assessment and Case Development;
- Contested Case Hearings: The Opening Statement;
- Creative Legal Reasoning;
- Medical Dispute Resolution – Present and Future;
- An Overview of the Contested Case Hearing;
- Violation Referrals and AMA Guides to the Evaluation of Permanent Impairment;
- Evaluation of Designated Doctor Impairment Ratings; and
- Direct and Cross-Examination of Lay and Expert Witnesses.

Customer Service Representative Training. A comprehensive training program is provided to each Customer Service Representative to enable them to respond accurately and promptly to injured employees' questions. Copies of the Workers' Compensation Act and Rules are

provided to each Customer Service Representative with the requirement that they be conversant with the information contained therein. Training requirements include completing the OIEC Core Training, workers' compensation modules; customer service training; computer, telephone, and soft-skills training; training on setting preparation appointments for Ombudsmen; and early intervention, administrative training. Ongoing education includes review of the agency website and links, and attendance at the various teleconference training sessions. A monthly review of Appeals Panel decisions is also required as the decisions provide interpretations of the Act and Rules and procedural clarifications.

Before being assigned to provide customer service to injured employees, Customer Service Representatives are required to observe interaction between injured employees and Ombudsmen. In addition, new Customer Service Representatives choose or are assigned a more senior Customer Service Representative and an Ombudsman Lead (field office team leader) as a mentor for guidance and advice. They are also required to observe dispute resolution proceedings, preparation appointments, benefit review conferences, and contested case hearings. Training exercises are given that are designed to help Customer Service Representatives determine the questions to ask injured employees and the information that should be provided based upon the injured employee's needs. This extensive training is designed to produce employees who are well-equipped to provide exceptional customer service. The agency's Customer Service Program provides advocacy, assistance, and education about the workers' compensation system while TDI-DWC staff processes official and regulatory actions.

Teleconferences. Teleconferences are held to ensure OIEC staff in the field and central office stays informed of necessary information to continue to effectively serve the injured employees of Texas. Teleconferences may be held for specific agency functions, such as Ombudsmen or Customer Service Representatives, or for the agency as a whole. Regional Staff Attorneys may make presentations on legal issues, or presentations may be made by OIEC staff on new legislation, policies, and procedures. Agency staff also has the opportunity to request particular topics be included in the teleconferences via the agency Policy Development Program.

OIEC Conferences. Three in-person meetings are held for staff each year, if budget permits. Below is a summary of each type.

OIEC's Annual Conference: OIEC's annual conference is held in June for all OIEC staff to come together in one place. The conference generally lasts over a three-day period to allow for travel during work hours. Since OIEC staff is located throughout Texas, the conference provides an opportunity to get to know each other - providing a face with a name, building OIEC's network, and increasing agency relations to overcome geographical barriers among OIEC's 20 locations and central office.

Training sessions promote teamwork and ethics as well as provide information about aspects of the agency that staff may not be familiar with. Breakout sessions address a variety of topics, including current legislative activities, changes in workers' compensation laws and rules, and new agency policies and procedures. Information presented at the conference is designed to enhance the skills of staff and increase communication within the agency in order to provide

excellent service to the injured employees of Texas. Additionally, the conference provides continuing education credits to help Ombudsmen and other OIEC staff satisfy the requirements for maintaining their workers' compensation adjuster's licenses and for OIEC attorneys to obtain continuing legal education credits.

OIEC Leadership Conference: OIEC holds an annual conference where management employees meet for training, issue discussion, strategic planning, and employee development. The meeting provides an opportunity for management from all of the program areas of the agency (Customer Service, Ombudsman, and Administration and Operations) to come together and focus efforts on improving communication and the quality of the service provided to the injured employees of Texas.

Legal Services Planning and Debriefing Session: OIEC periodically hosts an in-person meeting for agency attorneys to discuss legal issues in the workers' compensation system and plan legal training for the Ombudsman Program. The meeting also provides an opportunity for candid discussion about how effectively the agency is serving its mission to assist, educate, and advocate on behalf of the injured employees of Texas.

Training is one of the most important aspects of the agency and is ultimately beneficial to the injured employees in Texas. Although the agency makes every effort to retain its outstanding staff, the agency's focus on employee development ultimately enables OIEC staff to be extremely competitive in higher-paying job classifications or in the same work in the private sector.

Succession Planning. The process of succession planning, a component of OIEC's strategic and workforce plans, is preparing the agency for the risks associated with loss of knowledge that is critical to achieve its mission. OIEC is doing so by identifying, developing, and transferring knowledge to employees who become highly qualified and capable of filling key positions or perform crucial functions as individuals leave the agency.

The scope of OIEC's succession planning includes identifying and developing key talent within the agency for Director, Associate Director, and Supervisor positions in the Ombudsman and Customer Service programs, Legal Services and Administration and Operations, which includes the internal audit function.