

INVESTIGATION REPORT

March 20, 2023

TO: Ms. Human Resources Director
Human Resources Director, Oregon Employment Department

FROM: Shayda Z. Le, Barran Liebman LLP

RE: Investigation Report re Ms. Complainant and the Paid Family & Medical Leave Insurance Program
Confidential

This Report documents my factfinding investigation regarding concerns raised by Ms. Complainant.

Throughout this Report, I have de-identified names of witnesses, subjects, and the complainant, and have referred to individuals by title or position only. Because of the very public circumstances around the Paid Family & Medical Leave Insurance Program and the Oregon Employment Department, it appears probable that individuals who participated in this investigation may be subject to a greater level of public inquiry than what may be typically expected for an internal workplace investigation. At the same time, a majority of people who were asked to provide their perspectives for this factfinding review were not managers; they were individual staff members. Many of them were asked about rather personal experiences. Some of the individuals interviewed remain State employees, where others have moved on. Making use of titles instead of names permits both the Agency and the public to understand both the events and problems at issue, as well as where the responsibility lies, while using an approach intended to provide some measure of protection and privacy for those involved.

I. INTRODUCTION AND SCOPE

Oregon Department of Justice (“DOJ”) engaged me to conduct a confidential independent workplace investigation.

The scope of this investigation initially encompassed concerns raised by Ms. Complainant relating to her work environment and experiences within the Oregon Employment Department (“OED”) and working with the Paid Family and Medical Leave Insurance (“PFMLI”) Division, including experiences of racial and gender discrimination.¹

Ms. Complainant shared her concerns via email documentation as well as internal conversations with other OED employees. She ultimately did not participate in this investigation, despite multiple attempts to reach her by email and phone, and by request from other OED leadership personnel. Therefore, the information available for consideration as to her perspective and her experiences was limited to what she had provided to other people before this factfinding review was under

¹ Paid Family and Medical Leave Insurance (PFMLI) has since been renamed Paid Leave Oregon (PLO). For clarity of the reader, I will use PFMLI throughout this Report, solely for consistency.

way. OED determined to proceed with the investigation despite the absence of her participation, wishing to bring as much light as possible to the issues of which it was aware. It should be noted for the reader that while findings are reached based on the information available from those witnesses who agreed to participate and from available documentation, the conclusions reached are nevertheless limited in that it was not possible to incorporate a full consideration of Ms. Complainant's experiences. The findings reached should be understood to be limited in that regard.

I conducted a factfinding investigation into this initial scope. After concluding the intended interviews and reaching preliminary findings, I verbally summarized those findings for the relevant stakeholders. One of the points I summarized was that many of the individuals who were interviewed about Ms. Complainant's concerns expressed their own belief that Mr. Acting Agency Director and Mr. Acting PFMLI Division Director mismanaged the PFMLI program, and that their behavior, workplace interactions, and treatment of some of the personnel contributed to the negative environment within PFMLI, and ultimately impacted the experience that Ms. Complainant had as well. As a result of these perspectives and opinions, OED decided to add to the scope of the factfinding review. I was asked to evaluate the actions and inactions of Mr. Acting Agency Director and Mr. Acting PFMLI Division Director vis-a-vis the PFMLI program, and to consider how their behavior impacted the overall environment and progress of the work.

Because these concerns were added to the scope of the review, and because there were internal considerations that took some time to evaluate in reaching a principled decision about the revision to the scope, there was some time during which the expanded factfinding review was held in abeyance, pending these decisions. Once the revised scope was finalized, I conducted a second round of interviews commensurate with the expansion.

This is the Confidential Investigation Report ("Report") of my findings. It contains detailed information, witness accounts, relevant documentation, and analyses and findings related to the scope. It is anticipated that this Report will be maintained confidentially by the decision-makers and will not be disseminated except as required by law or as determined by the State.

II. STANDARD OF PROOF

I analyzed the facts to determine whether the allegations were with or without merit under a preponderance of the evidence standard. "Preponderance of the evidence," for purposes of this Report, means that the evidence on one side simply outweighs, or is more than, the evidence on the other side. This is a qualitative standard, not a quantitative standard.

III. INVESTIGATION BACKGROUND

Statement of Independence

I identified a process for this investigation based upon the scope assigned to me, my analysis of the issues, the information provided by OED, and all witnesses. I obtained information as necessary from the State and the parties. As noted above, some witnesses were unavailable or unwilling to participate in the review. I was able to conduct this process independently and nobody interfered with the process or my approach.

Witnesses Interviews

All of the interviews were conducted via videoconferencing software or by telephone. I offered all individuals the opportunity to offer additional information or documentation subsequent to the interviews and provided sufficient time after each interview to allow any such additional information to be submitted.

I interviewed the following 26 individuals, for a total of 30 interviews, on the dates identified:

- Ms. Outreach and Engagement Employee, Outreach and Engagement, Oregon Employment Department: Interviewed on November 29, 2021;
- Ms. Project Manager, Project Manager, Oregon Employment Department: Interviewed on December 3, 2021;
- Ms. Acting PFMLI Division Deputy Director, Acting Division Deputy Director, PFMLI Division, Oregon Employment Department: Interviewed on December 7, 2021 and February 2, 2022;
- Ms. Equity and Inclusion Officer, Equity and Inclusion Officer, Oregon Employment Department: Interviewed on December 15, 2021;
- Ms. Procurement and Contract Specialist 3, Procurement and Contract Specialist 3, Oregon Department of Human Services/Oregon Health Authority Shared Services Office of Contracts & Procurement: Interviewed on December 15, 2021;
- Ms. PFMLI Executive Support, PFMLI Executive Support, Oregon Employment Department: Interviewed on December 21, 2021;
- Ms. OPA3-1, Operations and Policy Analyst 3, PFMLI Division, Oregon Employment Department: Interviewed on January 5, 2022;
- Ms. UI Status Unit – Lead Worker, Unemployment Insurance Status Unit – Lead Worker, Oregon Employment Department: Interviewed on January 10, 2022;
- Mr. OPA3-2, Operations and Policy Analyst 3, PFMLI Division, Oregon Employment Department: Interviewed on January 11, 2022;
- Ms. OPA3-3, Operations and Policy Analyst 3, PFMLI Division, Oregon Employment Department: Interviewed on January 11, 2022;
- Ms. OPA4, Operations and Policy Analyst 4, PFMLI Division, Oregon Employment Department: Interviewed on January 12, 2022 and February 8, 2022;
- Mr. OPA2-1, Operations and Policy Analyst 2, PFMLI Division, Oregon Employment Department: Interviewed on January 12, 2022;
- Ms. Employment Appeals Board Member, Chair, Oregon Employment Appeals Board: Interviewed on January 19, 2022;
- Mr. OPA2-2, Operations and Policy Analyst 2, PFMLI Division, Oregon Employment Department: Interviewed on January 25, 2022;
- Ms. OPA2-3, Operations and Policy Analyst 2, PFMLI Division, Oregon Employment Department: Interviewed on January 27, 2022;
- Mr. Business Systems Analyst, Business Systems Analyst, Oregon Employment Department: Interviewed on January 27, 2022;
- Ms. PFMLI Policy and Operations Manager, Policy and Operations Manager, PFMLI Division, Oregon Employment Department: Interviewed on January 31, 2022;

- Ms. PFMLI Program Manager, Program Manager, Oregon Employment Department: Interviewed on February 4, 2022;
- Ms. Human Resources Director, Human Resources Director, Oregon Employment Department: Interviewed on August 16, 2022 and October 4, 2022;
- Ms. Agency Deputy Director, Deputy Director, Oregon Employment Department: Interviewed on August 18, 2022;
- Ms. Senior HRBP, Senior Human Resources Business Partner, Former Human Resources Director, Oregon Employment Department: Interviewed on August 24, 2022;
- Ms. Current PFMLI Director, PFMLI Director, Oregon Employment Department: Interviewed on August 24, 2022;
- Ms. HRBP, Human Resources Business Partner, Oregon Employment Department: Interviewed on August 30, 2022;
- Ms. Modernization Division Director, Modernization Director; Oregon Employment Department: Interviewed on September 19, 2022;
- Mr. Acting Agency Director, Acting Director, Oregon Employment Department: Interviewed on September 13, 2022 and October 6, 2022; and
- Mr. Acting PFMLI Division Director, Former PFMLI Acting Director, Oregon Employment Department: Interviewed on September 15, 2022.

Admonitions

With each witness, I explained my role as an outside investigator and that I had been tasked with factfinding only, made clear that I am an attorney functioning as an outside investigator in a limited representation role for this matter, made clear that I could not provide any of the witnesses with legal advice, provided information about the allegations raised to the extent needed in order to ask the necessary and relevant questions, asked each individual to try to be as candid and detailed in their responses as possible in order to allow me to reach these findings, and explained that the Report would be provided to the Oregon Employment Department and that the investigation process was not completely confidential, noting the State’s anti-retaliation policy.

I provided each witness the opportunity to ask any questions after the admonitions and before my questions began, again at the end of the interview, and also invited them to follow up with me if any other questions or details arose subsequent to their interviews. I took notes of each witness interview on a laptop or computer during the course of the interview itself.

Documentation

I reviewed various email communications and other documentation provided by witnesses and Human Resources.

IV. COMPLAINT BACKGROUND

This section aims to summarize and explain Ms. Complainant’s concerns.

Introduction

Ms. Complainant was an Operations and Policy Analyst (“OPA”) 4 with the Paid Family and Medical Leave Insurance Division at the Oregon Employment Department. Ms. Complainant began working for the PFMLI program in April 2021.

At the relevant time, the PFMLI Leadership Team consisted of Mr. Acting PFMLI Division Director, Acting Division Director; Ms. Acting PFMLI Division Deputy Director, Acting Division Deputy Director; Ms. PFMLI Policy and Operations Manager, Policy and Operations Manager; Ms. PFMLI Program Manager, Program Manager; Ms. OPA4, OPA 4; Ms. Complainant, OPA 4; Ms. Communications and Outreach Lead, Communications and Outreach Lead; and Ms. Economist, Economist. Other significant members of OED who will be referenced in this Report include Mr. Acting Agency Director, Acting Director of the Employment Department, and Ms. Equity and Inclusion Officer, Equity and Inclusion Officer.

During the period relevant to this investigation, PFMLI program employees worked remotely as a result of the ongoing COVID-19 pandemic.

Sources of Information

There were two primary sources of information that formed the basis of my understanding of Ms. Complainant’s concerns.

First, I had written documentation from Ms. Complainant herself, which she sent to other OED employees, and which was subsequently provided to me. These direct writings were reasonably detailed and were informative as to some of Ms. Complainant’s experiences, but did not provide a comprehensive understanding or a full picture, given that they were not specifically prepared for use in a factfinding investigation.

Second, I also had secondary written documentation from certain individuals with whom Ms. Complainant shared her concerns; those documents were created close in time to when she shared the concerns. This documentation was informative as to some of Ms. Complainant’s experiences but was also limited to the extent that the lens was through the perspective of others, and given that it was not specifically prepared for use in a factfinding investigation.

Had I been able to interview Ms. Complainant directly, and during the factfinding review itself, I do not expect that Ms. Complainant would have explained events in exactly the same way or limited the totality of her concerns to those which she expressed to others, or framed her overall experience with the same perspective as those she shared with others within a different context and at an earlier point in time.²

Nevertheless, because I was unable to speak with Ms. Complainant directly, I have tried to make use of all reliable information available to me in order to review and investigate those of her concerns of which I have been made aware.

² I was also provided with information and opinions about Ms. Complainant’s concerns during the course of witness interviews. I provide this information below under the Evidence section of the report.

For clarity of the reader, it should be specifically noted that I believe I have been made aware of only a portion of Ms. Complainant's ultimate concerns. It is my aim to make this factfinding review and report as informative as possible, acknowledging that it likely cannot provide a full picture of her experiences.

Ms. Complainant's Concerns

Ms. Complainant wrote that during her employment at OED and PFMLI, she experienced sexism, racism, and a hostile work environment. She identified various issues within PFMLI and OED.

Differential Treatment (From Secondary Source)

Ms. Complainant believed she was not assigned work comparable to that of the work assigned to her OPA 4 counterpart, a white woman. She felt that her supervisor had a pattern of assigning higher-level work to the other OPA 4, where Ms. Complainant had to push to get legitimate work. As a result, she was not able to contribute to the program in the manner she expected, and she felt that this also contributed to the team not having respect or deference to her contributions.

In a specific leadership team meeting, her supervisor asked if others had any concerns with assigning Ms. Complainant to be the facilitator of an advisory committee. Ms. Complainant asserted that similar questions were not asked about her OPA 4 counterpart. In another meeting, Ms. Complainant felt that executive leadership assumed that two white male employees knew more than she did and did not allow the two women leaders present to contribute their input.

Ms. Complainant reported that several members of the team, including some white male employees and her supervisor at the time, undermined her analysis and work. Ms. Complainant perceived this undermining of her work and capabilities as being based on gender and race. Other employees who were white, or male, were respected and received a greater level of deference when they offered recommendations and conclusions. When Ms. Complainant presented similar information, recommendations, or conclusions, she felt that she was received differently. For example, when Ms. Complainant provided an assessment of whether the PFMLI program needed to follow the same appeals process as the Unemployment Insurance program, other employees did not accept her assessment until a white Department of Justice attorney and a white Administrative Law Judge agreed. Ms. Complainant felt she was faced with a different set of expectations.

Ms. Complainant reported being disrespected by other members of the team. At times when she asked questions, one employee told her it was not their job to onboard her, and another employee said she was being argumentative and combative for asking questions.

Ms. Complainant also felt that she was treated differently after raising concerns regarding DAS anti-discrimination issues.

Ms. Complainant reported that she encountered micro-aggressions from a number of different employees. At times, there were direct comments made by other employees. For example, one employee, Ms. UI Status Unit – Lead Worker, referred to people without work authorization as “aliens,” and when Ms. Complainant objected to the term, Ms. UI Status Unit – Lead Worker

responded with, “whatever you want to call them.” As another example, an employee referred to Ms. Complainant’s country of origin (Mexico) as “exotic” (as further detailed below). On one occasion, an employee assumed that Ms. Complainant’s work had to be approved by Ms. OPA4 and Ms. PFMLI Policy and Operations Manager; she had to speak up and address the incorrect assumption herself.

Ms. Complainant also indicated that she felt that certain other women leaders were disrespected and systematically undermined in their roles as well.

PFMLI Meeting: September 7, 2021 (From Primary Source)

There was a PFMLI meeting on September 7, 2021. At the beginning of this meeting, Ms. PFMLI Policy and Operations Manager said she wanted to hear about everyone’s recent vacations and summer plans. Ms. PFMLI Policy and Operations Manager referenced Ms. OPA3-3 travelling to Mexico, to which Ms. OPA3-3 replied that her vacation had been “downgraded” to Sunriver and that Sunriver was not as “exotic” as Mexico.

Ms. PFMLI Policy and Operations Manager also referenced Ms. Complainant recently making a trip to Mexico. Ms. Complainant had traveled to Mexico for grieving and religious purposes, and Ms. PFMLI Policy and Operations Manager was aware that Ms. Complainant had traveled to Mexico for non-vacation purposes. Instead, Ms. PFMLI Policy and Operations Manager referenced this trip in a manner that was insensitive and overly casual, initially referring to it as “vacation,” which made Ms. Complainant feel uncomfortable.

PFMLI Daily Scrum Meeting: September 9, 2021 (From Primary Source)

There was another PFMLI meeting on September 9, 2021. Ms. Complainant was informed by another employee about comments which were made about her during the meeting.

During this meeting, it was Ms. OPA2-3’s responsibility to provide status updates to the group, which she had obtained at the policy scrum meeting. During Ms. OPA2-3’s report, she said something to the effect of, “who knows what [Ms. Complainant] is doing, she was MIA or doesn’t show up.”

In parallel to Ms. OPA2-3’s verbal comments, within the Teams Chat, the following comments were posted:

Mr. Business Systems Analyst: Have you thought about using a Milk Carton for the person missing during the morning update meetings?

[Mr. OPA2-2 responded with a laughing emoji to Mr. Business Systems Analyst’s comment.]

Ms. OPA2-3: LOL.....good idea. I hope you know how much you are appreciated!

Mr. Business Systems Analyst: Thank you!

Ms. Complainant was in fact not present at the September 9, 2021 policy meeting in which these comments were made. Ms. Complainant indicated that she had received permission from her supervisor, Ms. Acting PFMLI Division Deputy Director, not to attend those meetings because she had experienced racism, sexism, and a hostile work environment during the meetings. Ms. Complainant still had access to the Teams Chat. After she saw the above chat comments, she reached out to another colleague who was present to ask about them. The colleague confirmed that the comments referred to Ms. Complainant, and further explained the verbal commentary from Ms. OPA2-3.

Ms. Complainant stated that she believed Ms. OPA2-3's comment was rooted in sexism and racism and that it contributed to a hostile work environment. Ms. Complainant stated that, at a minimum, it was unprofessional conduct and inconsistent with applicable OED and DAS policies.

Environment (From Secondary Source)

Ms. Complainant reported that some members of the PFMLI policy team were resistant, hostile, and even antagonistic when asked to incorporate considerations or make changes consistent with the Governor's anti-discrimination goals. She felt that some of the members of the policy team did not share in that anti-racism vision, which should have been considered when making policy. Instead, they were resistant to engaging in those discussions.

Ms. Complainant also reported that some employees within the PFMLI program were resistant to other changes, and were instead attached to keeping the development of PFMLI structures the same as those of the Unemployment Insurance department. In contrast, she believed that the new laws underpinning PFMLI were different from those relating to unemployment insurance, and that there was both need and opportunity to affirmatively change and improve upon the structures of the Unemployment Insurance program.

Anti-Discrimination Training and Personnel Complaints (From Secondary Source)

Ms. Complainant believed that supervisors were not sufficiently trained on how to respond to discrimination complaints and failed to take appropriate corrective action after she reported various comments by fellow employees.

In one instance, Ms. Complainant complained to her supervisor about how she was treated by a subordinate employee, which she thought was because of her gender and race, and her supervisor suggested she speak directly with the subordinate employee rather than intervene. There was no investigation and no passing the complaint on to Human Resources.

Another time, in response to a conversation about the DEI plan around hiring, an employee stated, "we just hired [Ms. Complainant]," which made Ms. Complainant uncomfortable.

Even after Ms. Complainant expressed concerns to her supervisor, she did not see any corrective action.

Ms. Complainant felt that OED needed more thorough and robust anti-discrimination training for supervisors, and that one DEI officer for the whole Agency was not enough; the Agency needed a team of people focused on anti-racism work.

Insufficient Training (From Secondary Source)

Ms. Complainant expressed frustration that she was not provided any formal training, and other employees refused to assist in her onboarding.

Resignation (From Primary Source)

Ms. Complainant resigned from her position on October 8, 2021, effective October 22, 2021. She cited, in her resignation communication, her experience of discrimination based on race, ethnicity, and gender, as well as her experience of a hostile work environment, as the reason for her resignation. She further noted her concern “that the environment, implementation, and policy direction of PFMLI and OED are inconsistent with internal state policies, applicable laws, and democracy ... I am deeply concerned that these conditions have had and will have negative impacts on Oregonians and the staff of PFMLI.”

Ms. Complainant expressed further concern, on October 20, 2021, because Mr. Acting Agency Director stated at a PFMLI all-staff meeting that there was an investigation of a complaint of discrimination and that he would discuss the discrimination complaint in his upcoming media briefing. Ms. Complainant wrote that she was not informed of this communication in advance, she was shocked, and felt it was unlawful, intimidating, and coercive.

Broader Concerns About Mr. Acting Agency Director and Mr. Acting PFMLI Division Director

Mr. Acting Agency Director

A number of the witnesses interviewed reported that similar or related concerns had been raised by multiple people, multiple times, well before Ms. Complainant’s complaint. They felt that Mr. Acting Agency Director was complacent, and was more comfortable listening to long-standing OED employees over the perspectives of the leadership of PFMLI; several people said that he did not empower the PFMLI leadership team. This was especially significant because much of the leadership team of PFMLI consisted of women. Mr. Acting Agency Director’s approach led several people to conclude that he had an issue with supporting women leaders and women employees.

Furthermore, some witnesses reported that Mr. Acting Agency Director did not make clear that he would intervene and take action when other employees behaved in a manner that was unproductive or unprofessional. Members of the PFMLI leadership team reported that they repeatedly escalated concerns to Mr. Acting Agency Director and he either took no action, acknowledged that he was aware that something was “a mess” but did not make improvements, or at times would ask for specific details or reports of concerns but would then fail to read the reports provided.

Multiple witnesses interviewed said that Mr. Acting PFMLI Division Director was not competent for his role, and that Mr. Acting Agency Director was aware but did nothing to address the deficiency.

Several people interviewed said that Mr. Acting Agency Director kept talking about equity yet did nothing about it.

Mr. Acting PFMLI Division Director

Many of the witnesses interviewed said that Mr. Acting PFMLI Division Director was not competent for his role and was not capable to lead the implementation of PFMLI. They said he exhibited a severe lack of knowledge and experience with the type of work, with program implementation in general, with regards to technology process, and with working the levers of bureaucracy to advance the work. He was described as “passive,” “wishy washy,” and incapable of making decisions.

Several witnesses reported that when they flagged specific issues of concern, where they required or wanted support from Mr. Acting PFMLI Division Director, he was non-responsive, he would not follow up, or he might indicate that he would put the issue on his list of things to do and would never address the concern.

In particular, Ms. PFMLI Policy and Operations Manager raised concerns around team dynamics and support she needed from Human Resources. Witnesses interviewed reported that she raised these concerns multiple times and Mr. Acting PFMLI Division Director failed to provide her with responsive support.

Some witnesses reported that Mr. Acting PFMLI Division Director failed to capture and relay information which was part of his role and responsibility to share, and which other employees were reliant upon in order to perform their own duties. For example, it was reported that he would meet with the Modernization Program about technology-related issues, and then would report to his team, “I was in this meeting with [Ms. Modernization Division Director] and it sounded pretty important, but I can’t really tell you most of what we talked about because I didn’t understand most of it.” Yet, Mr. Acting PFMLI Division Director was the intended channel for passing on that information to his team.

On one occasion, Mr. Acting PFMLI Division Director was in a meeting discussing concerns raised by Ms. Complainant. During that meeting it came to light that certain employees were discussing Ms. Complainant in a Teams Chat, and despite Mr. Acting PFMLI Division Director’s awareness of that occurrence, another leader had to affirmatively ask him to enter the other meeting to address and stop the comments at issue.

Several of the witnesses interviewed described him as lacking leadership skill.

Several of the witnesses interviewed expressed that when Mr. Acting PFMLI Division Director failed to exercise appropriate leadership skill, the women leaders on his team then struggled to fill that void in his place. At the same time, those women leaders reporting to him did not have the

authority of a director, and absent leadership direction from Mr. Acting PFMLI Division Director, other employees did not listen to or cooperate with the leaders below him. They felt, therefore, that his indecisiveness and passiveness undermined and eroded the authority of the women leaders who reported to him.

Furthermore, because PFMLI was a new program, witnesses interviewed expressed the belief that the program was affirmatively in need of strong leadership to get things up and running, so the circumstances themselves were further not conducive to Mr. Acting PFMLI Division Director's style.

Again, several witnesses interviewed reported that Mr. Acting Agency Director was made aware of these issues but did nothing to address the deficiencies.

V. EVIDENCE AS TO ALLEGATIONS

Ms. Complainant's Concerns

Differential Treatment

Assignment of Comparable Work

Ms. Acting PFMLI Division Deputy Director

Ms. Acting PFMLI Division Deputy Director was the Acting Division Deputy Director of PMFLI, and for a period, Ms. Complainant reported directly to Ms. Acting PFMLI Division Deputy Director rather than to Ms. PFMLI Policy and Operations Manager.

Ms. Acting PFMLI Division Deputy Director recalled that Ms. Complainant expressed numerous times that she felt that Ms. PFMLI Policy and Operations Manager assigned more substantial or more important projects to Ms. OPA4, the other OPA 4 counterpart, based on the prior working relationship between Ms. PFMLI Policy and Operations Manager and Ms. OPA4 when both worked together at the Oregon Department of Revenue. Ms. Complainant expressed to Ms. Acting PFMLI Division Deputy Director that she did not feel she was getting equal work and responsibilities.

Ms. Acting PFMLI Division Deputy Director was not Ms. PFMLI Policy and Operations Manager's supervisor, but did speak with her on a few occasions about this distribution of work. Ms. PFMLI Policy and Operations Manager responded to those inquiries and provided explanations for the allocation of projects, and also shared that Ms. Complainant had "struggles" with other members of the team, which had an impact on how projects were allocated. Ms. Acting PFMLI Division Deputy Director stated, "[t]o me, it felt like a clear instance of familiarity bias, where you have worked with someone for a long time so it's easier to have them take care of [a project] than it is to teach somebody new how you want something done ... [Ms. PFMLI Policy and Operations Manager] would have good reasons, or what she felt were good reasons, but from a slightly outsider perspective it would feel a bit off to me."

Ms. Equity and Inclusion Officer

Ms. Equity and Inclusion Officer was the Equity and Inclusion Officer for OED.

Ms. Equity and Inclusion Officer recalled that Ms. Acting PFMLI Division Deputy Director expressed that she felt Ms. PFMLI Policy and Operations Manager had been assigning more projects to Ms. OPA4 because they knew each other and had a greater level of understanding between them.

Ms. OPA4

Ms. OPA4 was an OPA 4 within PFMLI who reported to Ms. Acting PFMLI Division Deputy Director, alongside Ms. Complainant.

Ms. OPA4 agreed that she had more projects assigned to her as compared to Ms. Complainant and a greater workload overall, but said that the allocation was the result of group discussions, including conversations about relevant past experience. She said, “we all had say on who was going to work on what.” She noted that Ms. PFMLI Policy and Operations Manager assigned legislation to her because of her past experience, explaining, “it was like ‘here [Ms. OPA4], you know legislation, so work on this.’” She acknowledged that Ms. Complainant expressed several times the desire to learn legislation, and that “there was always talk of next session you’re going to learn that but right now, no.” Ms. OPA4 also noted that in one instance, Ms. Complainant herself said that Ms. OPA4 had experience with financials where Ms. Complainant did not, so Ms. OPA4 took on that category of work, in part at Ms. Complainant’s own suggestion.

Ms. PFMLI Program Manager

Ms. PFMLI Program Manager was a Program Manager within PFMLI.

Ms. PFMLI Program Manager did not have insight into the reasons why work was allocated between Ms. Complainant and Ms. OPA4. However, she did have some visibility into what the allocation was. She said, “[i]t seemed like [Ms. PFMLI Policy and Operations Manager] didn’t really have a plan ... I don’t think she had a good idea of what she wanted [Ms. Complainant] to do or how she was going to use [Ms. Complainant]. So, I saw [Ms. Complainant] get bounced around ... [M]aybe [Ms. PFMLI Policy and Operations Manager assigned] didn’t have a plan, or [maybe] she had one and it would change.”

Ms. PFMLI Policy and Operations Manager

Ms. PFMLI Policy and Operations Manager was the Policy and Operations Manager within PFMLI and for a period was the direct supervisor to Ms. Complainant.

Ms. PFMLI Policy and Operations Manager acknowledged that Ms. OPA4 progressed with her assigned work at a different pace than Ms. Complainant. She said, “[Ms. OPA4] has the same background as I do and has always done policy development the same way I did for the last 20 years. She could hit the ground running when she started, helping us with our policy development.

[Ms. Complainant], coming from the outside, didn't have the procedural practice down, we knew that was going to happen." Some of the assignment of duties and progress of assigned work was therefore driven by difference in experience, and it was not only known, but anticipated. At the same time, Ms. PFMLI Policy and Operations Manager believed that the progress of assigned work was also affected by Ms. Complainant herself. Ms. PFMLI Policy and Operations Manager said, "over the course of about three months, it became evident that [Ms. Complainant] wasn't adopting the procedures that we were putting in place to get the work done. She wasn't communicating with the OPAs she was supposed to be assisting. She wasn't communicating with me. She wasn't responding in writing."

Lack of Respect and Deference; Undermining Ms. Complainant's Role

Ms. Acting PFMLI Division Deputy Director

Ms. Acting PFMLI Division Deputy Director explained that Ms. Complainant raised issues or ideas in group meetings for the purpose of addressing or mitigating those issues for the benefit of the program, and then long-time Employment Department staff would "shut her down." Ms. Acting PFMLI Division Deputy Director described a friction where Ms. Complainant might have felt like she raised something legitimate, and other staff might have felt like "who is this new person raising these things." She said, "the group think of experienced analysts skewed towards: 'why are these new people coming in to question us on what we have already worked on' ... but all of us felt like we had been brought [in] to raise those specific things, but then it wasn't valued at all ... Their attitude was like we were already doing this work before you arrived, we've got it, we'll do it after you leave, we don't need you."

Ms. Acting PFMLI Division Deputy Director expressed that some of the pushback Ms. Complainant experienced may have been driven by resistance to change from other employees. She said, "I think there were all kinds of layers going on. There are people who are long-standing state employees who have never really done any other job besides line level work at the Employment Department [who] were resistant[.]" She explained that the PFMLI program was modeled in part around the Unemployment Insurance program, but with the intention of addressing and correcting for historical disparities that people faced in that program. To some of the employees, those corrections and those changes were unwelcome. And those people who raised the issues, including Ms. Complainant, felt ostracized as a result.

Ms. Acting PFMLI Division Deputy Director said she believed this resistance to Ms. Complainant's suggestions, and the resistance to some of the concepts at large, was in part related to the populations at issue in the discussion, but also related to which employee raised the issue for discussion.

Ms. PFMLI Program Manager

Ms. PFMLI Program Manager agreed, and had personally observed, resistance from other employees, and targeting of behavior towards Ms. Complainant. However, she elaborated that the targeting behavior was not limited to Ms. Complainant. She said, "It really wasn't only [Ms. Complainant] who was targeted. That's what it looked and felt like, it felt like targeting. [Ms.

Communications and Outreach Lead] and [Ms. Acting PFMLI Division Deputy Director] also – I can't think of any other word besides targeted. There were a group of folks on that team led by primarily [Mr. OPA] and [Ms. OPA3-3] who did not have respect or regard for anything [Ms. Communications and Outreach Lead], [Ms. Acting PFMLI Division Deputy Director], or [Ms. Complainant] said or did. It was like [certain employees felt] ‘they are full of crap and we don't have to listen to them.’”

Ms. OPA2-3

Ms. OPA2-3 was an OPA 2 within PFMLI.

Ms. OPA2-3 stated that Ms. Complainant was not the only person who received negative responses and feedback from employees in response to her comments or her approach overall. Ms. OPA2-3 said:

There was not a meeting where we weren't saying “leadership sucks, we are floundering, you won't tell us what you want, when we ask a question, you pile on more work and don't give us direction to allow us to focus on the work.” [We said] over and over [that] leadership needs to tell us [what to do]. It wasn't isolated at any one person. Whether their style of communication was passive or abrasive, condescending, untrustworthy, nitpicky, they weren't doing what they needed to do by helping us do our jobs.³

She further explained, “It wasn't just [Ms. Complainant] who everybody had a problem with ... I think it fell on deaf ears with leadership [that] we are not talking about one person, we are talking about you all, you all suck at your job.”

Separate from the overall response to leadership, Ms. OPA2-3 said she did not witness anyone treating Ms. Complainant negatively or badly. She said, “our leadership didn't provide direction to the team from the levels down. The environment was so bad, for everybody, not just one person.”

Ms. OPA2-3 also stated that she observed some people behaving negatively, at times in a snarky or condescending manner, though not to Ms. Complainant. Ms. OPA2-3 stated that Ms. Complainant herself at times behaved in this manner, that she “had an abrasive way,” and that she was a former litigator, which could have been a helpful skillset in response to certain questions, but they did not need that type of “attitude” in every meeting.

Mr. Business Systems Analyst

Mr. Business Systems Analyst was a Business and Systems Analyst within OED.

Mr. Business Systems Analyst stated that while some employees were frustrated or unhappy with Ms. Complainant, he did not believe they were frustrated with her any differently than they were

³ As an explanatory note to the reader, indented passages are quotes from the witness interviews.

with other leaders. He said, “[e]veryone was frustrated with leadership [about] the lack of transparency; I don’t think it was [Ms. Complainant] alone.” He explained:

As a member of a larger team, you’re looking for leadership to provide confidence in what we are doing, [that] they know what they want to accomplish, [that] there is an agenda and goal, and [that] I’m part of the machine that helps everyone get to that. That was lacking from everyone in leadership. There was no confidence that leadership knew what they were doing in order to get us to the goal of implementation of this program. So, [Ms. Complainant] was part of leadership, and leadership was not trusted, it wasn’t just her.

Further, Mr. Business Systems Analyst believed that the “pushback” Ms. Complainant may have perceived or experienced could be explained within the context of the program and the substance of the work. He explained:

We need to understand that this program is a really difficult program to put in place. There are a lot of rules, a lot of policy that needs to be put together, that affects a lot of people, from a lot of different diverse groups. A lot of people will see these rules and criticize them, [with] a lot of different points of view about how to address them. Then you have a lot of motivated and capable professionals working together. So, when an idea is presented, that passion and knowledge and experience may be what results in pushback towards an idea. It’s not necessarily that it’s that person which results in that pushback, it might be my knowledge and experience and passion that results in me pushing back on that idea. And I have the knowledge and experience to demonstrate that is a bad idea. Dealing with complex and sensitive situations will result in a back and forth amongst people that feels very strong and clear and direct and abrasive. It’s not.

He said that he did not observe meetings where Ms. Complainant was not well-received, so he was ultimately not aware of the specific treatment she encountered. However, he did observe these general dynamics within the program, and he did observe pushback with other members of the team. He said that in his observations, the behavior was never disrespectful or angry, and it was driven by differing perspectives about the substance of the work.

Microaggressions

Ms. UI Status Unit – Lead Worker

Ms. UI Status Unit – Lead Worker was a Lead Worker in the Unemployment Insurance Status Unit. She acknowledged that during a training, she referred to people without work authorization as “aliens,” because the relevant legislation uses that exact terminology. She recalled that another employee seemed offended by the label, and she responded by explaining that whatever terminology the Agency or its employees were to use, ultimately, the relevant law directly referenced the term “alien.” After the training, another employee sent her an email explaining that use of the term “alien” can cause harm, and that the Agency had previously directed employees to reference “work authorized document” or “work released verification” instead. Ms. UI Status Unit

– Lead Worker said that she was very surprised when she received that email, and that she did not recall being informed, prior to that email, to use other language.

The instance where another employee referred to Ms. Complainant’s country of origin as “exotic” is addressed below.

Ms. Equity and Inclusion Officer

Ms. Equity and Inclusion Officer recalled being present for a meeting with Ms. PFMLI Policy and Operations Manager, Ms. OPA4, Ms. Complainant, and another employee. During discussions about equity statements within PFMLI, the other employee told Ms. Complainant that she could take certain action once Ms. PFMLI Policy and Operations Manager and Ms. OPA4 approved her to do so. The comment made it appear as if the employee assumed that Ms. Complainant reported to Ms. PFMLI Policy and Operations Manager and Ms. OPA4, which Ms. Equity and Inclusion Officer characterized as a “bad assumption.” Ms. Equity and Inclusion Officer felt that this interaction might have conveyed lesser respect for a woman of color in leadership. She began to compose a message to the employee to advise that this assumption was incorrect, but before it was completed, Ms. Complainant spoke up on her own. Ms. Complainant stated that the employee may not be familiar with their reporting structure, and that she in fact reported to Ms. Acting PFMLI Division Deputy Director. Ms. Equity and Inclusion Officer explained to me, “I think that’s the kind of behavior that contributed to [Ms. Complainant’s] frustration. I could see the microaggression quite plainly. [The employee] didn’t know and made a bad assumption; [Ms. PFMLI Policy and Operations Manager] and [Ms. OPA4] knew that wasn’t the process and didn’t say anything about it.”

Ms. PFMLI Policy and Operations Manager

Ms. PFMLI Policy and Operations Manager recalled that at the end of this meeting, she provided a recap summarizing each person’s next steps, and Ms. Complainant said, “actually, I’ll have to check with my supervisor.” Ms. PFMLI Policy and Operations Manager felt this comment was uncooperative and unprofessional. She explained that she was not *directing* Ms. Complainant, but was simply summarizing the actions and tasks agreed upon as part of that meeting. Ms. PFMLI Policy and Operations Manager also felt that, regardless of the formal reporting structure, she was still the Policy Manager, and therefore it was appropriate for policy-related work to be directed by her. Ms. PFMLI Policy and Operations Manager saw this as an example of an unnecessarily abrasive interaction on Ms. Complainant’s part.

Ms. OPA4

Ms. OPA4 recalled Ms. Complainant stating something like, “you may not know our reporting structure, I report to [Ms. Acting PFMLI Division Deputy Director] now.” She did not recall the specific context of the meeting, but she remembered that at the time she felt it was a strange statement to make, because Ms. PFMLI Policy and Operations Manager was still in charge of giving out the policy work. The statement gave Ms. OPA4 the impression that Ms. Complainant was expecting to never receive any assignments from Ms. PFMLI Policy and Operations Manager, which did not seem reasonable given that they were charged with helping the overall program with

policy work. Furthermore, she did not take the other employee's statement as a conclusion that Ms. Complainant reported to Ms. OPA4 and Ms. PFMLI Policy and Operations Manager; she took the statement as a directive to Ms. Complainant to consult with the other two members of the group before taking a next step.

Ms. Acting PFMLI Division Deputy Director

Ms. Acting PFMLI Division Deputy Director stated that the overall dynamic of the employment environment was not supportive and that "it was like microaggressions all over the place." She said, "I think where it felt the most heated or where [Ms. Complainant] got the most engaged, was on topics where [Ms. Complainant] [had] the most experience, and as one of the only women of color on our team, it felt like why is she having to work on this."

Ms. PFMLI Program Manager

Ms. PFMLI Program Manager noted that some employees from the Unemployment Insurance Division had a rigid, black-and-white view of what they felt PFMLI ought to be, based on their years of experience in the Unemployment Insurance Division. She felt that Ms. Complainant, Ms. Acting PFMLI Division Deputy Director, and others had a broader view of priorities for PFMLI, a different way of looking at policy and implementation, and a different communication style, which was fundamentally different from some of those employees in the Unemployment Insurance Division. As a result, some of those employees "shut down" when working with these individuals.

Ms. PFMLI Program Manager said, "it came to be this really serious dynamic of disrespecting and shutting out those three women, [and] I can't come to any conclusion other than [it was] sexism and racism. If men were in those roles, would they have been treated that way? I don't think they would. I just couldn't think of any other explanation for why those three were so targeted and treated that way."

Ms. Equity and Inclusion Officer

Ms. Equity and Inclusion Officer cited several other examples of problematic behaviors and microaggressions. She was not present for these events, but she noted that an employee asked Ms. Complainant pointedly about her position about social security numbers, and it appeared that she was asked specifically because she was a Latina woman. Ms. Equity and Inclusion Officer recalled hearing that Ms. Complainant was "shut out" of definitions meetings for expressing that it was unconstitutional to not provide program benefits to people who are undocumented or only have work authorization to work. Ms. Equity and Inclusion Officer also recalled hearing that Ms. Complainant was told not to speak during certain definitions meetings.

Other Employees

Other employees I interviewed also described experiences with certain employees from the Unemployment Insurance Division who said that the programs were being built for "everyone" in Oregon and that spending extra resources and time for small populations, or advocating for marginalized communities, was not appropriate.

PFMLI Meeting: September 7, 2021 (From Primary Source)

Reference to Mexico as Exotic

Ms. PFMLI Policy and Operations Manager

Ms. PFMLI Policy and Operations Manager stated that she had just returned from a leave of absence, and she was asking each of her team members about their summer plans as a means of catching up. She was genuinely happy to see them and was making an effort to engage in conversation. Ms. OPA3-3 stated that she had an upcoming trip, and when Ms. PFMLI Policy and Operations Manager asked where they were headed, Ms. OPA3-3 said they were supposed to go to Cancun, but due to COVID-19 they decided to go to Sunriver instead. One of them said it was not as “exotic” as Mexico.

After this meeting, Ms. Acting PFMLI Division Deputy Director told Ms. PFMLI Policy and Operations Manager that this reference was a microaggression and Ms. Complainant had been offended by it; Mexico was her home, not an exotic location. Ms. PFMLI Policy and Operations Manager was caught off guard. She said, “I feel like I didn’t do anything wrong, but I feel like I was disciplined.”

Reference to Travel to Mexico as Vacation

Ms. OPA3-3

Ms. OPA3-3 was an OPA 3 within PFMLI.

She recalled that Ms. PFMLI Policy and Operations Manager made a reference to Ms. Complainant traveling to Mexico, then seemed to correct herself and said something like, “oh, that wasn’t vacation.” Ms. OPA3-3 described that “it had a tone of like [Ms. PFMLI Policy and Operations] misspoke and tried to correct herself.”

Ms. OPA4

Ms. OPA4 recalled that Ms. PFMLI Policy and Operations Manager had been gone for a period of leave, and this scheduled meeting was the first upon her return to get everyone up to speed. When Ms. PFMLI Policy and Operations Manager began the meeting, she said she wanted to get caught up on everyone’s happenings, and she referenced several trips and vacations that various team members had taken. She said that Ms. PFMLI Policy and Operations Manager said something like, “[Ms. Complainant], I know you were in Mexico, I know it wasn’t for vacation, I still want to hear about it.” Ms. OPA4 felt that the context and tone of the conversation seemed to be a genuine desire on Ms. PFMLI Policy and Operations Manager’s part to connect with the team.

Ms. PFMLI Policy and Operations Manager

Ms. PFMLI Policy and Operations Manager recalled saying something like, “[Ms. OPA4], I know you just got back from Alaska, [Ms. Complainant] you took your trip to Mexico, [Mr. OPA] you

and your daughter drove up the Washington coast;” she told me that she felt like she could not wait to hear about all of her team’s updates.

When Ms. Acting PFMLI Division Deputy Director addressed this conversation with Ms. PFMLI Policy and Operations Manager, she stated that Ms. Complainant had not gone to Mexico for a vacation. Ms. PFMLI Policy and Operations Manager noted that she had never said it was for vacation, and that it was not anyone else’s business for her to disclose or announce the purpose of Ms. Complainant’s trip.

Ms. Equity and Inclusion Officer

Ms. Equity and Inclusion Officer heard about this event as part of Ms. Complainant’s concerns. She told me that Ms. Complainant had gone to Mexico to grieve, it was not an exotic location for her, and it “deeply affected her” to hear that.

Ms. Acting PFMLI Division Deputy Director

Ms. Acting PFMLI Division Deputy Director heard about this event as part of Ms. Complainant’s concerns. She told me that Ms. Complainant had gone to Mexico because of the loss of a close family member, and it felt “very insensitive” that Ms. PFMLI Policy and Operations Manager would lump that in with discussion about other people’s fun vacations.

PFMLI Daily Scrum Meeting: September 9, 2021

MIA Comments

Ms. OPA2-3

Ms. OPA2-3 acknowledged that she said something like, “[Ms. Complainant] is not here; I have nothing to report; I have no idea what she’s doing ... Did I say it in an ultra-professional way? No.” Ms. OPA2-3 explained that it was her role to attend the Policy Scrum meetings, gather relevant updates from other team members, and then report on their status at the Daily Scrum meeting. It was therefore her understanding that Ms. Complainant was supposed to be in regular and consistent attendance at the Policy Scrum meetings. She noted that Ms. OPA4, the OPA 4 counterpart to Ms. Complainant, was attending the meetings. She also explained that nobody had informed her, until later, that Ms. Complainant was no longer going to attend those meetings, by design. Therefore, from her perspective, not only was there an absence of communication around necessary policy updates, but in addition, Ms. Complainant was missing from important, required meetings, without explanation or mitigation. Ms. OPA2-3 explained to me, “[t]here was never any malice when I reported at those meetings. I [did] not know what she [was] working on; I [had] no idea. That was a fact.”

Ms. OPA2-3 described that when the reporting chain was modified to move Ms. Complainant and Ms. OPA4, from Ms. PFMLI Policy and Operations Manager to Ms. Acting PFMLI Division Deputy Director, the team was not provided with any explanation or announcement as to what the

switch would entail, or how the reporting change might manifest in the allocation of work, or the involvement or withdrawal of the OPA 4s from any particular projects or meetings.

After this event, Ms. PFMLI Policy and Operations Manager discussed with Ms. OPA2-3 that concerns had been expressed about the content and tone of the comments she had made in this meeting. During that conversation, Ms. PFMLI Policy and Operations Manager told her something like, “I obviously didn’t make it clear enough to you and the rest of the team that [Ms. Complainant] was no longer required to participate in the policy scrums, that her role has shifted and she’s working on other things.”

Following this event, she recalled that Ms. PFMLI Policy and Operations Manager sent an email communication to the team noting that Ms. Complainant would be working on other projects and was excused from attending these meetings. The circumstances still seemed unclear to Ms. OPA2-3—she said that despite the change in reporting structure, the team was told that Ms. Complainant and Ms. OPA4 would still be engaged with policy work, so it was not apparent where and how the work or interaction would be changing. In particular, Ms. OPA4 continued to attend the meetings at issue.

Milk Carton Comments

The exact contents of the Teams Chat were available for review, and were verified.

Mr. Business Systems Analyst

Mr. Business Systems Analyst acknowledged that he wrote the comments about putting a missing person on a milk carton, and he confirmed that these comments were in reference to Ms. Complainant. He explained that his comments were intended to be light, the way that one might joke with a coworker who had time off while others were working.

At the same time, he stated that it was significant and notable to the team that Ms. Complainant was not there. He explained that their team members were under strain, in part because of issues of leadership transparency and in part because the work of the group was not moving forward pending decisions by leadership. To the extent that their work was waiting on decisions from leadership, and to the extent that Ms. Complainant as a member of the leadership team was not there, he felt that was a big deal. He acknowledged that there was some frustration around her absence. He stated that if she was absent, there was a lack of direction from leadership and a limitation to their access to information as a result. At the same time, he noted that if others had been absent from the meeting, and in particular if they were absent multiple times, he would have expected there to be similar frustration.

Ms. OPA3-3

Ms. OPA3-3 was present at this meeting and recalled the comments and the chat. She expressed the opinion that Mr. Business Systems Analyst was known to make jokes, but acknowledged that it was a “poorly chosen joke.” At the same time, she said that the factual representation was accurate: that Ms. Complainant was not present for the policy-related meetings, and that team

members who were connected to that work were not aware of any reason or explanation for her absence.

Ms. Outreach and Engagement Employee

Ms. Outreach and Engagement Employee was employed in Outreach and Engagement, was present at this meeting, and recalled the comments and the chat.

She said that Ms. OPA2-3 said something like “I have no idea what [Ms. Complainant] is doing,” and that the comment felt “bizarre,” because updates about other people were presented in a neutral fashion, where instead updates about Ms. Complainant felt “snarky.” Along with Mr. Business Systems Analyst’s chat, she said, “I thought that was really offensive to make it out like [Ms. Complainant] wasn’t doing her job.”

Ms. OPA2-3

Ms. OPA2-3 expressed the opinion that Mr. Business Systems Analyst “adds a sense of levity and fun to an otherwise stressful situation,” and that was why she responded in the chat and said he was appreciated.

Ms. OPA4

Ms. OPA4 was not present for this meeting. She expressed the opinion that Mr. Business Systems Analyst was known to have some sense of humor, and she would have considered his comments to be an innocent joke.

Ms. OPA4 noted that the team was informed that the reporting structure had changed, but that there was no explanation of what that would mean, whether in terms of meeting attendance, or anything else.

Ms. PFMLI Policy and Operations Manager

Ms. PFMLI Policy and Operations Manager was not present at this meeting, but Ms. Complainant’s concern was brought to her attention, and she spoke with Ms. OPA2-3 to find out what had happened. She told me, “I remember [Ms. OPA2-3] saying, ‘[Ms. PFMLI Policy and Operations Manager], I don’t know what [Ms. Complainant] is doing. I thought she’s supposed to be coming to these meetings.’ I said, ‘I think so too, but I understand she’s been given a special assignment.’”

Ms. PFMLI Policy and Operations Manager said that she had generally informed the team that Ms. OPA4 and Ms. Complainant would be reporting to Ms. Acting PFMLI Division Deputy Director, and that there might be some transition period because they were not yet sure what the change would entail. But she did not recall any other explanation provided to the team members about how that might change roles, responsibilities, or the team’s access to certain leaders.

Ms. PFMLI Policy and Operations Manager spoke with Ms. Acting PFMLI Division Deputy Director and expressed that there was confusion amongst the staff and that they ought to provide clarification around Ms. Complainant's role and presence at different meetings. She said that Ms. Acting PFMLI Division Deputy Director did not understand why there was confusion, and Ms. PFMLI Policy and Operations Manager explained, "[b]ecause we have said there is going to be transition, but we haven't said transition to what, and they are confused because [Ms. OPA4] is still coming." Ms. PFMLI Policy and Operations Manager told me, "I claim part of that confusion because I hadn't provided information either, and there [was] lack of clarity from [Ms. Complainant], [Ms. OPA4], and [Ms. Acting PFMLI Division Deputy Director]. Many of them expected [Ms. Complainant] to be there; I would have, too."

Ms. Acting PFMLI Division Deputy Director

With respect to the change in reporting structure for Ms. Complainant and Ms. OPA4, Ms. Acting PFMLI Division Deputy Director explained that as part of a larger organizational structure redesign, she might have proposed this change. Ms. Complainant and Ms. OPA4 were part of the leadership team, but at that time were subordinate to Ms. PFMLI Policy and Operations Manager, another member of the leadership team. The change was intended to allow them to be more fully participatory in those meetings. At the same time, Ms. PFMLI Policy and Operations Manager had a large roster of direct reports, and Ms. Acting PFMLI Division Deputy Director said, "[i]t wasn't a dramatic shift to what the day-to-day was like. It was more like they could come to me and have some independence to the policy work and hopefully be more participatory."

Ms. Acting PFMLI Division Deputy Director explained that at some point she told Ms. Complainant that she could bypass attending certain meetings. She recalled that Ms. Complainant felt alienated in those meetings, felt that discrimination was occurring, and the behavior was not changing. Enabling her to bypass certain meetings was an effort to remove her from those difficult situations while they worked to address the underlying issues. She explained that it did not feel appropriate to tell the entire team that Ms. Complainant would no longer be attending those meetings, because that might highlight the situation and generate even more discussion or escalation of the behaviors at issue. She acknowledged that the team was not informed one way or another about any change in meeting attendance or avenue of communication vis-a-vis Ms. Complainant.

Ms. Equity and Inclusion Officer

Ms. Equity and Inclusion Officer confirmed that because of the concerns expressed by Ms. Complainant and the negative behavior she had experienced, she was given the option to attend or not attend certain team meetings at her discretion. She said, "[Ms. Complainant] still needed a voice and access; we talked about how [Ms. Complainant] should be the one to make those decisions to try that or not."

Environment

Employee Resistance

Ms. Acting PFMLI Division Deputy Director

Ms. Acting PFMLI Division Deputy Director expressed the belief that there were a number of employees who were resistant to change, in particular where the PFMLI program was being developed to be a more inclusive and equitable program. She noted that while PFMLI was being modeled in part after the Unemployment Insurance program, there were some historical disparities within that program that the leaders of PFMLI sought to avoid. She believed that some employees were averse to the viewpoint that the Unemployment Insurance program was in need of improvements related to equity and disparities. She said:

It didn't feel like we could have a very open dialogue about the policy for Paid Family, the charge we had been given by the legislature to have it be an open and inclusive program that took into consideration past instances of discrimination and make sure we are building it this way moving forward. Instead of questioning "why did UI set it up that way, we know the result is discriminatory," when we would push, me, [Ms. Complainant], [Ms. Communications and Outreach Lead], "maybe we don't want to just replicate what UI does," it was like "what are you talking about," in a not-respectful, not-professional manner, and then people would just fall back on that approach to policy. So, it felt like we were fighting this uphill battle to make them rethink policy that they had been doing for a certain way for decades.

In addition, when it came to the development of the relevant technology, and in particular with the Modernization program, Ms. Acting PFMLI Division Deputy Director believed that Ms. Complainant was "shut down and shut out" from raising issues of concern. She said the unit decided that only one subject matter expert should speak at the table and others should be silent; outwardly, this was presented as an approach towards efficiency, but to Ms. Acting PFMLI Division Deputy Director and to others it felt like a decision based in bias against certain speakers. She noted that the overall working environment felt riddled with microaggressions, dysfunction, lack of communication, and toxicity.

A number of other employees interviewed also expressed the belief that certain OED employees were offended by the implication that the Unemployment Insurance program presented disparities, and were therefore resistant to changes that stemmed from the intention to address those disparities.

Ms. Acting PFMLI Division Deputy Director told me:

It felt personal to a person like [Ms. Complainant] ... she's bringing forth this perspective, she was brought on to bring that perspective, but it's not being valued ... Every time you push on something that deals with equity, changing [the way things have] been done, you were met with resistance, questioning. I witnessed it with [Ms. Complainant]; she would raise a question, and everybody would act like,

almost like they couldn't follow what she was saying. It was like none of them had been challenged in that way. Instead of being like "huh this is an interesting perspective, tell me more, tell me what you've seen," it was like this instant wall of "we don't know what she's talking about so we're going to treat it like she's crazy."

Ms. PFMLI Program Manager

Ms. PFMLI Program Manager explained that the decision to have one subject matter expert as the speaker in a meeting (per topic area) was not intended to silence Ms. Complainant or anyone else; it was an approach intended to cut down on outward conflict in vendor meetings, and to focus discussion and encourage team agreement to be reached before and outside of those meetings. Ms. PFMLI Program Manager said that in the group sessions with Modernization and their technology vendor:

There came to be conflict among the PFMLI subject matter experts on who got to respond to that, and where there were conflicting thoughts about what the system should do, there got to be significant tension and conflicts in those meetings ... I stepped in [] to try to stop those conflicts from happening, to create those conversations behind the scenes, so that in the meetings we could speak with a unified voice. So, one of the solutions was we said for this requirements meeting for this topic, the primary SME is [Ms. OPA3-3], and if other SMEs want to say something, they need to be in a Teams chat with [Ms. OPA3-3] and she can present it. It wasn't to try to silence anyone, but to try to avoid conflict in that vendor meeting and to try to resolve those conflicts in advance. I think [Ms. Complainant] was rightfully upset, like she was being told she couldn't talk when she had something to say in those meetings. From my perspective it wasn't meant to not have her talk, but to have those discussions within PFMLI outside of those group meetings.

Ms. PFMLI Program Manager said she did not want contentious behavior spilling over into that space, and the intention "was more just trying to contain that awful team dynamic."

Leadership Vacuum

Ms. PFMLI Policy and Operations Manager

Ms. PFMLI Policy and Operations Manager further attributed the environment to difficult circumstances and a vacuum in leadership. She noted that PFMLI as a program was in a startup stage, it was in need of leadership, Mr. Acting Agency Director had been pulled away to help with the broader Agency, Mr. Acting PFMLI Division Director was in need of support, she herself was overwhelmed with the amount of work on her plate and the number of staff reporting to her, and Ms. Acting PFMLI Division Deputy Director was brought in to provide leadership support, but the direction that she set and the changes that she implemented were difficult for the staff to respond to. She said, "as a leadership group we were all on different pages."

A number of other employees interviewed also expressed the belief that there was a substantial leadership vacuum, lack of communication from the leadership team of PFMLI, and lack of understanding and trust amongst PFMLI staff.

Anti-Discrimination Training and Personnel Complaints

Complaints to Supervisor and Lack of Corrective Action

Ms. OPA2-3

Ms. OPA2-3 confirmed that Ms. PFMLI Policy and Operations Manager spoke with her about the concern with her comments at the September 9, 2021, Daily Scrum Meeting. Ms. PFMLI Policy and Operations Manager did not ask her to speak with Ms. Complainant or to address the concerns in any particular manner. Ms. OPA2-3 told me, “[b]ecause I didn’t make the comment, I didn’t reach out to [Ms. Complainant]. If somebody should apologize, it probably should have been [Mr. Business Systems Analyst]. But in hindsight, maybe I should have reached out to her.”

Ms. PFMLI Executive Support

Ms. PFMLI Executive Support worked as PFMLI Executive Support.

Ms. PFMLI Executive Support recalled a leadership team meeting in which Ms. Complainant shared with the group that one of the staff members she led was making comments that felt insubordinate to her, and which made her feel like she was being mistreated and disrespected because of her gender and race. This staff member was also going around her for questions and concerns. Ms. PFMLI Executive Support did not recall the other leaders in the meeting providing much guidance on how to solve the issue. She felt that some of the discussion questioned whether the issue was related to race or gender, and some of the discussion questioned whether the behavior was an issue at all—namely, that it might be a point of structure and hierarchy of the team rather than a point of interpersonal conflict. Ms. PFMLI Executive Support acknowledged that she was not aware of the specifics of the interaction or any particular details about this staff member, but she said it felt to her that the leadership team was not taking the issue seriously enough; while their alternative perspectives could have been correct, it did not appear that they looked into the issue before offering alternative perspectives that were otherwise just positive assumptions.

Ms. Outreach and Engagement Employee

Ms. Outreach and Engagement Employee recalled Ms. Complainant sharing her concerns about the same staff member referenced by Ms. PFMLI Executive Support above. Ms. Outreach and Engagement Employee described that, in the context of advocating for policies and rules to be written a certain way, Ms. PFMLI Policy and Operations Manager asked for Ms. Complainant’s analysis. Ms. Complainant provided a thorough legal analysis, to which the staff member at issue responded with something like, “so you can actually pull your own weight.” Ms. Outreach and Engagement Employee felt this comment was insulting and diminishing; she noted that Ms. Complainant had a law degree and had the intelligence and educational background to back up her ideas.

Ms. PFMLI Policy and Operations Manager

Ms. PFMLI Policy and Operations Manager noted that on a few occasions, Ms. Complainant expressed that she was having a hard time, sometimes with specific employees. During those conversations, Ms. PFMLI Policy and Operations Manager attempted to provide a listening ear. While she encouraged Ms. Complainant that the team would eventually get through things, she did not ever express to Ms. Complainant that others on the team were also having difficulty with *her* behavior or approach towards *them*, and it does not appear that Ms. PFMLI Policy and Operations Manager implemented any particular approach towards addressing or improving those issues.

Ms. Acting PFMLI Division Deputy Director

Ms. Acting PFMLI Division Deputy Director expressed the belief that Ms. Complainant and Ms. PFMLI Policy and Operations Manager had communication challenges between the two of them, and to the extent that Ms. PFMLI Policy and Operations Manager did not have the time or capacity to manage so many direct reports, and to the extent that Ms. PFMLI Policy and Operations Manager had difficulty understanding how best to work with Ms. Complainant, their communications worsened, and ultimately diminished substantially. She said, “[Ms. PFMLI Policy and Operations Manager] couldn’t seem to ... find a way to include [Ms. Complainant] ... I felt like [Ms. PFMLI Policy and Operations Manager] was more used to a certain type of employee and rigid process at a very different Agency, and anything outside of that scope was new to her and overwhelming.” Ms. Acting PFMLI Division Deputy Director also acknowledged that although their interaction was problematic, and although she attempted to improve this circumstance by changing the reporting structure, she could not ultimately eliminate the need for interaction and collaboration between Ms. PFMLI Policy and Operations Manager and Ms. Complainant, as of both of their work focused on policy development.

Ms. Equity and Inclusion Officer

Ms. Equity and Inclusion Officer recalled that Ms. Complainant expressed frustration that she did not see any accountability when employees behaved inappropriately and concerns were expressed. At the same time, she noted that because employees are generally not made aware of how personnel issues or addressed, and are not made aware of the outcome when an employee is coached, they did not have insight into the accountability even when it had taken place.

She said, “[in October 2021] she did let me know that as a woman of color she felt isolated and misunderstood.”

Comments About Diversity Hiring

Ms. PFMLI Policy and Operations Manager

Ms. PFMLI Policy and Operations Manager confirmed that during a group meeting, an employee from another Agency asked what they were doing within their program to make sure they had an inclusive team, and in response an OED employee stated, “well, we hired [Ms. Complainant].”

Ms. PFMLI Policy and Operations Manager noted that this employee was generally a strong advocate for diversity-related issues, and likely blurted out this comment without any negative intention, but Ms. PFMLI Policy and Operations Manager acknowledged that the comment was offensive. Ms. PFMLI Policy and Operations Manager further noted, “it was so inappropriate; we did not hire [Ms. Complainant] because she was a Latina woman, [we hired her because] she had an excellent background.”

Insufficient Training

I was able to review a Learning and Training Completion Report for Ms. Complainant, which indicated that Ms. Complainant took multiple online training courses relating to State processes and policies, including confidentiality, safety, payroll and onboarding, information security, equity and inclusion, and more.

None of the witnesses interviewed recalled any specific onboarding or training being provided to Ms. Complainant which focused on the substantive performance of her duties. One employee interviewed, an OPA 2, stated that she assisted Ms. Complainant with some basic onboarding, but noted that they had been tasked with doing so, outside of their regularly-assigned duties, primarily because of the substantial number of people who were hired at OED within a short period of time, and the overwhelming amount of administrative work that created.

Several witnesses interviewed expressed the belief that, as PFMLI was a new program which was developing remotely during the COVID-19 pandemic, other employees similarly did not have the opportunity for training and access to leadership support that they would have wanted under more ideal circumstances.

Resignation

Ms. Outreach and Engagement Employee

Ms. Outreach and Engagement Employee expressed an awareness that Ms. Complainant was upset by the fact that Mr. Acting Agency Director “went to the press about the discrimination complaint before he even brought it up to her. He didn’t tell her ‘hey, I just want to let you know what’s going to happen here.’” She felt there was a “lack of humanity” to making a decision about a public announcement “without even considering or talking to the person who it is about.”

Ms. Equity and Inclusion Officer

Ms. Equity and Inclusion Officer also confirmed that Mr. Acting Agency Director’s public announcement about the investigation was “a very negative experience” for Ms. Complainant. Ms. Equity and Inclusion Officer registered concern about making a media announcement, especially while the employee at issue was still employed at the Agency, but she later understood that there was a desire, and perhaps some pressure, to be transparent about the existence of a complaint, and making clear the Agency’s commitment to taking it seriously.

Ms. Acting PFMLI Division Deputy Director

Ms. Acting PFMLI Division Deputy Director was aware that Ms. Complainant met with Mr. Acting Agency Director before resigning, with the intention of expressing her concerns. Ms. Acting PFMLI Division Deputy Director said, “what [Ms. Complainant] told me was she felt really blown off and not listened to and not heard, not respected.”

Other Perspectives Around Environment and Behavior Experienced by Ms. Complainant

In addition to the specifically-identified categories above, a number of the witnesses interviewed expressed their own perspectives and opinions around the environment and the behavior experienced by Ms. Complainant. Some of these perspectives overlap with, and potentially bear on, the specific categories above, but to the extent that they were shared with me as more general insights, I summarize them in this section solely for ease of the reader.

Implications of PFMLI as a New Program Being Built

Ms. Acting PFMLI Division Deputy Director

Ms. Acting PFMLI Division Deputy Director highlighted some of the negative impact to the working environment the employees experienced by explaining some of the practical difficulties and limitations around building PFMLI as a brand new program.

She explained that there were difficulties around getting the substantive work to a place where it could be completed: “[w]hen I first came to the Agency, I was trying to figure out how to free up the work. They [had been] doing policy work for a year or 1.5 years and they hadn’t produced anything public facing, like rules or guides or anything we needed to provide. It was a bottleneck [at management], operations policy analysts were very hierarchical ... [work was getting sent] up and down, nothing was getting free.”

She also explained that the staff sometimes experienced brainstorming conversations as negative critiques of their work:

When we finally started shaking some of that free, we were giving feedback ... [and] there was huge resistance to all of us along those lines; it wasn’t just [Ms. Complainant], it was any of us, and it wasn’t [Ms. PFMLI Policy and Operations Manager], she was open to feedback, it was her team ... any number of us would say “have you thought of this, did you look at this data, I’m not sure about this,” and they hated that. They grouped together and decided we were terrible leaders because we were questioning their work, and why don’t we trust them and want to push the work to the lowest level. Like, we trust you, but this is how we do policy development. There [was] a huge lack of experience in policy development on this team. I just feel like they did not understand that it’s normal to hash things out, not in a mean way, but we should be able to ask those questions as leadership so that we can stand behind where we’ve landed. They didn’t want to believe that—they

didn't want to listen to me or [Ms. Complainant] or [Ms. Communications and Outreach Lead].

Ms. OPA4

Both Ms. OPA4 and Ms. Complainant joined PFMLI some months after the program had been started, and they came in at a point where other team members had already been working to develop the program. Ms. OPA4 felt that early on, *both* of them experienced some pushback and frustration from the team members. She said:

It was also hard for me to join the team, they had worked on [the program] for 1.5 years, and you would ask a question to try to understand and they would be like "you should already know that," or "of course we already thought about that we aren't dumb." It wasn't an easy breeze for me either. [Ms. Complainant] would ask questions and I could see similar treatment of her as well, these short answers. But also recognizing they were also under a lot of stress, a lot of change, a lot of workload pressure, so they probably felt like "I don't have time to step back and explain all this to you because we have timelines." We were both wanting to learn, trying to understand where they are at, so I think that played a part in it as well. The lack of the team members wanting to give information ... So we both experienced that. I don't think it was just [Ms. Complainant], I think that's how everybody was treated. Then [on top of that] there was [her] personality, communication style, approach ... At the beginning I felt like both of us got the same treatment; how we handled it was different.

Ms. PFMLI Program Manager

Ms. PFMLI Program Manager also expressed the perspective that "the pervasive challenge was this whole PFMLI was a startup." She explained:

[R]oles and responsibilities were constantly changing, as the unit grew, and as we were building. I think a lot of people on the team had no idea what it would feel like to work in a startup environment or in a highly changing environment. So anytime a change was made, whether [by] [Ms. Complainant] or someone else, there was a lot of confusion or wrong or unproductive assumptions, just based on the fact that they weren't used to that level of change or that kind of churn. And yes, the communication from the leadership team wasn't always great, but I think whatever assumptions people made might not be very closely connected to what was or wasn't communicated by the leadership team.

Ms. OPA2-3

Ms. OPA2-3 similarly pointed to the shifting status of PFMLI and its priorities as an explanation for why the environment was difficult for most, if not all team members, and that those frustrations were not unique to Ms. Complainant. She said:

Things were very chaotic at that time. One day you're doing this and the next you're shifted and someone else is in charge. There was a lot of change happening at the spur of the moment. There was a lot of uncertainty and very little clarity on exactly what everybody was supposed to be doing. That wasn't isolated to [Ms. Complainant]. Everybody was like what am I supposed to be doing, what is my role, and that uncertainty was policy team wide. We all kind of felt a little like why am I writing this paper, what is the purpose, where is it going to go? It was not just isolated to one individual, and it's kind of how we all felt.

Impacts Related to the Pandemic

Several employees interviewed noted that the onset of the COVID-19 pandemic overlapping with the early establishment of PFMLI as a program, alongside the incredible strain and need for resources to be redirected within OED towards the Unemployment Insurance Division caused a significant amount of strain for their team.

Ms. OPA3-3

Ms. OPA3-3 described this environment as follows:

Q: Was there anything else about the environment at PFMLI that you think affected this situation?

A: Yes. I was hired in March 2020 and then we [all] went home after 10 days. We had a new program, new staff, nobody quite knew what the work was doing, no clear boundaries, no clear guidelines, everyone remote, that added complexity. When somebody else comes in and wants to understand their boundaries and role and duties in a structured way, when everyone has been surviving in an unstructured way for so long, it adds tension.

Q: Was that what [Ms. Complainant] was trying to do?

A: Yes.

Ms. Equity and Inclusion Officer

Ms. Equity and Inclusion Officer also noted that the PFMLI team "started essentially full[y] virtual, so they missed out on a lot of connection that can help a brand new team" when it came to getting to know each other, getting to know the Agency, making connections, and learning the culture of the Agency in general.

Mr. Acting PFMLI Division Director

Mr. Acting PFMLI Division Director explained, "I think everyone on the team, from the outset, was very excited to be on the team and be part of the program, and then when the pandemic started and sort of our leader left, [with] the Agency [] focused on our program, it became harder to get certain things done, some of these decisions had to be delayed, there was understandable disappointment on people's part that things weren't progressing at the pace that they might have expected.

Aversion to Change

Ms. Acting PFMLI Division Deputy Director

Ms. Acting PFMLI Division Deputy Director believed that some employees who had worked for long periods in State government were closed off to “outsider” perspectives or new ways of providing services, and their approach was “don’t rock the boat, don’t ask questions, this is how we do things.” She said, “[s]ome people have worked there their entire career[s], it felt like a very closed off environment to new ideas, new information, new perspectives ... [and] because of [some people’s] bullying nature, everyone just went along.”

When I asked her if she felt like their leadership team experienced pushback specifically because they were women in leadership, she said that from people on their own team, it felt more like they were threatened by people in positions of authority who had not been in the Employment Department for a very lengthy period of time.

Problems with Team Dynamics and Behavior

Ms. Acting PFMLI Division Deputy Director

Ms. Acting PFMLI Division Deputy Director also identified dysfunction within the team dynamic that contributed to an overall negative work environment, for both Ms. Complainant and for others. She said, “I think some people were disengaged, some people [] did not contribute at all, [and] some [people] were instigators.”

Ms. PFMLI Program Manager

Ms. PFMLI Program Manager similarly referred to difficult and at times juvenile behavior from some of the PFMLI team members. She said that behavior stemming from two of the staff members in particular led to “a lot of issues around team dynamics and trust[.]” She explained that those two staff members took the position of a “turf war” with the topics of their assignments. They believed that they ought to be trusted to perform their assigned projects more independently, and when other members of the leadership team were sent to join meetings alongside those individuals, those staff members took the position that they were not being trusted to carry forward their assigned work. Ms. PFMLI Program Manager said that those two employees “really fueled that turf war, and especially towards [Ms. Complainant].” She also said that one employee “would just flat out dismiss someone’s viewpoint that [they] didn’t agree with as [] ridiculous or [] stupid, [which] was a really immature and unprofessional way of being dismissive towards others.” During meetings, those individuals would behave with aggressive body language, glower, answer in grunts or monosyllables, and it made for an uncomfortable environment. Ms. PFMLI Program Manager said, “[Ms. Complainant] felt like [that behavior] was directed at her, rightly or wrongly. And I think it was reasonable for [Ms. Complainant] to feel that way.”

Negative Assumptions About Ms. Complainant by Other Team Members

Ms. Acting PFMLI Division Deputy Director

Ms. Acting PFMLI Division Deputy Director believed that some employees may have held assumptions around Ms. Complainant unrelated to race or gender. She said:

I think there [was] bias in that [Ms. Complainant] came from outside of state government, she was a labor attorney, she comes into this State government environment, some people have worked there their entire career[s], it felt like a very closed off environment to new ideas, new information, new perspectives. I feel like [Ms. Complainant] experienced that all the time; I experienced it; [Ms. Communications and Outreach Lead] experienced it. Even though I was inside already, for some reason I was placed in that camp, I think because I would try to elevate the things [Ms. Communications and Outreach Lead] or [Ms. Complainant] would bring to the table.

Ms. Complainant was Driven by Certain Priorities Which Were Not Shared Uniformly by the PFMLI Team

Ms. PFMLI Program Manager

Ms. PFMLI Program Manager also highlighted the substantive priorities that Ms. Complainant and certain others worked to drive as part of the development of the program. She noted that some employees had a black-and-white view of what they believe PFMLI was supposed to be based on their experience with the Unemployment Insurance department, and that rigid view came into conflict with the substantive priorities of certain leaders. She said, “[t]he communication style [Ms. Communications and Outreach Lead], [Ms. Acting PFMLI Division Deputy Director], and [Ms. Complainant] had, their priorities, their way of looking at policy and implementation, was fundamentally different from how [others were] used to looking at things. I think [they] just shut down when [they were] working with [those three].”

Some of the other employees I interviewed stated that they were not, generally speaking, opposed to bringing a lens of equity and inclusion to the work of PFMLI. They said that there were other processes and foundations they felt should be laid first, aspects that were more pressing and urgent, and that the equity lens could be added later once the foundations were laid.

Ms. OPA2-3

Ms. OPA2-3 also observed a disconnect between the issues Ms. Complainant wanted to drive versus the priorities that team members might wish or expect to advance with her.

She explained:

When we found out [Ms. Complainant] was a lawyer, we were happy to have a person in that capacity to help us to understand the rules and statutes, interpret it

for us. She was so obsessed and fixated with us going to the Employment Appeals Board, she couldn't move to anything else. That's a small part, [but] we [also] need to write rules, and we need your help. She wouldn't let it go. To this day we don't have those rules written. We were excited to have her perspective, but she just didn't use it in the way I had really hoped she would.

Ms. OPA2-3 relayed another instance where a group meeting was held, including Mr. Acting Agency Director and the Office of Administrative Hearings. She said that Ms. Complainant "very openly disrespected the Employment Department and OAH's process[.]" Ms. OPA2-3 expressed the opinion that "[Ms. Complainant's] comments to the group weren't appropriate because those of us in the group had connection to the system she was berating. You have to know your audience."

Ms. PFMLI Policy and Operations Manager

Ms. PFMLI Policy and Operations Manager also said that where Ms. Complainant presented her ideas as more of an advocate for certain populations, their leadership team became more and more divided. She said, "[Mr. Acting PFMLI Division Director], myself, [Ms. OPA4], were long-time bureaucrats. Then [Ms. Acting PFMLI Division Deputy Director], [Ms. Communications and Outreach Lead], and [Ms. Complainant] came from an advocacy background. [They focused on senior citizens, family forward, labor, marginalized communities.] More and more, every single issue came down to what are we going to do about these issues."

Frustrations with Ms. Complainant's Personal Communication Style

Ms. PFMLI Program Manager

Ms. PFMLI Program Manager explained that some team members felt that Ms. Complainant:

[W]asn't always the easiest person to talk to or get along with; she could be kind of abrasive, very direct in her style ... And there were some people on the team who reacted badly to it; they took the tone of "you're too aggressive," or "I don't like you, so I'm going to resist and fight and circle the wagons and keep you on the outside." And [Ms. Complainant] was really, really informed on the stuff she was talking about; she had all this expertise, that I think was not respected or taken into consideration by people on the team who just took a disliking to her and didn't want to work with her.

Ms. OPA4

Ms. OPA4 noted a difference between her communication style and approach towards their team members as compared to Ms. Complainant's approach. She said, "[w]hen I started at PFMLI, I met with each person to tell me about your background, tell me about yourself, to get to know them. [Ms. Complainant] approached the start with just pointed questions to people about work rather than getting to know people." Ms. PFMLI Program Manager noted that this was a difference

in their respective personalities, which she felt ultimately had an impact on how the team members received them differently.

Ms. OPA4 felt that the team members received Ms. Complainant's communication as "accusatory," or as disagreement without explanation. It appeared that the team members felt that their work was declined, that they were sent back to the drawing board, but were not provided with direction or assistance. She noted that Ms. Complainant was not the only person who communicated in this manner, and said, "[w]e are leaders for them; you can't just shut them down, you have to build them up, help them figure out what they missed."

At the same time, Ms. OPA4 noted that Ms. Complainant took note of the difference in reception, and at times asked Ms. OPA4 for feedback or insight after certain meetings or interactions. Ms. OPA4 suggested that she make changes to her communication style. She stated that she felt that Ms. Complainant was receptive to the feedback, however she did not notice a substantial change in approach. Ms. OPA4 said that Ms. Complainant had a lot of knowledge and experience, but "how it was said was getting in the way of the actual information she was giving."

Ms. PFMLI Policy and Operations Manager

Ms. PFMLI Policy and Operations Manager noted that she heard from several staff members, within the first week that Ms. Complainant joined the team, that they took issue with the communication style. She explained that Ms. Complainant set up one-on-one meetings, but instead of taking some time to get to know the individuals, "it was why haven't you accomplished this on the program, why don't you have answers for this, that kind of thing. It was not what they were expecting ... I witnessed it many times, both with staff and with people in other parts of our organization." Ms. PFMLI Policy and Operations Manager recalled at least half a dozen people from outside of PFMLI, advisory committee members, vendor representatives, and employees from other divisions, who expressed to her their frustrations around Ms. Complainant's approach and communication style, specifically noting that she was critical and directive about the work, and highlighting that at times there was lack of communication on her part—she would not show up to meetings set with Ms. PFMLI Policy and Operations Manager and others, she would not respond to instant messages or emails, and she would not provide feedback or directions to staff who submitted their substantive work for her review.

Ms. PFMLI Policy and Operations Manager said that these concerns came up repeatedly, and that she tried to speak with Ms. Complainant about the difficulties the team was experiencing.

Q: When you had these meetings with [Ms. Complainant] to talk about her communication style, what did you actually tell her? [Did you say] "here is what you are doing and here is how people are reacting?"

A: [I made statements like] "this is a hard time, we are building this program without knowing how to do it, none of us on our team has built a program from scratch before, in a vacuum, where we aren't getting assistance from other parts of the Agency or top leadership. This is hard, so that means we need to have grace for other people, the benefit of the doubt for other people, reach out to other people, build relationships." I tried many times to try to just listen to her.

Q: So, when you [were] telling her this is a hard time, [were] you attributing that to something she did? [Like, “h]ey you’re doing something that you could stand to change?”

A: Not directly. Maybe once or twice I said “maybe you said that too harshly.” Maybe early on. [Maybe I said “y]ou’re new, I realize we do things differently with the state, people have to get used to your communication style, but you also need to modify your communication style with different people.” I don’t remember ever being as direct as [saying] “you are part of the problem.”

Q: Would [Ms. Complainant] have walked away from the conversations with you thinking, “it is necessary for me to make a change,” as opposed to “it would be good for everyone to improve?”

A: Probably not.

Ms. Acting PFMLI Division Deputy Director

Ms. Acting PFMLI Division Deputy Director also noted Ms. Complainant’s communication style. She said:

[Ms. Complainant] at the same time [was] coming from [a] litigation [background], so some of what I tried to coach [Ms. Complainant] on was like, “I’m glad you’re thinking like a lawyer, I want you to do that, but when we’re talking with partners or other parts of our Agency, they’re not opposing counsel, so we have to reframe how we raise an issue.” She was receptive to that, but I could also understand from her perspective that it felt like we were in litigation because we were trying to advocate for our position to get it right for Oregonians, but [we were] feeling all this pushback.

Ms. Acting PFMLI Division Deputy Director explained that to some extent, the team members were “just not used to working with someone who [was] bringing that level of information, or in that style, like a litigator.” She told Ms. Complainant, “I love what you’re raising, but I think we need to find a different way of saying it to some of these people ... we would talk about it, that it’s ridiculous that you need to do this, but we have all these different staff who have different levels of experiences, so let’s figure out how to communicate in a different way so they can hear you.”

She felt that Ms. Complainant was receptive to this feedback, and she said, “I witnessed [Ms. Complainant] really make huge efforts on that front, to come to the table with a different way of talking about it, less adversarial. I witnessed a dramatic shift in her tone ... She was willing to do that because she wanted to make sure she worked on the success of the program.”

Ms. Acting PFMLI Division Deputy Director further noted that this experience was not limited to Ms. Complainant. She said, “[m]any of us in the leadership team, [Ms. Communications and Outreach Lead], me, [Ms. Complainant], [Ms. PFMLI Program Manager], all felt like we had to do that. That we had to modify the way we spoke or how we presented something, how we asked people to do things, to make sure it was being received, and it felt like unfamiliar for all of us given the professional environments we had come from [where] we didn’t have to be so careful about the way we did everything.”

Ms. Equity and Inclusion Officer

Ms. Equity and Inclusion Officer recalled that Ms. Acting PFMLI Division Deputy Director had talked about providing coaching to the team on supporting different communication styles. In particular, she had shared with the team that Ms. Complainant was an attorney, and that sometimes attorneys can be direct, and that communication style can be challenging for people. Ms. Equity and Inclusion Officer noted that employees at OED could be sensitive about direct communication, and therefore, from an Agency culture standpoint, some of Ms. Complainant's communications were being received as challenging. Ms. Equity and Inclusion Officer also explained, "but that can also play into microaggressions against women in leadership, women of color, and women of color in leadership."

Mr. Acting Agency Director

Mr. Acting Agency Director recounted that he observed Ms. Complainant's communication style during a public meeting and privately expressed concerns to either Ms. Acting PFMLI Division Deputy Director or Mr. Acting PFMLI Division Director, asking one of them to follow up with her. He told me, "[w]e had a member of the public ask a question [and] she said [something like] 'although this is a public meeting, you aren't allowed to ask questions.' It was said in an abrupt and harsh litigator style, and it wasn't community engagement focused." Mr. Acting Agency Director had no awareness, at that time, whether this communication style was commonplace for Ms. Complainant; he expressed his concerns on the basis of his own in-the-moment direct observation.

Other Frustrations with Ms. Complainant

Ms. OPA4

Ms. OPA4 also noted that some team members were frustrated with the manner in which Ms. Complainant attended or declined meetings. She said that from the beginning of their hire into PFMLI, Ms. Complainant would decline meeting requests without response or explanation. Ms. OPA4 said, "I started replying asking her 'can you please explain why you aren't coming; do you want me to reschedule this meeting,' and sometimes she would respond and sometimes she wouldn't explain." Ms. OPA4 said that this behavior frustrated the staff members, in large part because they expected their team members and their leaders to be present, and in part because they did not have communication around why or even when Ms. Complainant might not be in attendance. While she understood that both of them had a substantial amount of work on their plates, and sometimes the meetings were not well defined with an advance agenda, she felt that it was part of their job responsibilities as leaders to be present in those meetings and accessible to their team members.

Again, Ms. OPA4 noted that the team was told the reporting structure had changed, but there was no explanation provided to them of what that would mean in practice. She said, "I didn't feel like I even had that understanding." After the reporting structure changed, Ms. OPA4 believed that Ms. Complainant stopped attending the policy scrum meetings altogether.

Ms. OPA4 also understood that some team members were frustrated with Ms. Complainant because they felt that she did not provide direction or information in response to their projects or submissions. For example, they were asked to provide a numerical vote during meetings, and if their vote reflected a certain number, they had agreed to provide explanation to the staff. Despite voting accordingly, Ms. Complainant at times declined to elaborate on her reasoning, which did not provide direction for the staff. At times, she would disagree with staff submissions, but would not provide them with direction as to what alternative to pursue. Some of the staff felt frustrated with their interactions with her as a result.

Ms. OPA3-3

When I asked Ms. OPA3-3 if she ever observed behavior towards Ms. Complainant that could have made Ms. Complainant feel excluded, she said, “my perspective was the opposite, that it was very difficult to work with her.” Ms. OPA3-3 felt that Ms. Complainant did not provide feedback when asked, did not provide guidance or expertise when asked, and during policy discussions would often state that she disagreed with proposals or suggestions from the team members but would not explain her reasoning or provide alternative guidance in response. When the team held leadership meetings to discuss policy ideas, Ms. Complainant might note that she did not want to explain her reasoning in the meeting, but the team members believed that the purpose of the meeting was to discuss the merits of the policies; Ms. Complainant also did not follow up with explanations outside of the meetings. Ms. OPA3-3 said, “It felt like she didn’t feel she had to explain it to me.” Ms. OPA3-3 said that she and other team members felt that when they tried to engage Ms. Complainant, they did not receive her feedback or guidance, and when they did not try to engage Ms. Complainant, they heard that she felt excluded.

With respect to Ms. Complainant’s attendance at meetings, Ms. OPA3-3 said that team members noticed, were confused by, and commented on the fact that Ms. Complainant was absent from their daily policy meetings. She said that there was no communication that would have led the team to understand that this change was either by design, or otherwise approved by management. I asked Ms. OPA3-3 whether other team members also missed meetings at times. She said, “[Ms. Complainant is] the only person I knew of to not attend meetings without explanation, but whether she explained to her supervisor I didn’t know.”

Mr. OPA3-2

Mr. OPA3-2 was an OPA 4 within PFMLI.

Mr. OPA3-2 noted that after some point in time, he felt that Ms. Complainant no longer participated as a member of PFMLI. He said, “[Ms. Complainant] kind of fell off the team and stopped responding ... there was a point in time she decided she wasn’t being valued ... So, if you needed something from [Ms. Complainant], it just wasn’t going to happen.”

He noted that people on the team were frustrated because Ms. Complainant “didn’t communicate very well ... She didn’t communicate that she wasn’t coming to the meetings, and she didn’t communicate about the substance of the work.” His understanding was that Ms. Complainant was supposed to use her legal expertise to provide him and other team members with a first level

substantive review of their work. He did not recall ever receiving written feedback from her, and he felt that any verbal feedback was limited.

During certain meetings, when Ms. Complainant was absent, he recalled that the team was told, “[Ms. Complainant] isn’t here today because she’s working on special projects.” He explained, “[u]nfortunately, we had conversations where people expressed frustration because she wasn’t coming to scrum meetings. It felt like there were people on the team that felt like she was being rewarded for having bad behavior. It was their perception that her behavior was bad; [then] she got assigned special work and that was even more irritating.” Mr. OPA3-2 said it was possible that Ms. Complainant was not aware of those team frustrations, because much of the conversation happened in OPA 3 meetings where she was not present. But he noted that based on how team members acted around her, she might have nevertheless felt that frustration.

At the same time, Mr. OPA3-2 noted, “[w]hen I met with [Ms. Complainant] one-on-one, she was so pleasant. In group meetings it was very different. In groups she was more reserved; she often didn’t speak up. I don’t know if that was by design or because she didn’t feel comfortable.”

Ultimately, even the minimal communication about her special projects was confusing, because it was not clear whether this was a one-off exception to meeting attendance, a medium- or long-term change in meeting attendance, or a broader reassignment of her body of work and therefore a commensurate change to the existing structure of the project collaboration amongst other team members.

Ms. OPA2-3

Ms. OPA2-3 explained, “[p]eople had confided in me and told me they had found her communication style abrasive, that she came on strong and demanding. And for having only been here two weeks to come right out of the shoot and not trying to establish relationships with people was frustrating. Especially since we were all in chaos anyway. That was upsetting to a lot of people.” When I asked Ms. OPA2-3 to describe the behavior at issue, she said, “[i]t was how [Ms. Complainant] presented herself and how she talked to people, her lack of response to people. When you talk like that and you’re abrasive, short, argumentative, you don’t give people the courtesy to reply to team messages and emails, that’s unprofessional.”

Ms. OPA2-3 noted that she spoke with Ms. Complainant directly about the issues stemming from her communication style. She said, “I flat-out told her we need to work on your communication ... I had a very long conversation with [Ms. Complainant] [during] my first one-on-one with her ... I tried to help her understand how to communicate with the team and how to interact with them on a more positive level. I thought it went very well, she seemed very receptive to the things I was suggesting that she do.”

Ms. OPA2-3 said she felt that Ms. Complainant was responsive to the feedback during that conversation. She said, “[Ms. Complainant] felt bad. She said she didn’t mean to do that. And I know she was frustrated as well; she wasn’t getting clear guidance on her role, that had a trickle-down effect. I understood that, but she needed to earn trust and respect from people. At one point she cried, she felt bad, she was frustrated.” Ms. OPA2-3 said she provided Ms. Complainant with

advice, which she felt that Ms. Complainant implemented for a short period of time. She said, “[f]rom what I observed, for a few weeks or so, [Ms. Complainant] softened up a bit, she smiled a little bit, she engaged in more of a friendly way. Who knows, it might have been hard for her to do that. I have been in that position where someone told me your personality is too much and I want to work on it but it’s exhausting.” Ultimately, she said Ms. Complainant “went back to her abrasive, abrupt communication style. It lasted maybe a couple of weeks.”

I also asked Ms. OPA2-3 if others within PFMLI exhibited behavior similar to that of Ms. Complainant. She said, “I don’t know about [Ms. Communications and Outreach Lead]. [Ms. OPA4] was attentive. [Ms. PFMLI Policy and Operations Manager] might take a couple of days to get back to you. The other leadership people, [Ms. Acting PFMLI Division Deputy Director] and [Mr. Acting PFMLI Division Director], why bother. They didn’t give direction or straight answers.”

Ms. PFMLI Policy and Operations Manager

Ms. PFMLI Policy and Operations Manager was also aware that some team members were confused by, and frustrated with, Ms. Complainant’s absence from meetings. She noted that even after the change in reporting structure, after Ms. OPA4 and Ms. Complainant were to report directly to Ms. Acting PFMLI Division Deputy Director, Ms. OPA4 continued to attend the meetings at issue. So, the change in reporting structure would not have, on its own, signaled to the team a legitimate explanation for the change in attendance when their other OPA 4 was still attending. More importantly, Ms. PFMLI Policy and Operations Manager felt that the nature of the work itself necessitated Ms. Complainant’s attendance. She said, “[Ms. Complainant was a] lead policy analyst; [the team members] need to know what she’s working on, and she needs to know what they are doing. And it’s all in a virtual environment so it’s not like [they could] stop by her desk and know she [was out or otherwise engaged], unless [she herself] reach[ed] out or communicate[d].”

Ms. PFMLI Program Manager

Ms. PFMLI Program Manager provided another perspective of Ms. Complainant’s meeting attendance. She acknowledged that she observed, at times, that Ms. Complainant was absent from certain team meetings, and she noted that some team members expressed comments or frustrations about that lack of attendance. However, Ms. PFMLI Program Manager explained that the reduced attendance “wasn’t right away; I think that happened over time as [Ms. Complainant] felt less space in those spaces, she started participating less, so that stemmed from the way others treated her.” Ms. PFMLI Program Manager noted an instance where Ms. Complainant provided direct and significant feedback on a topic after a meeting; Ms. PFMLI Program Manager said, “she told me she didn’t feel safe expressing herself in that group with those people.”

Ms. Equity and Inclusion Officer

Ms. Equity and Inclusion Officer confirmed that Ms. Acting PFMLI Division Deputy Director had provided Ms. Complainant with some coaching, in particular on how to ask questions of colleagues so that they would feel respected, as well as feedback on how the impact of her questions was

landing. At the same time, in parallel to this coaching to Ms. Complainant, Ms. Equity and Inclusion Officer noted that there was concern that in some cases the colleagues might have been perceiving Ms. Complainant's questions and communication style as challenging because they were coming to the interactions from a place of bias. Ms. Equity and Inclusion Officer noted that they wanted to help Ms. Complainant navigate those interactions while not placing all the burden of the interactions on Ms. Complainant.

Leadership Absence

Almost all of the individuals I interviewed pointed to a significant problem with, and absence of, leadership presence within PFMLI. Where witness opinions diverged on multiple other topics, there was a uniform perspective that leaders of the group were unengaged, inconsistent, uncommunicative, and unable to guide their team members through the development and implementation of the program. Many people interviewed said that the PFMLI Acting Director, Mr. Acting PFMLI Division Director, was a very nice and intelligent man, but very passive, and as a result, not an active leader. Many people interviewed said that the leadership team of PFMLI, including Ms. Acting PFMLI Division Deputy Director, Ms. PFMLI Policy and Operations Manager, Ms. OPA4, Ms. Complainant, and others were not able to clearly define priorities or communicate necessary information or effectively project-manage the team. As a result, the team members regularly felt like they were spinning their wheels and working in the dark. Many people interviewed said that there was a significant lack of definition to the roles and responsibilities of both the leadership team members, and the broader team. Many of the policy staff felt that they were not hearing back from leadership with decisions that were necessary for the progress of the staff's work.

One employee said:

It felt like we were all spinning our wheels. Me as lead and my two OPA 2s would say here is our policy and recommendation and it never really went anywhere ... Our team got a lot of rules drafted, but as far as policy choices go ... how undefined that process was and how hard it was to get someone to make decisions ... [i]t felt like nobody ever wanted to make a decision, so there was just this internal meltdown ... We as a policy team did all the research and came up with options and then presented it. You would have one person on the leadership team say "oh, I really like that." Four out of the six said "we are good with that," two said "no." Even with the majority [in favor], it took two people saying no and it killed it. The policy didn't move and it was crippling.

One employee said, "[w]e kept hearing, or kept being told by [Ms. PFMLI Policy and Operations Manager] and [Ms. Acting PFMLI Division Deputy Director], that they were working on the process and that more guidance would come; it just never came." Another employee said:

[The staff] were writing all these papers and creating all these presentations and felt it was a waste of time because they weren't receiving a response from leadership. More generally it felt like an issue that staff weren't getting clear enough guidance or instruction about their work so were taking shots in the dark, then got frustrated

because leadership was then trying to change that in the team and trying to test out different ways of leading the team, so the changes caused disruption.

One employee said, “[w]e as a policy team knew there were a lot of problems on the leadership team. We all saw that there was a lack of unity there and some infighting on the team, but we didn’t know what the problems were.”

While all employees interviewed expressed frustrations and concerns with the leadership of PFMLI, some had substantial enough concerns that they were in fact surprised with the identified subjects of this factfinding investigation. One said, “I felt sure this [investigation was going to be] about [Ms. Communications and Outreach Lead] ... [Ms. Communications and Outreach Lead] was the one who made meetings so uncomfortable and unprofessional.”

Racism and Gender Bias

Ms. Acting PFMLI Division Deputy Director

I asked Ms. Acting PFMLI Division Deputy Director if she had reason to believe that Ms. Complainant had a *more* difficult time than other employees when it came to resistance, lack of sharing information, dismissive behavior, and the like. Ms. Acting PFMLI Division Deputy Director said:

From my discussions with her, I feel like yes. I feel like she had a worse experience. I feel like it’s bias, gender and racial bias. Whether people understand what they [were] doing or why they [were] reacting a way or not [I don’t know]. I feel like that was the impact on [Ms. Complainant]. I feel like I tried to do everything I could think of to shield her from that and assign her different work so she wouldn’t have to experience that from people, or be retraumatized. It made me really sick to my stomach to see her like that. And [Ms. Communications and Outreach Lead]. And on and on. People were not happy there.

I also asked Ms. Acting PFMLI Division Deputy Director about the broader environment for the women on their leadership team, and specifically whether she had reason to believe that the pushback they received was related to gender. She said, “there were layers.” She explained that from some people, the pushback and behavior was clearly sexism and gender bias. She said that from others on the team, it felt more like they were “threatened by people in positions of authority who haven’t been in the employment department for two decades.” From some people, the behavior felt very paternalistic. She also identified individuals within the team who had a particularly negative impact because they were bullying and antagonistic in their refusal to cooperate with other members of the program, and with the largely women leadership team.

Ms. Acting PFMLI Division Deputy Director further noted that the experience and impact of gender discrimination were worsened due to the actions or inactions of executive leadership. She explained:

It added to this feeling of gender discrimination because they put this unqualified white male into the [PFMLI Acting] Director role, he didn't want the job, he wasn't good at the job, he didn't lead, he had some apathy, but he wasn't discriminatory. They [were] totally fine putting him in that role and having him be there for 1.5 years not moving the program forward, not advocating. Meanwhile, all these strong women are around him, and they bring me in from another Agency because they know I have the skills to lead, and they still don't listen and still don't take action. We [were] constantly going to [Mr. Acting Agency Director] and [Ms. Agency Deputy Director], and all those layers added to the environment and our lack of ability to move forward. And all the people [Mr. Acting Agency Director] directly hired ... their perspectives were valued more than the rest of us.

Ms. PFMLI Program Manager

Ms. PFMLI Program Manager similarly believed that racial and gender bias were at issue within PFMLI. She said that Ms. Complainant, Ms. Acting PFMLI Division Deputy Director, and Ms. Communications and Outreach Lead were all treated differently, and negatively. She said:

I think that how the three were treated is important. All three came from outside the Employment Department, and two of the three came from outside of state government. The three were targeted with some really poor behavior; whereas, I am a woman, I have been in the department for 13 years, and I had a better understanding or experience with knowing how to "pass." The three of them came from the outside and ran into barriers. I think it was gendered, for [Ms. Complainant] it might have had to do with ethnicity. I do think that the three people affected being those who were not working in the "Employment Department way" is relevant. Also, those three did not just experience issues within PFMLI; Modernization was also a pretty toxic place for the three of them to try to be the way that they were ... I don't think the issue is just within PFMLI. There were extra or extreme issues there, but it's also within the Agency, a pervasive culture issue in the Agency, and Agency leadership isn't taking it seriously or addressing it. They are absolutely aware—should be aware—based on issues that [Ms. Acting PFMLI Division Deputy Director], [Ms. Communications and Outreach Lead], [Ms. Complainant], and I have tried to raise to executive leadership—they are absolutely aware.

I asked Ms. PFMLI Program Manager about her perspective of Ms. Complainant's own behavior in parallel to the treatment she received from other employees. I asked her whether it seemed as if Ms. Complainant's behavior did not rise to a level where it would justify others behaving the way they did. Ms. PFMLI Program Manager said, "I would say in terms of the culture of that Agency, [Ms. Complainant] was harder than average to interact with or build a positive relationship with, but not so difficult that you shouldn't still do your job. [She was m]ore challenging than average, but I can also think of a few people who have been even more difficult to build a productive working relationship with. And I think I was able to build a productive relationship with her."

Ms. PFMLI Program Manager acknowledged that she observed and personally experienced some challenges with working with Ms. Complainant. She said, “[w]hen I had my first meeting with [Ms. Complainant], she said some things that really rubbed me the wrong way, so I get that perspective. But I made a point of saying [to myself], ‘[Ms. Complainant] has really good ideas, she has all this knowledge, she’s really brilliant, I want to find ways of working with her so we can leverage that for the program.’ I saw so many people fall back on ‘she’s so hard to work with so I don’t want to work with her.’”

As a result, Ms. PFMLI Program Manager believed that the behaviors she observed from others towards Ms. Complainant were not acceptable. She said:

The things people would say to me about [Ms. Complainant] felt really inappropriate and unprofessional. Like people would say “she is abrasive or difficult.” Like [Ms. PFMLI Policy and Operations Manager] said to me directly, in one-on-one conversations, that she really found [Ms. Complainant] difficult to work with, really didn’t like her style, just made those kinds of comments. I really felt that was unprofessional coming from any supervisory manager, let alone when [Ms. Complainant] was directly reporting to [Ms. PFMLI Policy and Operations Manager]. I took it as kind of [Ms. PFMLI Policy and Operations Manager] absolving herself and her team of any of their poor behavior towards [Ms. Complainant], just blame shifting and putting it back on her, like “of course we are all treating her this way because she is really hard to work with.” I think that’s disgusting, frankly.

Ms. OPA2-3

Ms. OPA2-3 offered a different perspective; she stated that while Ms. Complainant may have experienced pushback, others did as well, and in particular, all of the PFMLI leadership team was at issue. She felt strongly that there was no gender or racial bias at issue. She said:

Others did get that [same] kind of feedback. There was not a meeting where we weren’t saying “leadership sucks, we are floundering, you won’t tell us what you want, when we ask a question, you pile on more work and don’t give us direction to allow us to focus on the work.” It was over and over, “leadership needs to tell us.” It wasn’t isolated at any one person. Whether their style of communication was passive or abrasive, condescending, untrustworthy, nitpicky, they weren’t doing what they needed to do by helping us do our jobs. Part of the reason the program is so far behind is because of that. Decisions that should have been made in early 2021 are just now being made.

Mr. Business Systems Analyst

Mr. Business Systems Analyst said that from his perspective, he never saw anyone at OED “being treated badly,” and he never saw anything reflecting a “hostile environment.” He said that he felt that some team members were distanced from Ms. Complainant, but he attributed that to group dynamics, explaining:

[F]or me, it never came across as if [Ms. Complainant] was somebody inviting to conversation or to be friendly ... [E]ngaging in a team atmosphere where people are trying to tackle a big project, trying to have a cordial and fun way to move things forward [is important]. It's stressful, so sometimes you want to start a small chat, make a joke, something just to relax the atmosphere within the group. I never felt like she was really comfortable with that or engaging or interested ... I can see folks probably not feeling as comfortable with her in the room as a result of not knowing her attitude or agenda ... And within our team, our larger team, we have examples of members of leadership who were the opposite – friendly, engaging, interested in you and what you were doing, welcoming approach. So it makes the contrast even larger.

When I asked Mr. Business Systems Analyst which leaders he perceived to be more welcoming in their approach, he indicated Ms. PFMLI Program Manager and Ms. OPA4.

Broader Concerns About Mr. Acting Agency Director and Mr. Acting PFMLI Division Director

For ease of the reader, I begin this section with an overview of the leadership structure within PFMLI, the circumstances that led to a change in that structure, the pathway by which that change was implemented, and information about some of the surrounding context and general environment. From there, I will transition to issues and information more directly related to Mr. Acting Agency Director and Mr. Acting PFMLI Division Director.

Mr. Acting Agency Director and Mr. Acting PFMLI Division Director Change Leadership Roles

Mr. Acting Agency Director

Mr. Acting Agency Director explained that as the Director of PFMLI, he did consider how to build the right culture, and that their core group of early team members discussed having “a mix of seasoned bureaucrats who [could] help us cram things through and make things happen, and idealistic people we could bring in for ideas who are not bureaucrats.” Just as they were engaging in initial team building, the COVID-19 pandemic led to a statewide lockdown, on or around March 8, 2020, and within days after that, Mr. Acting Agency Director was pulled primarily out of PFMLI to help with Unemployment Insurance issues, because of his background. Mr. Acting Agency Director therefore asked Mr. Acting PFMLI Division Director, who was then Deputy Director of PFMLI, if he could step in to cover more of the daily operational needs.

As the pandemic continued, Mr. Acting Agency Director was pulled further and further away from PFMLI, and on or around May 31, 2020, he was asked to change roles to Acting Agency Director. He therefore asked Mr. Acting PFMLI Division Director to change roles and take a position as PFMLI's Acting Director. Nobody knew, or had any way of knowing, how long the pandemic would last, and how long this change in roles would continue. At that point, the expectation was that Mr. Acting Agency Director would ultimately return to his role within PFMLI, and that Mr. Acting PFMLI Division Director would then return to his role as Deputy Director.

Mr. Acting Agency Director felt that Mr. Acting PFMLI Division Director was the only person who could reasonably move into the role of Acting Director of PFMLI. He said:

[T]he others absolutely didn't have remotely the right level of state experience. Or [of] the people who did know our Agency, I don't think they had prior management experience, so it was a non-starter. [One] had great skills but not that kind of management or leadership experience. [One] was brand new to State government and quite new to that team. [One] had been on the team as long as [Mr. Acting PFMLI Division Director], but [] did not have the depth of management experience, not even direct management experience, let alone higher level leadership.

He also felt that it was not reasonable to hold a competitive recruitment to fill the position, because Mr. Acting Agency Director's role as Acting Director was itself intended to be temporary. Because of the unknown nature of the pandemic, and because of the significant strain on the Employment Department in responding to pandemic-related unemployment filings, this situation remained in limbo for quite some time. Mr. Acting PFMLI Division Director therefore held the position of Acting Director for much longer than was anticipated, and without any specifically calculated end date in sight.

At the same time, Mr. Acting Agency Director explained that the handoff between the two of them was close to immediate, with no meaningful opportunity for substantive transition. He said:

[I]t was literally I got a call on a weekend asking if I would change roles, I called [Mr. Acting PFMLI Division Director], and Sunday I was having a conference call with the governor and the Agency executive team. It was very sudden and I was immediately spending all my time on the pandemic crisis. [Mr. Acting PFMLI Division Director] was aware of the tactical things that were going on, but there wasn't an opportunity to give vision, check points, it was not structured. By necessity, the immediacy of handling the pandemic issues is what caused the transition to begin with ... [F]rom there, my focus was almost entirely on the unemployment issue we needed to deal with. Paid leave did not get the attention it should have, but I don't think it was possible.

Mr. Acting PFMLI Division Director

Mr. Acting PFMLI Division Director also explained that Mr. Acting Agency Director was originally asked to provide Agency leadership with assistance, given his previous leadership experience in the Unemployment Insurance Division. In the first few months, Mr. Acting PFMLI Division Director understood that he was acting as a substitute, filling in for Mr. Acting Agency Director, to keep things going until there was a return transition.

Mr. Acting PFMLI Division Director said that after he became the Acting Director for PFMLI, they "kept in touch, had regular meetings, [and] discussed what was going on in the division. To the extent that he was able to, we tried to meet, he was kept informed of what was going on with

the division ... Paid family was really important to him ... he had a lot of ideas and was excited about it.”

PFMLI is Run by Mr. Acting PFMLI Division Director

Because Mr. Acting PFMLI Division Director’s role as Acting Director was intended to be temporary and remained in limbo for quite some time, the Deputy Director position he had vacated remained open for much longer than was anticipated, at a time when both the Agency and the team were encountering more work and greater difficulty.

Mr. Acting PFMLI Division Director

Mr. Acting PFMLI Division Director described the leadership of PFMLI in Mr. Acting Agency Director’s absence as follows: “[w]e had, I think, a pretty robust, even large, leadership team for the department for the Paid Family program at that time. It was me, a policy manager, a program manager, eventually we hired another acting deputy director, a few OPA 4s, six or seven people in the leadership team. We would meet regularly to talk through things. It was a pretty democratic process as far as the leadership team goes.”

He explained, “[a]t first it felt [like being in] a little bit of a holding pattern because you don’t know what the duration [of Mr. Acting Agency Director’s absence] is, and the Agency itself was focusing all its efforts on UI, as it should do. All the support agencies as well, not just the Agency heads ... Initially, it was just keep the momentum going, and when it became clear that [Mr. Acting Agency Director] was not coming back in the short term, we just need to go forward as if this is the way it’s going to be.”

Ms. Human Resources Director

Ms. Human Resources Director was the Human Resources Director for OED.

Ms. Human Resources Director believed that when Mr. Acting Agency Director became the Acting Agency Director, he “probably gave zero time to Paid Leave because he didn’t have any time to give. The rest of this Agency, our eyes were not on Paid Leave. We knew we had a program to stand up [but] it wasn’t our most urgent situation, and we were in full on crisis management.”

Ms. Human Resources Director also believed that Mr. Acting PFMLI Division Director was not provided with the resources he may have needed to effectuate his position. She said:

[Mr. Acting PFMLI Division Director] was not as supported as he could have been. We weren’t paying as close of attention to what was happening [in PFMLI] ... [W]e failed Paid Family. Although I don’t know [that] we would have done it differently; maybe we would have brought in support for [Mr. Acting PFMLI Division Director] earlier ... nobody had their eye on [Mr. Acting PFMLI Division Director]. If he was raising the flag and asking for help, I don’t know. I [just] can’t tell you what this Agency experienced in the first year of the pandemic.

Ms. Human Resources Director said:

We should have brought support in for [Mr. Acting PFMLI Division Director] earlier. Could [Mr. Acting Agency Director] have showed up differently? Yes ... But good lord, the man stepped into this role when this Agency needed him the most, and I would come in to work at 6:00 am when he was already there, he would leave at 7:00 pm, he worked every evening and weekend, we couldn't do any more. In hindsight, we should have told the governor's office we need help with Paid Family, not just with the pandemic.

Ms. Acting PFMLI Division Deputy Director was Appointed as PFMLI Deputy Director

Ultimately, Ms. Acting PFMLI Division Deputy Director was asked to transfer to PFMLI as the Deputy Director to fill the role that Mr. Acting PFMLI Division Director had vacated, and she joined the team around March 2021. For approximately a year, Mr. Acting PFMLI Division Director had been operating the team without Mr. Acting Agency Director, and without a Deputy Director to support him.

Multiple individuals at the leadership level expressed the viewpoint that both PFMLI as a unit and Mr. Acting PFMLI Division Director as a leader were "struggling," that Mr. Acting PFMLI Division Director's leadership style was "passive," and that Ms. Acting PFMLI Division Deputy Director was selected for her role both because of her experience as well as her strong and assertive leadership style, in hopes that she would complement Mr. Acting PFMLI Division Director's strengths and weaknesses. One person said, "by the time [Ms. Acting PFMLI Division Deputy Director] [came] in, they [were] really in crisis."

Mr. Acting Agency Director

Mr. Acting Agency Director explained how Ms. Acting PFMLI Division Deputy Director came to be added to the team. He said:

We were thinking of who else we could bring in at different skillsets and what skillsets were need ... [Ms. Agency Deputy Director] had worked with [Ms. Acting PFMLI Division Deputy Director] at DHS and suggested a discussion to see if she might be appropriate to come over to work as a deputy. [She was] someone who had a legal background and [could be] helpful with statutory construction, and had been high level and could help navigate through bureaucratic processes. I met with her, it seemed like a good fit, we direct-appointed her to the deputy role. We were kind of counting on [her addition] to help address some of the things, to help people who had good ideas but were struggling to get things executed, [to] help [Mr. Acting PFMLI Division Director] move those things forward. [Mr. Acting PFMLI Division Director] has a lot of really good skills and the two complemented in theory, it seemed [Ms. Acting PFMLI Division Deputy Director] had the skillset and background to fill in what was needed the most, of helping people work towards a common goal. That did not work out.

Ms. Human Resources Director

I asked Ms. Human Resources Director about the approach of pairing a Director with a passive leadership style alongside a Deputy Director with an assertive leadership style, and I asked how the two could complement each other when the more assertive position was placed in the supporting role. Ms. Human Resources Director explained that it could be done, and that she has seen it done effectively in other areas of State government, and that she would expect managers at this high of a level to think strategically to determine how to best support one another to present a united front and guide the work of the unit. However, she also acknowledged that this kind of partnership would require both self-awareness as well as relationship-building. She said, “[Ms. Acting PFMLI Division Deputy Director] and [Mr. Acting PFMLI Division Director] didn’t have the luxury of time to build that ... they didn’t have time to figure out who are you, what are your strengths, how do you operate, how do we present a united front, I imagine they didn’t do that.”

At the same time, Ms. Human Resources Director believed that their team was full of people who were “hungry to perform and passionate for the program,” but she said there wasn’t clear direction from leadership to guide them. And when Ms. Acting PFMLI Division Deputy Director joined the team, she seemed to try to implement parameters, refine positions and roles, and move the substantive work forward, but Ms. Human Resources Director said that ultimately a lot of the team members remained confused about both the overarching leadership direction as well as Ms. Acting PFMLI Division Deputy Director’s changes. The more that work was not successful, the more difficult the environment became for everyone.

Ms. Agency Deputy Director

Ms. Agency Deputy Director was the Deputy Director for OED.

I similarly asked Ms. Agency Deputy Director about the approach of pairing a Director with a passive leadership style alongside a Deputy Director with an assertive leadership style, and I asked how the two could complement each other when the more assertive position was placed in the supporting role. I asked whether the passive leader would just operate as a roadblock. Ms. Agency Deputy Director explained:

At a low level I would say yes, [but] at that level of manager, you need to be able to manage up. At that level, that’s the point. They should be able to be plopped anywhere and assess what is needed. My expectation is that if you need to pull someone’s collar, that’s integrity, that’s having business acumen. I don’t believe that [Ms. Acting PFMLI Division Deputy Director] was direct with [Mr. Acting PFMLI Division Director]. And she is brave, she is a very brave person. [But] I asked her a lot – have you talked to [Mr. Acting PFMLI Division Director] about this, [and her answer was] no. You’ve got to do that. I have higher expectations of a manager of that level.

Mr. Acting PFMLI Division Director

Mr. Acting PFMLI Division Director noted that when Ms. Acting PFMLI Division Deputy Director joined the team, it was still to be determined what the division of labor and leadership would be between the two of them, as well as between other members of their leadership team. He said they “spent quite a lot of time meeting and talking about that,” and discussing “all the major work streams” they needed to take care of, and ultimately one of the major aspects was that Ms. Acting PFMLI Division Deputy Director would “take the lead on the organizational development of the program, who was working where, what groups were working on what.”

Ms. Acting PFMLI Division Deputy Director’s Efforts to Implement Change as PFMLI Deputy Director

Ms. HRBP

Ms. HRBP was the Human Resources Business Partner working with PFMLI during much of the relevant time period. Ms. HRBP said that when Ms. Acting PFMLI Division Deputy Director joined the program, there was much foundational work to be done. She said, “I would say that the work [Ms. Acting PFMLI Division Deputy Director] was doing was significant. Coming over here and not having a firm foundation of the structure, here are the positions, here’s what we do, here are our objectives and goals and timelines, there was nothing specific like that. I feel like she was frustrated that that needed to be built.”

At the same time, I asked Ms. HRBP if Ms. Acting PFMLI Division Deputy Director ever talked to her about cultural problems within PFMLI or issues with leadership, and she said, “[n]o. She expressed to me frustration over not getting consistent timely support from HR.”

Ms. Human Resources Director

Ms. Human Resources Director explained that when she came in as Human Resources Director July, 2021, it was apparent to her that Ms. Acting PFMLI Division Deputy Director was already frustrated with Human Resources as a department; she had asked for approval for new positions, Mr. Acting Agency Director and Ms. Agency Deputy Director had approved the positions, but progress had apparently stalled. Ms. Human Resources Director said:

[Ms. Acting PFMLI Division Deputy Director] was like “I need these positions and nobody is helping me in HR.” I was like “well I want to help you, but I just got here.” So, me coming in and asking her to back up three months and help me understand, it didn’t help our relationship. She really felt like [Mr. Acting Agency Director and Ms. Agency Deputy Director had blessed the ask, she had] asked HR to create these positions, [and they wouldn’t] ... I was like “well [Mr. Acting Agency Director] and [Ms. Agency Deputy Director] blessed this, but we don’t [I think DAS is going to bless this” ... To some extent HR wasn’t creating those positions because they didn’t make sense ... She had reached her end. She was out of patience, she was overpowering and [s]he was really condescending to me.

Ms. Human Resources Director also acknowledged that PFMLI was granted and funded five positions within Human Resources, but rather than supporting PFMLI, those positions ended up supporting pandemic-related and unemployment-related work. It took Ms. Human Resources Director some time, after taking the position of Human Resources Director, to understand that these positions had been intended to support PFMLI.

Ms. Agency Deputy Director

Ms. Agency Deputy Director acknowledged that she and Mr. Acting Agency Director had preliminarily approved Ms. Acting PFMLI Division Deputy Director's requests for additional positions for PFMLI. However, she explained that within OED, a department head would need to follow a number of steps and protocols to bring those positions to fruition. Ms. Agency Deputy Director said that where those checks and balances required further steps of Ms. Acting PFMLI Division Deputy Director, "[s]he was like, 'I told you what I needed, you're not giving it to me, you're not supporting me.' ... [My] recollection [was] of her coming up with a very nice proposal, I liked the format and the content, but that didn't mean that you have a go ahead to march through."

Ms. Senior HRBP

Ms. Senior HRBP was the former Human Resources Director. While she understood that Ms. Acting PFMLI Division Deputy Director was asking Human Resources to source and fill certain positions for PFMLI, she felt that the requests were not clear enough to move forward with implementation. She said:

There were a lot of iterative conversations where it wasn't really clear what [Ms. Acting PFMLI Division Deputy Director] was trying to do. [She wanted to create] OPA 4 roles [], which were hard to get in the State, [and] her lack of understanding in how to describe what she was wanting to do was making it hard for us to get it through DAS ... The OPA 4s she wanted to do with one position description. DAS wanted us to split it apart and be really clear about the differences. Those OPA 4s stopped. And [Ms. Acting PFMLI Division Deputy Director] never finished what she was supposed to do, which was to divide those [position descriptions].

Ms. Senior HRBP noted that some of this issue was Agency-related. She said:

[O]ne of the downsides of our Agency as a whole, when it comes to asking for resources, is that we don't have the right people at the table for the entire conversation. One of the challenges was [Ms. Acting PFMLI Division Deputy Director] was off talking to [Mr. Acting Agency Director] or [Ms. Agency Deputy Director] or whoever, but there was not a cohesive conversation to understand what they were trying to achieve. That's one high level structural thing that most people won't talk about because they aren't aware. We weren't all at the table to figure out what they were talking about.

Continuing Issues Within and Around PFMLI

Ms. Human Resources Director

Ms. Human Resources Director eventually became aware of more significant leadership and cultural issues within PFMLI. She said:

[Ms. Acting PFMLI Division Deputy Director] [was] irritated with [Mr. Acting PFMLI Division Director] because [Mr. Acting PFMLI Division Director] [wasn't] leading. I [didn't] know about that, I don't hear about any of that until [much later] ... But when you got in and started listening, it was all unhealthy. I don't think there was a solid foundation, the leadership team wasn't functioning, [Ms. Acting PFMLI Division Deputy Director] took the weight of the world on her shoulders, and took it very seriously, [but she also] ... just got irritated with [Mr. Acting PFMLI Division Director]. [She probably wanted him to] pick up some of the weight and do something with it, [she couldn't] carry it all. Their relationship I'm sure struggled. I don't think she ever had a direct conversation with [Mr. Acting PFMLI Division Director] to say, "I need you to do these things," I think she felt like "you're the acting director, you should be doing these things." Ultimately, "[w]e had a culture issue[, with c]lashing going on."

Ms. Current PFMLI Director

Ms. Current PFMLI Director was the PFMLI Director after Mr. Acting PFMLI Division Director.

Ms. Current PFMLI Director said that when she took over leadership of the program, it was apparent that the team had been through a lot of turmoil and frustration. She said, "[p]eople were willing to tell me everything that had gone wrong, and a lot of that landed on [Mr. Acting PFMLI Division Director] and [Ms. Acting PFMLI Division Deputy Director]. A majority of people were more protective of [Ms. PFMLI Policy and Operations Manager] and did not seem to think it landed on her." Ms. Current PFMLI Director herself reflected on Ms. PFMLI Policy and Operations Manager' role and said, "[t]here's certainly culpability because [Ms. PFMLI Policy and Operations Manager] was in a leadership role, [there were] definitely failures on her part, but I don't know that I can lay those in her lap, because she definitely wasn't supported. She didn't send things up the chain where she should have, she wanted to solve it at the lowest level possible, but then didn't solve it, [and] it ultimately ended up with people being more divided."

From here, I transition to issues and information more directly related to Mr. Acting Agency Director and Mr. Acting PFMLI Division Director.

Concerns that Mr. Acting Agency Director was Complacent in the Face of Issues Around PFMLI

Ms. Current PFMLI Director

Again, when Ms. Current PFMLI Director took over leadership of the program, team members seemed very willing to share with her their concerns and their frustrations about their prior

experiences. She said, “[g]enerally speaking, people felt like [Mr. Acting Agency Director] listened and he was supportive of them, when people went direct[ly] to him. The only exception was [Ms. Acting PFMLI Division Deputy Director], she felt very unheard by [Mr. Acting Agency Director] and very unsupported by him, I had a very different experience [with Mr. Acting Agency Director than she did].”

Ms. Current PFMLI Director said, “[f]or everybody other than [Mr. Acting PFMLI Division Director], I think [their] heart [was] in the right place, [but there was] lots of poor execution. I think [Ms. Acting PFMLI Division Deputy Director] really exemplified that. [Mr. Acting PFMLI Division Director], I don’t know what his intentions were so I can’t speak to that. [Ms. Acting PFMLI Division Deputy Director] didn’t feel like she had power or authority. She said ‘I don’t know if people are listening to me, that they are disregarding me,’ [but] I did not experience that.”

Ms. HRBP

I asked Ms. HRBP if, from her vantage point, she would attribute the problems and issues with PFMLI to Mr. Acting Agency Director. She said:

I would, if there wasn’t a pandemic that was going on. Because of what he got called to do, if he had stayed in Paid Family, he and [Mr. Acting PFMLI Division Director] would have complemented each other with their styles, and it would have been a little different. There’s a difference between moving into [the] Acting Director [position] during regular business, but when the economy is crashing and everything is shutting down and you are Director of the Employment Department, that’s where his focus needed to be [instead]. If you remove the pandemic and everything our department was facing, protestors outside the building, everything we went through, he likely would have given more guidance, support, vision, check-ins, [he would have] look[ed] at progress.

Mr. Acting Agency Director

Mr. Acting Agency Director openly acknowledged that he and other senior leaders at OED were hampered in the amount and types of attention they could devote to PFMLI. He repeatedly expressed that as the head of the Agency, he felt that ultimate responsibility for issues and failures landed with him. At the same time, he explained that the circumstances were so extreme, that they were all placed in an untenable situation, and they were doing their best to address the most significant fires in front of their Agency.

He explained some of the issues he became aware of, and some of their efforts to address:

I started to hear from some people that Paid Leave needed more attention. I heard a mix of things I think were accurate but unavoidable. Like they said [they had a] hard time getting attention from HR to hire the people we need, which was true, but HR was hiring 1,000 people for the rest of the Agency. They felt like they weren’t getting the attention they deserved.

I started to hear there were concerns just about communication, and what information was being shared, so I had some discussions with [Mr. Acting PFMLI Division Director] about communicating, [and trying to] overcommunicate[e]; we had several discussions about that. I believe he increased the communication, but I don't think it was enough to meet the needs.

When making the hiring decision about moving [Ms. PFMLI Policy and Operations Manager] into the management role, I did discuss with [Mr. Acting PFMLI Division Director] that she would need a lot of support [because she was new to] management [], we talked through what some of that might look like in that context. The context completely changed a month later. The next discussion on that topic that I recall was when two things came up. An express concern that she had way too much to manage, even if she was a seasoned manager, so I supported getting more managers. And then when it became clear that there were some discussions or interactions that came up that weren't handled well by [Ms. PFMLI Policy and Operations Manager], that was pretty late in the game.

There was discussion about the fact that [Mr. Acting PFMLI Division Director] wasn't managing well, hadn't managed those situations well. [We talked about] what kinds of discussions he had [had] with [Ms. PFMLI Policy and Operations Manager], [whether he had] offered supports, that kind of thing. There was not a lot of time or resources to be spared. I don't recall other discussions specifically on that topic until it was pretty close to everyone [becoming] aware things [were] not going well.

Concerns that Mr. Acting Agency Director was More Willing to Listen to Longstanding OED Employees Over the Leadership of PFMLI

Ms. Human Resources Director

Ms. Human Resources Director explained that she never received complaints or concerns about this issue. She stated that she was aware that Mr. Acting Agency Director had "a history" with a number of employees at OED, because of his own long tenure with the Agency. She also noted that while some of those employees may have felt comfortable approaching Mr. Acting Agency Director directly with their concerns or comments, Mr. Acting Agency Director himself was well able to evaluate and scrutinize the opinions expressed to him, and she expressed the belief that Mr. Acting Agency Director would have tried to make the employee feel heard, even if he did not ultimately agree with the perspectives they shared.

Separately, Ms. Human Resources Director noted that at times she has felt that Mr. Acting Agency Director was not listening to her, but this was not because he was generally unwilling to listen to others, but rather because “he is always five steps ahead” and therefore might have already landed on a conclusion and made up his mind.

Ms. Agency Deputy Director

When I asked Ms. Agency Deputy Director if she had any reason to believe that Mr. Acting Agency Director felt more comfortable listening to long-standing OED employees over the leadership of PFMLI, she said, “[a]bsolutely not.” She also stated that Mr. Acting Agency Director would have listened and heard even where he did not agree with things that other people said.

Ms. HRBP

Ms. HRBP also said that employees at OED who have known Mr. Acting Agency Director as a long-time colleague may therefore have felt comfortable going to him.

Mr. Acting Agency Director

Mr. Acting Agency Director acknowledged that some employees raised concerns or opinions directly to him. He said: “I was careful to listen. I have an open-door policy. I do think [one of those employees] was [themselves] part of the problem ... [That employee] has a lot of subject matter expertise, and [their] behavior and demeanor can be challenging.” When Human Resources wanted to consider redress for this employee’s behavior, Mr. Acting Agency Director was supportive of those efforts, and his history and familiarity with the employee did not affect those efforts. He said, “I’m also not going to tell any employee, particularly from a small workgroup where people are unhappy, who wants to share concerns, ‘no I can’t talk to you, and I can only talk to management.’”

Concerns that Mr. Acting Agency Director Did Not Empower the PFMLI Leadership Team

Ms. Human Resources Director

While Ms. Human Resources Director acknowledged that all responsibility ultimately falls on the director, she expressed some confusion as to why Mr. Acting Agency Director’s behavior, as Agency Director, was primarily at issue when considering the more granular environment on the PFMLI team. She said, “[Mr. Acting Agency Director] can take some responsibility for the chaos that became Paid Family, but it’s ultimately [Mr. Acting PFMLI Division Director] and [Ms. Acting PFMLI Division Deputy Director] ... [Unless] [Mr. Acting Agency Director] was more involved in leading that division than I think he was, [] why would they even include [Mr. Acting Agency Director] in that [issue] as the Agency Director?”

Ms. Senior HRBP

Ms. Senior HRBP said that Mr. Acting Agency Director had good leadership skills and could produce results, but at the same time was very demanding and at times would drive results and programs at the expense of people.

Ms. Current PFMLI Director

Ms. Current PFMLI Director recalled direct comments from Ms. Acting PFMLI Division Deputy Director about frustrations with the support PFMLI received. Ms. Current PFMLI Director said: “I think some of it was overarching, generally [Ms. Acting PFMLI Division Deputy Director] felt like she was beating her head against the wall. I think to her, [Mr. Acting Agency Director] being responsive might have looked like giving her all the power and authority and removing [Mr. Acting PFMLI Division Director]. For her, [Mr. Acting PFMLI Division Director] was a barrier to her helping and achieving, so perhaps [Mr. Acting Agency Director] would have always fallen short to her if he didn’t do that.” At the same time, Ms. Current PFMLI Director had observed that Ms. Acting PFMLI Division Deputy Director’s own style and approach might have impacted her experience. Ms. Current PFMLI Director said, “[my own] observation is that how [Ms. Acting PFMLI Division Deputy Director] presents things isn’t always linear. [Her requests] could have landed in a confusing way. So, the person receiving [the request] might not have been unsupportive, but might have questioned to get clarity. I think that was difficult for [Ms. Acting PFMLI Division Deputy Director] because she was trying hard to present and get things done, so maybe she felt that was disregard.”

Concerns that Mr. Acting Agency Director Did Not Support Women Leaders

Ms. Human Resources Director

As noted above, Ms. Human Resources Director expressed that at times she has felt that Mr. Acting Agency Director was not listening to her, but this was not because he was generally unwilling to listen to others or to women, but rather because “he is always five steps ahead” and therefore might have already landed on a conclusion and made up his mind. At the same time, she said that she has always felt able and welcomed to tell Mr. Acting Agency Director that she had a differing opinion. She said, “I can push back, and he comes back for my opinion.” As a result, she said she has never felt that Mr. Acting Agency Director afforded her less opportunity or deference than anyone else. She also said that their morning leadership meetings, which were held at 7:30 am daily for almost 1.5 years, consisted of all women except for Mr. Acting Agency Director. If he had any issue with supporting women leaders, she would have expected to see it show up at some point in those 1.5 years, and she did not. She said that Mr. Acting Agency Director was “able to multitask in ways I didn’t think [were] humanly possible,” so she thought it was possible that his approach to seeking information, and his response to the immense pressure and deadlines they were all under, may have been perceived by some people as personal.

Ms. Human Resources Director also said, “I think [Ms. Acting PFMLI Division Deputy Director] was bringing problems to [Ms. Agency Deputy Director], saying ‘[Mr. Acting Agency Director] wasn’t listening to me because I’m a [woman].’ And [Ms. Agency Deputy Director] [was] trying

to coach, saying ‘I’m a strong [woman], a feminist, [Mr. Acting Agency Director] does listen to me, here is what I do.’” Her understanding was that Ms. Acting PFMLI Division Deputy Director believed that Mr. Acting Agency Director was unsupportive of strong women leaders, but much of the rest of his executive leadership team consisted of women and they did not share in those perceptions.

Ms. Agency Deputy Director

Ms. Agency Deputy Director did not believe that Mr. Acting Agency Director had any issue in working with or supporting women leaders. She said, “directors have to make tough decisions and not everybody is going to be happy” with how those issues are navigated. She said, “[Mr. Acting Agency Director has] had to say, ‘no, I hear you, but we’re not doing it that way and here’s why.’”

She said directly:

I don’t see him treating women differently than men ...he does process things through verbally, [but] he does that with men and women. I do think there are some people who interpret that as not being supported and not listened to. I think that in Paid Leave, in that program, we had a group of people who didn’t connect on common [] agreements and they didn’t know how to problem solve through disagreements. I think when there was some sort of tension they went to their corners, and there was no leadership in Paid Leave to say, “come back, what just happened here, let’s talk about that.” I’m sad that people had that experience at this Agency. That’s not what this Agency is about. [But] I don’t believe that [Mr. Acting Agency Director] is the source of that experience.

With respect to Ms. Acting PFMLI Division Deputy Director in particular, Ms. Agency Deputy Director said, “[s]he didn’t think that [Mr. Acting Agency Director] liked her. I said, ‘he has only respect for you. He has no [negative] feelings or energy around you at all. They didn’t mesh. The only example I can remember [Ms. Acting PFMLI Division Deputy Director providing] is that he didn’t pay attention [or looked like he was multitasking while on a Zoom]. I did tell [Mr. Acting Agency Director] I think you two should spend some time together.”

Ms. Senior HRBP

I asked Ms. Senior HRBP if anyone ever indicated to her that they felt like Mr. Acting Agency Director was less likely to engage with or work with someone who is a woman, such that gender had any kind of impact on his approach. Despite having her own difficulties with Mr. Acting Agency Director, she said, “no, [Mr. Acting Agency Director] is highly responsive.”

Ms. Current PFMLI Director

Ms. Current PFMLI Director said, “I have found [Mr. Acting Agency Director’s] style to be incredibly supportive of anything I bring him and his door is totally open. So, it’s hard for me to imagine a situation where that wasn’t true for other people in this role. He makes time, he helps me problem solve, he listens well, all the things you would hope a supervisor would do ... I actually

think that's genuinely his leadership style." She said her observation was that Mr. Acting Agency Director made the same type of support available to people in other divisions, not just within PFMLI. As a result, she suspected that issues within PFMLI had not in fact been brought clearly to his attention, until after everything came to a head.

Ms. Current PFMLI Director relayed that when she took over leadership of PFMLI, many of her team members shared with her their frustrations about the department and about past leadership. I asked her if any of those comments related to gender or ethnicity, and whether women or people of color believed they had experienced differential treatment from either Mr. Acting PFMLI Division Director or Mr. Acting Agency Director. Ms. Current PFMLI Director responded, "I have not heard that; that is not the impression I got at all. I feel like universally, in what they shared with me, it did not matter the gender to gender, it did not shift what people said." The single exception was that Ms. Current PFMLI Director said that Ms. Acting PFMLI Division Deputy Director "did say 'I think others don't take me seriously because I'm a woman,' and I was like, 'I haven't experienced that.'"

Ms. Acting PFMLI Division Deputy Director

As noted above, Ms. Acting PFMLI Division Deputy Director stated that there were layers to the broader environment experienced by the women on their leadership team, and she explained that the pushback and behavior from some people felt like sexism and gender bias, including from Mr. Acting Agency Director. She said that the actions and inactions of executive leadership "added to this feeling of gender discrimination because they put this unqualified white male into the [PFMLI Acting] Director role ... They [were] totally fine putting him in that role and having him be there for 1.5 years not moving the program forward, not advocating. Meanwhile, all these strong women are around him, ... We [were] constantly going to [Mr. Acting Agency Director] and [Ms. Agency Deputy Director] ... and they still [didn't] listen and still [didn't] take action."

Mr. Acting Agency Director

I asked Mr. Acting Agency Director if he was aware that Ms. Acting PFMLI Division Deputy Director had struggled in her role, in order to evaluate his understanding of the supports she may have wanted. He said that he was, in a few different ways.

First, Ms. Agency Deputy Director had worked with Ms. Acting PFMLI Division Deputy Director in previous employment, and suggested to him that it might make her feel more supported if he had more direct interactions with her. He said, "I started doing that, with some one-on-one meetings with her, also pulling her into some meetings with [Mr. Acting PFMLI Division Director], but that wasn't around any particular thing other than [Ms. Agency Deputy Director] wanting to make sure that [Ms. Acting PFMLI Division Deputy Director] felt heard and supported and as she encountered roadblocks that she could raise them."

Second, Ms. Acting PFMLI Division Deputy Director brought issues to him on a few occasions. He said:

One [time] was around hiring. Part of [the issue] was the structure she wanted. She [had] worked with [Mr. Acting PFMLI Division Director] and others to come up with a structure that she thought made sense, and [she wanted] approval for that. I think the overall structure was fine and made sense, we talked through it. I shared some concerns about the two individuals she wanted to move into management roles. I think the biggest thing was needing approval of the plan, which she got. [I gave her a] sense of approval to move forward, which she got [], but with a sense of concern around the individuals. She did [also] express that it was difficult to get HR moving as quickly as they needed.

Third, he said that on other occasions, Ms. Acting PFMLI Division Deputy Director came forward saying she needed decisions from him or from the executive team. He said, “some of those [requests] were valid, [but in] some [of those situations] I think she had [been provided] decisions but didn’t like them.”

At the same time, while Mr. Acting Agency Director came to understand that there were shortcomings with Mr. Acting PFMLI Division Director’s leadership, he said that Ms. Acting PFMLI Division Deputy Director herself did not come to him with direct assertions about Mr. Acting PFMLI Division Director. He said, “I don’t recall [Ms. Acting PFMLI Division Deputy Director] telling me ‘[Mr. Acting PFMLI Division Director] is my problem, he is affirmatively in the way.’ I recall her coming with [a request for a decision].”

I explained to Mr. Acting Agency Director that some people interviewed felt that gender discrimination or bias was at issue in part because of the approach taken vis-a-vis Mr. Acting PFMLI Division Director. I shared with him this statement:

It added to this feeling of gender discrimination, because they put this unqualified white male into the director role, he didn’t want the job, he wasn’t good at the job, he didn’t lead, he had some apathy but he wasn’t discriminatory. They’re totally fine putting him in that role and having him be there for 1.5 years not moving the program forward, not advocating. Meanwhile, all these strong women are around him ... and those women leaders under him feel like they aren’t being listened to, their suggestions aren’t taken, they are going to [Mr. Acting Agency Director] and [Ms. Agency Deputy Director] for help and feel like they are spinning, and ultimately the way that makes a group of female leaders feel is diminished.

In response, Mr. Acting Agency Director said that he could understand why some people drew a correlation, but said clearly, “I don’t think that’s what was going on, by any means, that it was caused by gender []. I think some of the issues raised by some of the very capable female leaders [related to decisions they] fundamentally didn’t like ... I don’t know if some of that not feeling supported was due to those [decisions].” He further pointed to how many female leaders he appointed and personally advanced under his leadership.

Concerns that Issues were Repeatedly Escalated and Mr. Acting Agency Director Did Not Make Clear He Would Intervene when Other Employees Behaved Badly or Unprofessionally

Several of the witnesses interviewed expressed the belief that it was not Mr. Acting Agency Director's role to intervene in the day-to-day personnel or behavioral issues at the division level. Several of the witnesses interviewed expressed the belief that Mr. Acting Agency Director and others were unaware of the behavioral and cultural issues at the division level until immediately before Ms. Complainant's complaint.

While everyone I interviewed agreed that there were substantial shortcomings with Mr. Acting PFMLI Division Director's performance and his ability to lead his team, the vast majority said that those closest to the issues (including Ms. Acting PFMLI Division Deputy Director and Ms. PFMLI Policy and Operations Manager) did not sound an alarm or make clear the reach of those issues to Human Resources or to executive leadership.

Ms. HRBP said, "[Ms. PFMLI Policy and Operations Manager] was the closest to [Mr. Acting PFMLI Division Director], and she never brought anything forward to me about him, or about any concerns. When [Ms. Acting PFMLI Division Deputy Director] came over, there was nothing for me to tell her about stuff to pay attention to, feedback we [had] received, here's how you can add value because this is the structure or where they struggle."

Concerns Mr. Acting Agency Director Did Not Address Issues with Mr. Acting PFMLI Division Director's Performance and Leadership

Ms. Human Resources Director

Ms. Human Resources Director stated that she did not begin to hear that there were significant issues in PFMLI until August 2021. She spoke with Mr. Acting Agency Director and Ms. Agency Deputy Director about what she had heard, and by the first week of September 2021, several people had resigned and "everything really exploded in a ten-day period." She said, "[a]s we [were] learning these things, we [were] moving. What I don't know, is what happened until mid-August ... I don't know if [Mr. Acting PFMLI Division Director] took those conversations to [Mr. Acting Agency Director] or asked for help." Ms. Human Resources Director said that when she spoke with Mr. Acting Agency Director about potential issues with Mr. Acting PFMLI Division Director's leadership of PFMLI, she asked him, "is [Mr. Acting PFMLI Division Director] the right person for this role," and Mr. Acting Agency Director told her he was paying close attention, was considering removing Mr. Acting PFMLI Division Director from the role, and that Mr. Acting PFMLI Division Director had indicated he intended to retire. To the best of her recollection, that was sometime in August 2021.

Ms. Agency Deputy Director

Ms. Agency Deputy Director had described her hope and expectation that Ms. Acting PFMLI Division Deputy Director, as a high-level manager, would have been able to step in to PFMLI and help course-correct many of the existing issues. I asked Ms. Agency Deputy Director, "if the

expectation is that a manager at [Ms. Acting PFMLI Division Deputy Director's] level can manage [in that way], I presume the expectation of [Mr. Acting PFMLI Division Director] is the same or greater – so who steps in to [address] [Mr. Acting PFMLI Division Director]?" Ms. Agency Deputy Director acknowledged that that responsibility lay with Mr. Acting Agency Director and herself. She said, "[d]uring that time, I was having those hard conversations with [Mr. Acting Agency Director]: 'this is untenable, it's getting in the way of progress, here's some of the points I'm hearing.'" She described some of the issues they were hearing about Mr. Acting PFMLI Division Director: "we [were] hearing [Mr. Acting PFMLI Division Director is] not leading, he's not making decisions, and [Mr. Acting Agency Director] was addressing those things with [Mr. Acting PFMLI Division Director]." Ms. Agency Deputy Director said she also undertook some direct interventions with Mr. Acting PFMLI Division Director and Ms. Acting PFMLI Division Deputy Director:

At some points I was addressing with [Mr. Acting PFMLI Division Director] and [Ms. Acting PFMLI Division Deputy Director], "get your team together, get the expectations together, stop behavior where people are acting out, have some agreements about how you are going to work with one another, we are committed to being an anti-racist Agency, you are a leader so you need to set those expectations, hold the managers accountable, and hold your teams accountable." That was towards maybe a month before the director and deputy director positions went up.

Ms. Agency Deputy Director stated that she took full accountability and responsibility for the ultimate outcomes with PFMLI, and expressed the belief that Mr. Acting Agency Director did as well. At the same time, she said that where problems arose, they "gave a couple of leaders a chance to fix them," and therefore their timing for intervention was affected not only by the timing of when they were made aware of issues, but also by affording some time and opportunity to others to course-correct, and specifically, others whose primary role it was to lead and manage that team. Ms. Agency Deputy Director said, "I wish I had dove in earlier, but when it got to where we needed to intervene, I think we did so quickly, and turned it around in a few months, with new leadership, with getting outside help, with being present."

She said, "[t]o say it bluntly, I don't believe that people had that experience [they had] because [Mr. Acting Agency Director] is racist and sexist. I think we didn't respond quickly enough, or in the way that they would [have] want[ed] us to respond, and that's what they are [actually] upset about."

Ms. Modernization Division Director

Ms. Modernization Division Director was the Division Director of Modernization at OED.

When I asked Ms. Modernization Division Director for her perspective about when executive leadership became aware, or should have been aware, of the concerns with Mr. Acting PFMLI Division Director's leadership of PFMLI, she said:

[T]hat [Mr. Acting PFMLI Division Director] was struggling, that's why they worked to bring in [Ms. Acting PFMLI Division Deputy Director]. [But] I don't think there was an understanding of how much the rest of us on executive team were struggling with Paid Leave ... I don't know that they had ever asked others, and others had never said anything ... My recommendation was to meet with everyone in executive team and ask us [about our perspectives of Paid Leave] one-on-one ... Shortly after that, is when [Mr. Acting PFMLI Division Director] decided to retire.

Ms. Modernization Division Director also explained that at some point, she was asked to provide some peer-mentorship to Mr. Acting PFMLI Division Director, following on some strength-assessment and consulting provided by Deloitte in or around May 2021. She said that the evaluation work by Deloitte "was all change management-related; staff being ready, willing, and able to move forward with modernization; understanding of what they were trying to accomplish; support from leadership." As part of that assessment, she explained:

We did these different personality and leadership types. Within that, there was a lot in common between [Mr. Acting PFMLI Division Director] and I. I was pointing out that fact. [Mr. Acting PFMLI Division Director] and I had connected more on a [professional] level, he was comfortable talking to me, [and] had said as much to [Mr. Acting Agency Director]. He wanted to be a good leader, [even though] he didn't feel comfortable with what he was doing. [Mr. Acting Agency Director] asked if I was comfortable helping [Mr. Acting PFMLI Division Director] ... with some additional assistance [as one of] his peers.

Mr. Acting Agency Director

Mr. Acting Agency Director said that when he started hearing concerns about PFMLI, initially those concerns were related only to communication, where the team needed or wanted more information generally. He said he had some discussions with Mr. Acting PFMLI Division Director about communicating more, and in general trying to overcommunicate: "I said I was hearing [there was] lack of communication, [so I told Mr. Acting PFMLI Division Director] 'let them know about things, the publicly discussable things we talk about at exec team, that's part of your role to take that information down and bring it up.' ... I believe [Mr. Acting PFMLI Division Director] increased the communication, but I don't think it was enough to meet the needs."

Separate from addressing communications to the team, Mr. Acting Agency Director said he also tried a tactical approach of assigning a task or issue to Mr. Acting PFMLI Division Director in order to address gaps and get him more directly engaged. Mr. Acting Agency Director said, "[t]here were a few times I asked [Mr. Acting PFMLI Division Director] to bring topics about Paid Leave to exec team, so that he was also communicating up, [like] 'hey can you bring to exec team where you're at with the work on whether contributions should be combined, or whether we should operate benefits internally or contract it out.'"

As issues persisted, Mr. Acting Agency Director said he had "more direct" conversations with Mr. Acting PFMLI Division Director, "like 'hey people are really stressed, whatever the

communication is you've been doing, it still isn't enough, you need to increase it more.' I believe [that] was after [Ms. Acting PFMLI Division Deputy Director] was here. I believe I had conversations with both of them, separately and together, about 'people seem really unhappy, this is not good, you need to get a handle on it, this can totally derail people and projects.'"

Mr. Acting Agency Director also tried to increase his presence within PFMLI: "I asked to be invited to a couple of periodic meetings they were having with their team, partially for me to get a sense of what was going on, partially to address that they weren't feeling they were getting enough attention, partially to assess if communications were improving."

Mr. Acting Agency Director had further discussions with Mr. Acting PFMLI Division Director:

We had some discussions about how they were holding meetings, the organizational structure, what they were talking about and how. [That] was much more directive [around] "you need to do something." I shared some things I had done in the past in similar circumstances where people were unhappy, how to engage with them, how to send out [an] anonymous survey, get information, have one-on-one meetings, how to put on the table "here are the tensions, here are our values, here's how we operate, these tensions are here but we need to come to the table in this way as we work through them." I pushed several times, I think they did get the survey out, it took longer than I wanted, and I think it took longer than it should have to get it out given the issues. That was the far end of the escalation before he said I'm going to resign.

I further asked Mr. Acting Agency Director how Mr. Acting PFMLI Division Director responded to these directives and these concerns. Mr. Acting Agency Director said:

[Mr. Acting PFMLI Division Director] would agree that yes, these things needed to be addressed, and I do think he would start to take actions on them ... [but] I don't think he had all the tools to deal with it. That's why I was telling him "here's what I did in the past, here's the survey I did, here's what I did after I got the survey," referred he and [Ms. Acting PFMLI Division Deputy Director to [a] consulting [firm] that does leadership work ... I do think he agreed, [but] I don't think he agreed with my expressed sense of how serious it was and how urgent it was. I may be wrong on that, [but] there [also] wasn't [] quick action in some of the things. And I think he's an optimist at heart and maybe wanted to believe the best of people and didn't see that some people had retreated to these real[ly] defensive positions ... I believe largely as a result of those discussions, he shared that he was going to retire or resign.

Concerns that Mr. Acting PFMLI Division Director had a Lack of Knowledge and Experience with the Type of Work, with Program Implementation, with Technology Processes, and with Working Levers of Bureaucracy; that He was Not Competent for His Role; and was Not Capable to Lead the Implementation of PFMLI

Many of the concerns relevant to this section have been described in other parts of this report. The environment within PFMLI and the issues amongst the team members form much of the basis for this investigation, and many of those issues have been ascribed, both generally, and specifically, to Mr. Acting PFMLI Division Director's leadership.

In the next few sections, therefore, I do not repeat all of the issues described throughout the report, but rather focus on concerns and comments I received which were most specifically directed at Mr. Acting PFMLI Division Director. It is important to note, therefore, that these sections should not be taken as a standalone summary of the concerns relayed to me about Mr. Acting PFMLI Division Director's leadership.

Ms. Senior HRBP

Ms. Senior HRBP said that she was generally aware of issues "in terms of things not being managed and resources not being utilized in the way that they should. They had a lot of staff, but they didn't have a lot of management when [Ms. Acting PFMLI Division Deputy Director] and [Mr. Acting PFMLI Division Director] were there." She said it was apparent to her that Mr. Acting PFMLI Division Director was not suited for his role. When I asked her why, she said, because of his:

. . . lack of clarity, [he was very, very] quiet, not engaged, passive . . . [his l]ack of ability to provide leadership that was communicated out in a clear way, [that communicated] where the division was heading, what needed to be delivered, the clarity of expectations wasn't there, the vision around how they were going to achieve those things, that wasn't there. There was also a lack of leadership around the focus of how you get to policy decisions. There was a lot of disagreement within the team. The lack of ability to provide that leadership and get people to a decision point.

Ms. Senior HRBP explained that after Mr. Acting PFMLI Division Director stepped in for Mr. Acting Agency Director, she saw a decline in the organization of the division and the clarity of what they asked for in relation to positions and other supports for organizational structure. She said that Ms. Acting PFMLI Division Deputy Director tried to help with structure and clarity, but Mr. Acting PFMLI Division Director did not seem to help those efforts. She said, "[Mr. Acting PFMLI Division Director] was just not engaged. Even when I would try to ask him questions, he wasn't helpful. [Ms. Acting PFMLI Division Deputy Director] was trying to do her best and I think was frustrated because she couldn't move forward . . . If it were my choice, I don't know that I would have left [Mr. Acting PFMLI Division Director] in the leadership role. I might have moved him back and perhaps he was more suited for deputy role than the director role."

Ms. Senior HRBP generally interacted with Mr. Acting PFMLI Division Director when it came to certain personnel issues, not on the substance of the work of PFMLI, but even there, she felt that he was not engaged. She said that there was “no follow through” on his part. She explained, “[i]f it’s not a subject you know anything about, and you need to draw him out, he can’t provide concrete answers of what he wants to do. For me it felt like he didn’t know. You can’t get something out of someone who doesn’t know what to do, or [doesn’t] have the knowledge to figure it out.”

Ms. Modernization Division Director

Ms. Modernization Division Director described PFMLI as a “train wreck.” She said, the department was “[l]acking resources, lacking direction, lacking leadership ... some of those basics were missing, [like] group agreement on ... what absolutely had to be done, where [to] go if [you] really have questions, what happens if [you] can’t do it ... how we come to those decisions.”

She said specifically that “[Mr. Acting PFMLI Division Director] was in over his head.” When I asked her what kinds of issues other divisions were encountering with PFMLI, she said, “Paid Leave was doing their work in silos; not including Mr. Chief Financial Officer on things that had to do with trust fund accounting; [t]he policy making was not inclusive of UI and workforce; Mr. Chief Information Officer struggled with [their] decisions around technology and projects, things they were wanting to do; [t]hey didn’t have path and direction and IT needed something different than what they were getting.”

I asked Ms. Modernization Division Director if she felt she had a good understanding of what kinds of areas Mr. Acting PFMLI Division Director might have needed support. She said:

I had information at the time, around what kinds of things he needed help with. It was mostly around communicating, showing up more engaged. So that when [he’s] in a meeting he can speak instead of just sitting. [So that he can understand] what makes him comfortable. The kinds of conversations we had [were about] what does he enjoy, what makes him feel comfortable in group meetings, what kind of preparation is he doing, what might he do instead. I don’t know if anyone had told him [any of those things]. I just made suggestions. I reminded him [you] can focus on me, if you’re looking for a safe space in the room ... [We talked about] getting what he needed from my team to communicate with his team, offering joint meetings ... I wanted to help him have the confidence to do it, I could see he had capability, did he need to be reminded ... There was this belief that [the order of priority was] Unemployment Insurance, benefits, modernization, then PFMLI down at the bottom. I would ask him, “what are you asking [Mr. Acting Agency Director] for,” “I go in and ask [Mr. Acting Agency Director] I need ABC, how does he know what your team is struggling with, how does he know what you need?”

Ms. Modernization Division Director’s perspective about Mr. Acting PFMLI Division Director’s leadership skill was that “it was just foreign to him, and I don’t think it’s what he wanted to be doing, standing up a brand-new program, during a pandemic, with Unemployment Insurance

[where it was].” She also said that often she saw that he was able to bring those suggestions to fruition, but they likely started these efforts sometime around June 2021.

Mr. Acting PFMLI Division Director

Mr. Acting PFMLI Division Director identified several issues within PFMLI.

He said one issue was that they did not have enough managers. He said, “because of the leadership structure that we had, we didn’t have a sufficient number of managers overseeing the work, at least initially. [Ms. PFMLI Policy and Operations Manager] said so herself. She felt sort of overburdened with everything she needed to do in her role, she wasn’t able to promptly comment on all of the policy papers being developed.”

He said they tried an innovation to get their team members more timely feedback on the substance of their work: “Like, okay we hear that people are not getting feedback on their papers promptly, let’s set up this forum where they can bring [questions directly] to us and we can make decisions ... but that wasn’t a solution that everyone wanted, [so] that created its own problems. There was a kind of bottleneck when it came to some of the work being done.” Mr. Acting PFMLI Division Director said that in an effort to provide feedback to team members, “for a time, the team leads would deposit [policy] papers in a shared folder and then [Ms. Acting PFMLI Division Deputy Director] and I would read them and offer our feedback to them, pretty promptly I thought.

Mr. Acting Agency Director

To the extent that several of the witnesses interviewed expressed that they did not believe Mr. Acting PFMLI Division Director was suited for the role he was in, I asked Mr. Acting Agency Director to explain why Mr. Acting PFMLI Division Director was in the role.

Mr. Acting Agency Director explained the initial hiring: “[Mr. Acting PFMLI Division Director] was hired as an OPA 4 at the same time as [Ms. PFMLI Policy and Operations Manager]. He had been a division director at BOLI. [He h]ad prior high-level state experience. I did a reference check with the BOLI deputy director [from] when [Mr. Acting PFMLI Division Director] oversaw the Wage and Hour Division, [and I] got strong recommendations about his strengths and how he works. He was later moved to the Deputy Director position.”

As detailed above, Mr. Acting Agency Director explained that Mr. Acting PFMLI Division Director was asked to cover his absence when he was called to lend assistance to pandemic-related efforts. He said:

When I got pulled into this role, it was for an uncertain amount of time, there were 12 brand new employees [in PFMLI], none of whom had the right background to step into that role. Nobody outside of Paid Leave knew about where the Paid Leave program was. [Potential managers] within the program [included] [Ms. PFMLI Program Manager], [Ms. PFMLI Policy and Operations Manager], or [Mr. Acting PFMLI Division Director]. [Mr. Acting PFMLI Division Director] was the only one with significant management experience, and by far the best suited of the three

to step into that role ... When [Mr. Acting PFMLI Division Director] agreed to take the Acting Division Director role ... he expressed that he didn't particularly want [the role] permanently ... [and] he made clear [to ask] how long [it was] going to be.

As detailed above, Mr. Acting Agency Director explained that Mr. Acting PFMLI Division Director was asked to become the Acting Director when the need for Mr. Acting Agency Director's role extended through the pandemic. He said:

It was an uncertain time period, it stayed uncertain, it stayed that way longer than we thought it would, [and] there were multiple points where it seemed like my acting role was going to change [but then didn't] ... Originally, I was on a rotation and the offer from the Governor was to be in this role in an acting capacity and if that ended, I would get my old role back ... Multiple times it looked like that was going to happen and then it didn't. Either I [would] be[come] permanent and we [would] do a competitive recruitment for [the] Paid Leave Director, or I [would] not and I [would] bounce back [to PFMLI]. As it seemed like more interventions were needed [with PFMLI], I talked to the Governor's office that we need[ed] stability, the team [couldn't make do with a temporary leader], [so I said] I'll give up my rights to go back [so that we can] do a permanent recruitment for the position. [A] lot of [this was] incremental, we [thought we] will get resolution, it didn't happen.

Concerns that Mr. Acting PFMLI Division Director was "Passive," "Wishy Washy," and Incapable of Making Decisions

Ms. Agency Deputy Director

Ms. Agency Deputy Director said, "[Mr. Acting PFMLI Division Director] is passive; he doesn't move on things more quickly than he can see things that are moving; he's not going to blaze the trail."

Ms. Current PFMLI Director

Ms. Current PFMLI Director debriefed with Mr. Acting PFMLI Division Director and Ms. Acting PFMLI Division Deputy Director when she took over leadership of PFMLI, and said, "[Mr. Acting PFMLI Division Director] is easily the most passive leader I have ever experienced in my career. Maybe he got thrown into a position he didn't have a comfort level in. He is passive in the extreme ... I think that passivity turns into people feeling like they're not being heard, their issues aren't being carried forward, so that contributes to the angst."

Because Ms. Current PFMLI Director had substantive insight about what PFMLI needed from its leader (albeit she stepped in at a different time), I asked her if she felt that a passive leader could nevertheless have met the needs of the team and the program. She said, "[a] majority of me feels like I don't know how you do the job and be as passive as he was ... I have a hard time thinking that someone as kind and nice as he was, I don't know if it's in his personality to make a difficult

decision. I don't know who should have recognized that, maybe he should have." Ms. Current PFMLI Director also stated that when she took over the team and heard feedback from people about the overall team dynamics, others also reported to her that they felt that Mr. Acting PFMLI Division Director was passive and had had difficulty making decisions.

Ms. Acting PFMLI Division Deputy Director

Ms. Acting PFMLI Division Deputy Director said that Mr. Acting PFMLI Division Director "was the most passive person you've ever met, very kind, very quiet, so passive. I don't understand what he was doing for the year leading up to when I arrived."

Mr. Acting PFMLI Division Director

Mr. Acting PFMLI Division Director acknowledged that some decisions "took a long time to be made," but also explained that "there were reasons for that, and reasons that we tried to articulate to the staff ... They felt like leadership wasn't making decisions, but we were making [the] decisions we could, but some were postponed because of other extenuating circumstances."

When I asked what types of decisions took longer to make which the staff had a harder time understanding or working around, he listed: whether or not the Employment Department itself should collect the contributions, whether or not the Employment Department itself should pay out the benefits, whether or not PFMLI should partner with the Modernization Division on the modernization of the information technology structure. He also acknowledged that for many people, some of these decisions may have seemed "self-evident," but at the same time, they "still had to make a case for that [and] be upfront in [their] analysis of why that was or was not a good idea." He noted that building that kind of case and doing the necessary analysis takes work and time, and that some of the component or peripheral decisions necessary to the outcome were also necessarily pushed off by others within the Agency "because of everything happening in the Unemployment Division."

Mr. Acting PFMLI Division Director said there were also decisions to be made around how PFMLI itself would organize and structure itself, not only because it was a new program in developmental stages, but because the pandemic taking place at the same time necessitated an entire additional level of consideration around what the future of the Agency and its work could look like, and therefore what kind of new program they were building towards.

He said, "I think [some of the timing and delay] was [about] a lot of these kinds of issues, in multiple, fundamental kinds of areas, [where] you're trying to make these decisions simultaneously, and they all connect to one another."

Lastly, Mr. Acting PFMLI Division Director also said that the global pandemic and the resulting crisis with Unemployment Insurance also caused delays for PFMLI, because resources had to be focused elsewhere. Some people left their program to work for the Unemployment Insurance Division, or at least split their time; resources they needed for their program, such as Human Resources support, had to be focused on hiring masses of people for the Unemployment Insurance Division, information technology support also had to be divided; as well as general assistance or

mentorship their team might have received. He said, “[t]hat was understandable because of the situation, but it did cause us some hardship.”

Concerns that Mr. Acting PFMLI Division Director Lacked Leadership Skill

Ms. Senior HRBP

Ms. Senior HRBP was able to identify some issues for which she said Mr. Acting PFMLI Division Director was “absent.” She explained:

I do think there was lack of skill and lack of leadership ability; he wasn’t the best choice from a leadership perspective ... But I can see where he was needing guidance and not getting it because everyone was so focused on the pandemic and other things. He might have felt “this isn’t a big deal to people right now, I’ll do the best I can and not really worry by about it” ... [I]t’s possible he tried to engage and wasn’t heard. I also think [Mr. Acting Agency Director] is very good at identifying resources and getting people to produce. I think [Mr. Acting PFMLI Division Director] might have struggled with figuring out how to use resources, even though he had a lot of resources. That gets back to skill, the skill to sort of champion people.

Ms. Senior HRBP also acknowledged that perhaps more could have been done to support Mr. Acting PFMLI Division Director. She said, “[Mr. Acting PFMLI Division Director] was quiet in executive team meetings, too. I think there was opportunity to [do better with] drawing him out and having him contribute more to the executive team, in terms of providing more information about Paid Leave. I say that, [but] at the time we were focused on the pandemic. I know I was; my focus was not Paid Leave.”

Ms. Current PFMLI Director

Ms. Current PFMLI Director said that Mr. Acting PFMLI Division Director was present, but explained, “he attended all the meetings and heard the [discussion], but he wasn’t making decisions. I was sitting on the executive team at the time [and] he never said anything in round tables.”

She also acknowledged that his skills and style of leadership may have been better suited to the program at a different point in its development. She said:

I also think that the program has gone through changes, so perhaps when it started maybe you could be a key technical person who builds a small team and you don’t have to have a depth of knowledge about broader leadership. There was a point in time where it was intimate, small, statutory-based. As the job [grew] and we lean[ed] into the intent of the law which is all this work around access, equity, customer-centered work, you can’t avoid the fact that you are responsible for that[.]

Ms. Current PFMLI Director also noted that Mr. Acting PFMLI Division Director was likely a good individual practitioner who was placed into a management role he was not ready for, and then was not supported when and where he was in need of support. She felt that the same had happened with Ms. PFMLI Policy and Operations Manager, and that it similarly affected the team. She explained:

[Ms. PFMLI Policy and Operations Manager], a person who had all good intent, worked her tail off, [but] failed in her leadership position. [It was probably] not her fault, [because she was] supervising everyone and [simultaneously] doing most of the policy work, so I think there was this distribution of work thing that happened without support. Some [issues] stopped at [Ms. PFMLI Policy and Operations Manager] where she didn't take things up the chain [and should have]. I think that was a lack of training and mentorship for her. I think she was super over her head doing probably 40 plus hours of technical work and also supervising 19 people. That's setting up someone to fail ... I think that goes back to [Mr. Acting PFMLI Division Director], if you are paying attention to what is happening as a leader at this high level, you cannot let your important leader manager drown like that, you're not supporting your people ... It seemed to me he was not providing the basic care and feeding you need to provide to people, including to [Ms. PFMLI Policy and Operations Manager] and the other OPA 4s. It seemed like nobody had lifelines.

Ms. Modernization Division Director

Ms. Modernization Division Director said that individual PFMLI staff members told her directly that their team was lacking leadership. She told me, “[t]hey said that. ‘[Mr. Acting PFMLI Division Director] is not a leader, he’s a nice guy, he’s not a leader.’ [Mr. Acting PFMLI Division Director] wasn’t comfortable in the role he was in, he didn’t enjoy it, he told me that. He would ask me to lead conversations that were difficult in nature, to try to lead conversations to get to group consensus and results. He was [more so] good one-on-one [] with people.”

Ms. Human Resources Director

Ms. Human Resources Director noted that Mr. Acting PFMLI Division Director had been with PFMLI for a rather short period before he was made Acting Director. She said, “I think that was a mistake. He was the likely candidate because he was the hot body in the seat. But if we look at his skills, he’s passive, a leading from behind kind of guy.” She said that ultimately, the Agency tried to bring in someone who was the opposite (Ms. Acting PFMLI Division Deputy Director) “thinking they will support each other.” Then, “when the team was [Ms. Acting PFMLI Division Deputy Director], [Ms. PFMLI Policy and Operations Manager], [Ms. PFMLI Program Manager], [Ms. Communications and Outreach Lead], I think [Mr. Acting PFMLI Division Director] sat back and let the [other four] do it.”

Ms. Agency Deputy Director

Ms. Agency Deputy Director acknowledged that she had some sense that Mr. Acting PFMLI Division Director was struggling in his leadership role, but she could not pinpoint when she became aware. She said, “I thought it was sort of just a quiet leadership style, servant leadership.” Her intention and hope in recruiting Ms. Acting PFMLI Division Deputy Director was that the two of them would complement one another in their different styles. She said, “[Mr. Acting PFMLI Division Director] took the program to a certain point; it was unfair to have him do that by himself. The hope was [Ms. Acting PFMLI Division Deputy Director] would balance him. I didn’t think he was a failed leader.”

Ms. Agency Deputy Director recounted receiving feedback from Ms. Acting PFMLI Division Deputy Director about Mr. Acting PFMLI Division Director’s leadership of PFMLI. She said that Ms. Acting PFMLI Division Deputy Director “talked about his passivity, not making decisions, not facilitating meetings to lead people through the path and to the other side. [Ms. Acting PFMLI Division Deputy Director was] just saying he’s so passive, he isn’t doing anything about this, that, or the other.”

Once she later came to understand the issues within PFMLI as a program and the problems with its leadership, Ms. Agency Deputy Director told me, “I’m disappointed now, when I see [that] high-level managers [couldn’t] problem solve things at the closest level, and [those problems] fester[ed] and [got] out of control, that’s unacceptable to me ... I do believe it was unacceptable that [Mr. Acting PFMLI Division Director] didn’t get in front of it. I further feel it’s unacceptable that [Ms. Acting PFMLI Division Deputy Director] wasn’t able to, either.” In parallel to these understandings that Ms. Agency Deputy Director later reached, she maintained that Agency executives bore ultimate leadership accountability.

Ms. Acting PFMLI Division Deputy Director

Ms. Acting PFMLI Division Deputy Director also expressed the belief that Ms. PFMLI Policy and Operations Manager contributed to the environment because of lack of capacity or experience. She said:

I don’t think [Ms. PFMLI Policy and Operations Manager] is a mean or bad person. I just think she lacks experience with DEI issues, and also is not a very good people manager. I also think she got no support for 1.5 years with [Mr. Acting PFMLI Division Director] being her supervisor. In that discussion [about the comment made about Mexico as an exotic location,] when I talked to [Ms. PFMLI Policy and Operations Manager] about it, her immediate reaction was not “oh my gosh, I really messed up,” [instead] she threw her hands up like, “ugh another thing that’s not important,” and I was furious.

Concerns that Mr. Acting PFMLI Division Director Failed to Address Issues when Brought to His Attention

Ms. HRBP

Ms. HRBP noted that Ms. PFMLI Policy and Operations Manager also expressed concerns to her about Mr. Acting PFMLI Division Director and his responsiveness to the needs of their team. She explained, “[Ms. PFMLI Policy and Operations Manager] said to me that she was hearing from others that [Mr. Acting PFMLI Division Director] was too laid back, because he had a different style. I don’t know if the word ‘ineffective’ was used, but it might have been.”

Ms. HRBP also explained that an issue arose within PFMLI where two employees argued about whether it should be necessary for Oregonians to provide social security numbers as part of administration of PFMLI program benefits. After the staff members and Ms. PFMLI Policy and Operations Manager were unable to resolve the issue, Ms. HRBP took the issue to Ms. Equity and Inclusion Officer because of the intersection with equity considerations, and was surprised to learn that Ms. Equity and Inclusion Officer had already provided support and resources to the team on this topic which their leadership had not utilized. Ms. HRBP said:

[A]fter this happened, I would have expected immediate action [from Mr. Acting PFMLI Division Director]. I think I even sent [him] talking points, bulleted talking points, to bring up at the next all staff meeting. I would have expected [Mr. Acting PFMLI Division Director] to come on strong to talk about the commitment to DEI, these are the things to reinforce, vetted by [Ms. Equity and Inclusion Officer], be really firm that this is imperative to the program, [it’s at the] center of everything we’re going to do. He didn’t have that personality because he was introverted. I realized he would not be able to do that, I thought maybe [Ms. PFMLI Policy and Operations Manager] could, I don’t think they did it at all.

Ms. Human Resources Director

Ms. Human Resources Director explained that when she raised concerns to Mr. Acting PFMLI Division Director, she felt that he was responsive in his agreement, but ultimately required direction and action to be set out for him. She said:

I can remember calling him and saying, “you have some issues, this is what I’m hearing, I need you to have conversations with this person and this person,” and he would say “okay and what do you need me to say.” If you brought it to his attention and framed in a way of “you’ve got to do this,” he would do it. Would he take the initiative on his own, I don’t know. Not when it came to hard things. When it came to policy, I think he got it. I saw him in a different light when I stepped into the HR role[.]

Concerns that Mr. Acting PFMLI Division Director Failed to Manage Team Dynamics

Ms. Modernization Division Director

Ms. Modernization Division Director recalled specific conversations with Mr. Acting PFMLI Division Director about the environment within and around PFMLI, including specific employees who made the team environment hostile. Her advice to Mr. Acting PFMLI Division Director was to take the concerns to Human Resources. She also relayed some of her concerns to others. She said, “I would talk to HR and say there is still conflict in Paid Leave, they are lacking leadership. I would tell [Mr. Acting Agency Director] and [Ms. Agency Deputy Director] they are lacking leadership. [Mr. Acting PFMLI Division Director] needed someone to balance what he could bring from policy to task and information sharing. They brought in [Ms. Acting PFMLI Division Deputy Director], which I think was the worst decision they could possibly make.”

Ms. Modernization Division Director said there were at least a couple of employees in PFMLI who were bullies; she said those individuals have since been moved or are being coached about their communication. At the same time, she said that pushy behavior was not limited to the staff; PFMLI leaders also displayed that type of behavior. She said that her own team did not want to meet alone with Ms. Acting PFMLI Division Deputy Director, Ms. Complainant, or Ms. Communications and Outreach Lead (and other employees), and therefore she undertook to attend their joint meetings as a result of their discomfort. She said, “I know [PFMLI’s] culture was not healthy, I just think they couldn’t get out of it. I just tried to shelter my staff from it the best I could and not have it bleed over [to my team].”

Ms. HRBP

Ms. HRBP said that while Mr. Acting PFMLI Division Director asked for information and support around administrative needs like equipment, schedule changes, contract questions, position descriptions, and the like, she could not recall Mr. Acting PFMLI Division Director ever bringing forward a personnel issue for assistance or support. She explained:

[I]f I scheduled [a meeting with him], he would be there and would be involved in the topic. [But h]e didn’t come forward with any ideas about the structure and any proposal on the management positions vs. represented and how to structure, any ideas or changes, that’s what I mean. Most managers at that level will seek out meetings with HR and will be a little more proactive around their business area ... He wasn’t one that would initiate any meetings with me.

At the same time, Ms. HRBP was aware that personnel issues did exist, that Ms. PFMLI Policy and Operations Manager was having a difficult time with some challenging employee interactions, and that they were in need of strategies for improvement.

Ms. Human Resources Director

Ms. Human Resources Director said it was around August 2021 when it first came to her attention that there were personnel issues within PFMLI. She said, “people were upset, and our phones started ringing in HR, and I was like what’s going on over there in Paid Leave.” She met with Mr.

Acting PFMLI Division Director to talk about what was happening, and then Ms. Acting PFMLI Division Deputy Director was brought into the conversations as well. Ms. Human Resources Director explained:

When [Ms. Acting PFMLI Division Deputy Director] came into the [conversations], [the picture] started getting bigger and bigger ... and I was like, wow. We had a culture issue. [There was c]lashing going on. [Ms. Acting PFMLI Division Deputy Director] brought [up] the fact that [Ms. PFMLI Policy and Operations Manager] who was the manager [was] not the right person [and said] she need[ed] to be removed. I was like “what coaching have we done” [but there hadn’t been any] ... When you got in and started listening, it was all unhealthy. I don’t think there was a solid foundation, the leadership team wasn’t functioning, [Ms. Acting PFMLI Division Deputy Director] took the weight of the world on her shoulders, and took it very seriously, I don’t think she was the right person, and [Mr. Acting PFMLI Division Director] wasn’t leading.

Ms. Current PFMLI Director

When Ms. Current PFMLI Director took over leadership of PFMLI, her assessment was that “[t]here was a complete breakdown of everything you could consider inside a functional and operational team.”

Mr. Acting Agency Director

Mr. Acting Agency Director identified an overarching team dynamic that was a point of pressure. He explained:

There was a big tension point between people who came with a lot of experience from [the Unemployment Insurance Division], like they [felt like they knew] how a big benefits program works [and wanted to] help; then we had people from the outside who said [the Unemployment Insurance program] isn’t great, there are barriers built in. We had said early on that we needed those discussions. The way those discussions came about I think were damaging, people got entrenched, and I don’t think there was appropriate intervention on how the discussions were happening.

We had some people who were very passionate about equity and inclusion, that was one of the flash points ... [There were p]eople in a room wo had worked in [Unemployment Insurance] for their career, and an advocate in the room would say “the [Unemployment Insurance] program is racist.” Those people heard it as “you are racist,” [and they] reacted, I don’t think there was any intervention done early, those dynamics kept repeating, and I think people retreated to corners.

We were very intentional about wanting the workforce and the way the [PFMLI] program operated to be much more inclusive than government programs normally are. People who came from more of an advocacy background were talking about things in a way that were fundamentally accurate but [were] causing reactions.

I think that was as things were exploding, the workplace environment was not happy. I think most people were unhappy.

I asked Mr. Acting Agency Director what he would have expected from the team to manage these issues and the resulting personal dynamics. He said:

In an otherwise ideal world, employees on their own would have handled it differently. Employees feeling it as a personal attack would have said something. We have done bystander intervention training to try to give people tools. Ideally, individuals have some ownership to be able to raise in an appropriate way that someone is calling you racist, or to understand the core underlying communication. [However, w]hen that wasn't happening, it was the responsibility of managers. The front-line manager in the meeting [should have] intervene[d] there, and [done] offline follow up ... When the front-line manager doesn't intervene, I think [Ms. Acting PFMLI Division Deputy Director] and [Mr. Acting PFMLI Division Director] had an obligation to intervene.

At the same time, Mr. Acting Agency Director was able to acknowledge some of the roadblocks and limitations that the managers encountered when it came to their responsibility to intervene. He said:

I think everybody was put in an untenable situation, but I think the managers both had lack of experience handling [issues] like that, which are difficult [issues] to handle. With [Ms. PFMLI Policy and Operations Manager], she didn't have experience dealing with those things, certainly not as a manager. She didn't intervene as she should have [but she also] needed guidance and support, [and] she also had way too many direct reports. Paid Leave said the management ratio was way off, they needed more managers. I think [Ms. Acting PFMLI Division Deputy Director] felt they were not adequately supported because I questioned some of the direct appointments they wanted to make, although I didn't stop them, I just expressed my concerns. So, it was partially capacity and partially skillset.

Mr. Acting Agency Director also acknowledged his own responsibility to intervene. He said, "[In] non-pandemic times I could and should have leaned in more, earlier. Just around problematic interactions."

Mr. Acting PFMLI Division Director

Mr. Acting PFMLI Division Director was similarly able to identify areas of conflict within PFMLI, though he described the circumstances in a less negative light than most other individuals interviewed.

Mr. Acting PFMLI Division Director said that some conflict arose as a result of employees overlapping in each other's areas of subject matter expertise and wanting to exert influence. He explained:

[W]e had a group of very motivated people, who were interested in the success of the program, and they took interest in areas outside of their primary area. To some extent that was necessary, to stay informed on the interrelationships between the various parts, but people wanted input into that as well, and that became an area where we were struggling a little bit to figure out what is the correct balance between opening up and allowing large portions of the team to be part of this decision making process, or at least to give input, as opposed to closing it off and saying leadership is going to make this decision and we aren't always going to go back to the team to solicit input.

Mr. Acting PFMLI Division Director said that some conflict arose as a result of time sensitivities and urgencies. The planning of the work required careful thought and analysis, but the progress of the work sometimes demanded shorter timelines, and those competing needs were difficult for the team. He said:

This became very pressing and clear once we were part of the modernization effort. As they were building the system, they needed answers quickly and we needed to respond quickly, so you [didn't] have as much time to get input before making a decision. And there were different camps, kind of a dividing line, about how much input people thought each should have. Some were thinking more conventionally and feeling we needed to act quickly and didn't have time for a lot of discussion, they became frustrated at the amount of discussion that went into some of the decisions we were trying to make. Others felt that these were not mundane decisions, we do need to discuss, that's an accessibility decision.

Mr. Acting PFMLI Division Director felt that some conflict arose because team members within PFMLI had very different, and at times conflicting, opinions of how they wanted to be led and informed. He said, in looking at their:

... decision making [processes], [and] what people perceived to be a lack of decision[-making processes], we experimented, we tried various different things to try to address people's concerns. They felt like they needed more communication and we felt like we were communicating plenty. Someone would say "the team thinks they need this kind of communication," we would try it, they wouldn't like it, they would complain. So, you're trying to find this magic solution to make the

majority happy so they feel like they're included and getting the information they need to do their work.

I also asked Mr. Acting PFMLI Division Director for his assessment of Ms. Acting PFMLI Division Deputy Director and the measures she tried to implement when she joined PFMLI. He explained:

I was very happy that she joined the team. I think she brought a skillset that we needed. I think [Ms. Acting PFMLI Division Deputy Director] is very much a driver kind of personality. She hit the ground running. She did the right things. She reached out to people, made connections, talked to them, assessed where we are, and took a very realistic attitude about where we were and where we needed to go, she really pushed the team to get where we needed to go. A lot of that had to do with the deadlines that we needed to meet, the information we were being asked to provide, what the Agency leadership was asking of us to do. I think she brought a lot of skill and talent to doing that. I know she was frustrated with the team because of some of the resistance to that, and the things they would bring up in conversations that they had with her. That made it harder for her to do her work, but I do think she was effective.

Mr. Acting PFMLI Division Director acknowledged that overall team dynamics and unity had suffered. He said, "I think [Ms. Acting PFMLI Division Deputy Director] said to me at some point, it seems like no matter what we do, they're not happy about how we're doing it. Probably that reflects the fractured nature of the team in terms of what they expected and how they wanted leadership to act, and what they thought the program needed to move forward, there was no consensus, and people felt strongly in their positions, and seemed resistant to doing things."

He also believed that a larger portion of the strife was driven by a smaller number of individuals. He explained:

[T]he majority of the [team members] were fine, they did their jobs, they did what you asked them to do, but I think they kind of got dragged into a small portion of the team, who had stronger attitudes towards what was happening ... The lines were hardened and some people found it difficult to work with one another because they were coming from different places and different attitudes. It came to be like they almost resented any kind of what they perceived to be interference in their sphere of duties and what they were doing. And that interference might just be asking questions about what are you doing.

I asked Mr. Acting PFMLI Division Director to describe any efforts he undertook to combat and respond to these issues. He said:

I think communications. I had personal conversations with a couple of people, [Unemployment Insurance Division] people, listening to what they had to say, why they felt it was disrespectful, trying to get them to the point of understanding that the comments were not about you personally, this is historical, you can look at the

laws, certain things happened, we need to learn from that, we need to give each other the benefit of the doubt, we are trying to help one another, not tear each other down, we need to be respectful in how we learn from one another. There were personal conversations. There were trainings happening. There were all staff meetings where we would set aside time to discuss diversity types of issues. We talked about it on the leadership team.

With respect to the resistance encountered by their team members, he said:

I think we recognized them at the time, and we did try to do something about it. We had conversations with people involved about what they were seeing, what they were feeling, where we were coming from, it was all part of that effort where we felt like we were trying to communicate and be open about all of this, we were trying to be as transparent as possible and let them know what obstacles we were dealing with, too. We understood there were deadlines that had to be met, we needed to find a place to work respectfully with one another and get it done. It wasn't in the interest of the program to have different camps who couldn't work together. We needed to heal those fissures. We did some things. We had been planning to bring an outside facilitator to bring the team together.

He also explained that there were roadblocks to their efforts: "There were some obstacles, I think. You may come up with an idea, let's do this, you draft it out, you take it to HR, and it may be like well you can't do this because of some reason or some state or organizational structure. You feel a little deflated, it's always reasons why you can't do something, as opposed to HR saying what is it you want to achieve, here we can be part of this planning with you and help you to accomplish it."

I asked Mr. Acting PFMLI Division Director if he recalled Ms. Acting PFMLI Division Deputy Director expressly asking for his assistance or participation in any particular efforts. He said: "[s]he mentioned when she was trying to work out what our leadership structure would be, [what our] organizational structure would be, that things weren't progressing as quickly as she would like; she would ask me if I could support her in that." Mr. Acting PFMLI Division Director said that he would then reach out to Ms. Senior HRBP and the Human Resources Director, and that "usually at that point the HR director would be responsive, intervene, connect us maybe to another person to help us, maybe the person we were trying to go through was unavailable. Maybe the other person was just more appropriate. Maybe going outside our HR shop and going to DAS to get positions approved."

Mr. Acting PFMLI Division Director acknowledged that, as of the time of his departure from PFMLI, they had not seen substantial improvement: "[t]o have those kinds of conversations, and not see change, it's something you have to constantly work on and return to. I hope the team was in the process of doing that, but it wasn't necessarily like we even expected that just because we started to address it the change would be immediate."

Concerns that Mr. Acting PFMLI Division Director Failed to Support Ms. PFMLI Policy and Operations Manager with Personnel Issues and Team Dynamics

Mr. Acting Agency Director

Mr. Acting Agency Director described Ms. PFMLI Policy and Operations Manager as “exceptionally skilled” at rule making and policy making. He explained that he had promoted her into a management role after “explicit discussion about the fact that she didn’t have strong management experience, and that needed to be her focus, [that] the managing of her team needed to be the priority.” He said that those issues of inexperience “did play out” in the ultimate environment and success of the team.

Concerns that Mr. Acting PFMLI Division Director Failed to Provide His Team with Information and Communications They Needed for Their Work

Ms. Modernization Division Director

Ms. Modernization Division Director had direct observation of Mr. Acting PFMLI Division Director’s approach to communication, due to the overlapping subject matter between their two teams, their time together on the executive team, and her peer-mentorship work with him following the Deloitte assessment. She explained:

[PFMLI] was very clearly lacking leadership structure and direction. [Mr. Acting PFMLI Division Director], though very smart, was not giving them direction, or was not relating information to them that was available to us as executive members; I think that left them really struggling with understanding why things were or were not happening. It created conflict within their own team, and with other teams, like mine ... There was a decision to move the technology aspect of Paid Leave into Modernization, after quite a bit of discussion and struggle. With that shift came some additional conflict [because] staff had lack of clarity and roles even more. There wasn’t perhaps all the sharing of information [within PFMLI] that my team had or others had, so Paid Leave was lacking some of that direction. [From] [Mr. Acting PFMLI Division Director’s] [own] leadership [team], two or three of them would reach out and ask to talk to me one-on-one. [They told me t]hey don’t know what [Mr. Acting Agency Director] thinks; they hear more from others about what [Mr. Acting Agency Director] thinks [and] what information was shared with [executive team than they do from Mr. Acting PFMLI Division Director]; they weren’t getting what they needed to be successful; [that] was a key factor.

I asked Ms. Modernization Division Director specifically if she had reason to conclude that Mr. Acting PFMLI Division Director did not share with his team information that he had. She said, “[h]is staff would ask [me] questions, I would say ‘here’s what I know,’ and [their] comment was always ‘we didn’t get any of that information; that would [have] be[en] helpful.’” I further asked her if the types of information at issue seemed affirmatively necessary for them to do their jobs, or if it was merely information they would have preferred to have. She said, “[b]oth. And when

they didn't have the information they needed to do their jobs, it affected everything else [negatively].”

Ms. Modernization Division Director said that where their teams converged, she tried to share information with the group, including members of PFMLI, and she tried to nudge Mr. Acting PFMLI Division Director to do the same. She explained:

[O]ften, if I was in a meeting and there were [negative] behaviors or conversations taking place [and] we could identify that they were just missing information, I could say “well [Mr. Acting Agency Director] wants,” [or] “at executive here is our conversation and here is the direction we are going.” To be able to say that, it puts a level of leadership [behind the decisions]. Or when [Mr. Acting PFMLI Division Director] was in the room, I would say, “[Mr. Acting PFMLI Division Director], remember when we had this conversation, have you talked to your staff about X.”

Ms. Modernization Division Director also tried to make joint plans with Mr. Acting PFMLI Division Director for communicating with their teams. They would reach an agreement that by a certain date he would talk to his staff about a certain issue, and that she would do the same. She told me, “I wasn't throwing him under the bus, it was more [that] we had agreed we would talk to our people, [his team] should have known, and they didn't.”

Mr. Acting Agency Director

Mr. Acting Agency Director said he came to understand that there were concerns about lack of communication within PFMLI, so he spoke with Mr. Acting PFMLI Division Director about trying to “over-communicate.” I asked Mr. Acting Agency Director for his understanding of where or why the communication and information sharing was lacking. He explained, “[p]art of it was general. People were feeling neglected. There was that general need to engage and have that communication.”

Separate from general communications and connection building, Mr. Acting Agency Director also identified specific areas that were lacking. He said, “one [issue] was around what took place at our executive team. [Mr. Acting PFMLI Division Director] was a member of that, and I heard from some folks that they didn't know what was being brought to executive team and what wasn't, so I think people were making assumptions about what was and was not being decided.”

Another concern included:

[S]ome specific issues that were coming up where there was not a clear cut established process [for a given task]. There would be discussions amongst the team, they really felt like it was a void, and they didn't know what was going on. Like whether we were going to create a combined contributions, or whether Paid Leave would set up its own group for tax. People were unclear about that path and who was involved. [There were s]ome similar [issues] around hiring, developing staffing plans, and then people sometimes [felt] they were [raising issues but they were] not being moved forward quickly enough. A lot of it was people saying we

identified this need and we share[d] it but there is lack of response or follow up as to whether I am getting the position, when, is there a roadblock.

Lastly, Mr. Acting Agency Director felt that “[t]here was also some sense of entitlement or expectation [of support]; it was a priority program, [but] the pandemic supplanted a lot of those priorities.”

Mr. Acting PFMLI Division Director

Mr. Acting PFMLI Division Director expressed the belief that people may have felt frustrated about uncertainty and communication gaps that were inevitable when building a new program. He explained:

[T]hings weren’t as clear to them as they would have liked them to be. When we were hiring the team, one of the things we tried to stress was that this [program] was being created out of nothing, decisions would have to be made [in real time], we didn’t know the path, there were going to be questions about how we would interact with other departments, [a lot of uncertainty]. Even though everyone said yes to that, things started to harden, and people became less comfortable with continuing to be flexible.

Concerns that Mr. Acting PFMLI Division Director’s Indecisiveness and Passivity Undermined and Eroded the Authority of the Women Leaders Who Tried to Advance the Program in His Stead

Ms. Current PFMLI Director

I asked Ms. Current PFMLI Director directly if she felt that Mr. Acting PFMLI Division Director did not support and enable Ms. Acting PFMLI Division Deputy Director to do her job. She said:

I think there is some truth to that. I also think [Ms. Acting PFMLI Division Deputy Director] did not explicitly ask for the support that she needed. I don’t think she said, “I need you to help me with X, I need you to support me with X.” Instead, she pushed through, instead of saying “can you say these things to be helpful to me.” That goes to the ability to lead up and lead down. In those deputy roles, you are in many ways also managing your director to be helpful, there is a way to do that, and I think she struggled with that.

Ms. HRBP

Ms. HRBP similarly said that Ms. Acting PFMLI Division Deputy Director did not raise specific or direct concerns about Mr. Acting PFMLI Division Director’s leadership of the team. She said:

[Ms. Acting PFMLI Division Deputy Director] never said anything about [Mr. Acting Agency Director]. She might have said something about [Mr. Acting PFMLI Division Director], but nothing where I would have felt I needed to follow

up or [ask her to] tell me more. It might have been something about his laid-back personality, he wasn't a go getter, something like that. [And] it was in the context of ... addressing [a personnel issue], and [evaluating] who should [speak with the employee], her or [Mr. Acting PFMLI Division Director]. But she was a structured, planful, wanting-organization [type of person], so I might have chalked it up to her being that way, and [Mr. Acting PFMLI Division Director] wasn't that way. He just wasn't the type of manager that took a lot of initiative.

Mr. Acting PFMLI Division Director

I asked Mr. Acting PFMLI Division Director if Ms. Acting PFMLI Division Deputy Director asked him for support or otherwise communicated that she wanted him to do anything differently to help effectuate her goals for the team. He said, "I want to say yes, but maybe it was like messaging of certain communications; we would discuss that [a given communication] might come from the Division Director." When I pressed him and said that sounded more like regular planning one would expect to take place between two team leaders, I again asked if there was anything she asked him to change, and he said, "[s]he might have, I don't recall."

Concerns that PFMLI as a Program was in Need of Strong Leadership Because It was in Development

Mr. Acting PFMLI Division Director

Multiple witnesses interviewed stated their belief that PFMLI was in need of strong leadership, over and above what they would have expected for any other program, specifically because it was in a development phase.

Mr. Acting PFMLI Division Director acknowledged something similar. He said that a "regrouping [was] necessary of PFMLI. There were some kinds of embryonic plans about the direction we were going, but we were figuring it out as we go, including the structure of the team, [and] how [we should] even go about doing this work."

More specifically, when I asked Mr. Acting PFMLI Division Director about employee concerns about the difficult environment, and the need to address and resolve the experiences around hostility and racism, he said that he was aware of the circumstances and understood that some employees were concerned. He said:

I didn't often directly experience it, but I did hear of it from others ... I did hear from some UI staff that they felt like [Ms. Complainant] and some others newer to the Agency were disrespectful and were saying basically that UI Division was racist. They personalized it, like [they were being told that] they themselves working at the Division were racist. They heard or experienced it as "UI is racist, we don't want to have anything to do with this racist institution, if you worked there, we don't want to have anything to do with that." I think that led to some resentment that those people felt, and did contribute to how they communicated as well.

I asked Mr. Acting PFMLI Division Director what was done to address these concerns and this broader environment of hostility. He said, “[w]e did work around diversity and inclusion, but those are hard conversations, and some people felt like we weren’t doing it well enough, or fast enough.”

Concerns Mr. Acting Agency Director Did Not Address Issues with Mr. Acting PFMLI Division Director’s Performance and Leadership

Much of this allegation is addressed in the prior subsection about Mr. Acting Agency Director’s behavior.

Ms. Human Resources Director

Ms. Human Resources Director noted that some steps were taken to support Mr. Acting PFMLI Division Director, separate from whether performance issues were addressed more specifically. She also acknowledged that, due to the immense pressure on the Agency in managing through a pandemic response, Mr. Acting PFMLI Division Director and PFMLI did not receive as much attention as Agency leadership would have otherwise wanted to provide. She said:

[Mr. Acting PFMLI Division Director] was not as supported as he could have been ... [Mr. Acting PFMLI Division Director] was at our weekly executive team meetings and would give updates. Members of Paid Family leave would come give updates. We knew the work was going. I never sensed that [Mr. Acting PFMLI Division Director] was raising a red flag or that he needed assistance. Either I had blinders on or I was ignoring what the signals were, but I don’t think we knew what shape it was in. We were all hearing bits and pieces ... I knew timelines were slipping, we had to go to the legislature to seek an extension, but I didn’t sense it was because the team was floundering ... We brought in [Ms. Acting PFMLI Division Deputy Director] to support him ... I don’t know if [Mr. Acting PFMLI Division Director] took those conversations to [Mr. Acting Agency Director] or asked for help. Does [Mr. Acting Agency Director] shoulder some of this? The buck stops with the Agency director ... but I don’t know how much [Mr. Acting Agency Director] contributed [to the actual situation with PFMLI].

Mr. Acting PFMLI Division Director

I asked Mr. Acting PFMLI Division Director if Mr. Acting Agency Director or others in executive leadership ever asked him to do anything in particular, to revise his approach, or to otherwise provide him with any suggestions or proposed solutions for PFMLI. He said: “Yes, I think [Mr. Acting Agency Director] would always offer suggestions. Some of them would be things we had already entertained. I think he suggested bringing in a facilitator ... A lot of this happened quickly in the same type of time period, I think it was already on our radar.” I asked Mr. Acting PFMLI Division Director if any of those suggestions were actually implemented, or if he understood the discussions to be more brainstorming in nature. He said, “I think certain things were implemented. They may have been basic things, like ‘send out a communication of this kind,’ along [those] lines. There were things I think we did act on.” I asked Mr. Acting PFMLI Division Director if there came a point where Mr. Acting Agency Director and Ms. Agency Deputy Director asked to be

invited to attend PFMLI meetings. He said, “[y]es, they started attending our all-staff meetings.” When I asked if their attendance was helpful, he said, “I think it had an impact. I think the team needed to see the Agency leadership, to have that kind of access, to see them participating in what we were doing, and focusing [on] what we were doing, as a reminder that they are in here with us. If [Mr. Acting Agency Director] and [Ms. Agency Deputy Director] are behind it, that means HR is behind it, IT is behind it.”

Mr. Acting Agency Director

Mr. Acting Agency Director said he did not believe that Mr. Acting PFMLI Division Director ever specifically communicated that there was a real problem within PFMLI. Mr. Acting Agency Director said that when Mr. Acting PFMLI Division Director resigned, “I think it showed some self-awareness; [] what he said essentially was, ‘I’m going to resign, I don’t think I can keep doing what the program needs to be successful going forward.’”

When Mr. Acting Agency Director himself raised the issue that he was hearing frustrations around lack of communication from PFMLI leadership, Mr. Acting PFMLI Division Director said he understood the concern, expressed that he thought he had been communicating enough, and was generally open to that discussion.

Mr. Acting Agency Director did hear from others, at various points, that there were issues with PFMLI leadership, and he responded to those situations. He said, “I think I heard from Modernization that there was a concern that there wasn’t the right help from leadership on the Paid Leave side to work through some of the tensions that were coming up between their teams ... I may have [also] heard from [HR]. I think there was a fair amount of tension there because Paid Leave felt they weren’t getting the HR priority they deserved. I can’t recall specifically if HR raised that.”

I asked Mr. Acting Agency Director whether he was surprised at receiving these reports. He said:

I don’t recall ever being shocked. I remember being surprised that some things still weren’t getting resolved [having talked about them before] ... The fact that those tensions were there, was not surprising at all. I think when others started reporting first that these tensions were there, it was more like, “okay I need to make sure I’m talking to [Ms. Modernization Division Director] and Paid Leave leadership to hear what’s going on.” Initially, hearing [about the issues, while] it wasn’t good news [and] I didn’t know what was happening, [] I wasn’t all that surprised because of some of the underlying structural opportunities for tension. [But w]hen they weren’t getting resolved, I was increasingly surprised that new things were coming up and it looked like actions on the old things weren’t getting addressed.

Mr. Acting Agency Director further explained that he felt that Mr. Acting PFMLI Division Director was trying, even if he was ultimately not successful. He said, “[m]y sense is that [when it came to] setting direction and leading through conflict, [Mr. Acting PFMLI Division Director] was not doing them well, but my sense is he was trying to do them, spending time on them. [While] I

was seeing signs that he wasn't getting done what needed to get done, [I was not seeing signs] that he wasn't working.”

Mr. Acting Agency Director also recalled that he and Ms. Agency Deputy Director had some discussion about concerns that PFMLI as a program was not moving forward at the pace required or expected.

When I asked Mr. Acting Agency Director about the Deloitte assessment, he noted that the report provided was not focused on PFMLI, but was a broader look at organizational change management work. He recalled that Deloitte made some evaluation of their baseline for change readiness, conducted broad staff surveys, and assessed executive team members around their work styles. While the report was not focused on PFMLI, it did include PFMLI and Mr. Acting PFMLI Division Director. After the assessment, he asked Mr. Acting PFMLI Division Director and Ms. Modernization Division Director to partner together on areas where Ms. Modernization Division Director could provide supportive peer mentorship. In general, Mr. Acting Agency Director tried not to delve into details of the peer mentorship relationship so that they could maintain trust and confidence. However, to the extent that he had regular check-ins with both of them, he asked if it seemed helpful. Mr. Acting Agency Director understood that there was friction between their two teams. He said:

[Ms. Modernization Division Director] did share sometimes “this is getting better, yes we are having discussion.” It seem[ed] like [with] the communication pieces, when they met as a leadership team to work on substance, it was a very good relationship. [The two of them] could work through things and make difficult decisions. But it seemed like when their respective teams were working with each other, that [communication of information, empowering the team, providing context] for the team, wasn't always there. That was something [Ms. Modernization Division Director] was working with [Mr. Acting PFMLI Division Director] on – how to kind of effectively communicate more context to his team.

Additional Information About the Leadership Environment

Ms. Human Resources Director

Ms. Human Resources Director explained that the decision-making process that PFMLI utilized for their team may have contributed to frustrations. She said, “I think they made decisions by consensus; if they couldn't all agree then [the decision] would kind of sit there and linger.”

She also noted that there were personnel challenges when members of the team would raise diversity and equity-related concerns in a highly charged and antagonistic way. Ms. Human Resources Director said that some individuals would “drop bombs,” and then other employees were afraid. She said: “they [would] take two steps back, [thinking to themselves ‘that employee] just said this so what do I do with that now,’ and that caused some paralysis to take place.” When these concerns were raised, leadership did not always rise to the opportunity, or address the need, for redirection and guidance. She explained:

[When] someone said “the UI system is systematically racist,” or “asking for a social security number is racist,” instead of saying “let’s stop and talk about this, when you say it is racist what do you mean, and you over here, when you hear that what do you understand,” they didn’t lean into that teachable moment, they didn’t create a safe place to have those conversations ... Instead, [Ms. Acting PFMLI Division Deputy Director], [Ms. Communications and Outreach Lead], they would let the bombs lay there and catch fire or smolder, so maybe that was need[ed] to move the needle.

Ms. Human Resources Director said that these factors created “a perfect storm,” while PFMLI was “dealing with building a team, creating a culture, building a program, all with interim leadership.” She felt that those factors created a bottleneck to the substance of the work. She also acknowledged, in parallel to all of these issues, that “the leaders were not the right people.” She noted, “[w]ithout the pandemic, would we be here? Probably not. If [Mr. Acting Agency Director] had remained [head of PFMLI] would we be here? No.”

Ms. Human Resources Director also summarized her understanding of how these issues all came to a head, and what Agency leadership did to respond once it became clear that there were significant problems within PFMLI. She said:

Mid-August [2021] the complaints start[ed] coming in. Managers, employees, HR investigates, our Equity and Inclusion Officer [was] consulted, [a] coaching letter results, the HR director informs the Director’s Office, and was informed that [Mr. Acting Agency Director] and [Ms. Agency Deputy Director] were increasing equity and inclusion into Paid Family activities.

As soon as that is done, September 1, 3, 8, 9, 10, [] people start [specifically] talking to [Mr. Acting Agency Director], wanting to meet with [Mr. Acting Agency Director]; it all happened very quickly. And then we start getting the resignations from [Ms. Communications and Outreach Lead], [Ms. PFMLI Program Manager], [Ms. Complainant] []. September 13th I reach out to [DOJ] because the list keeps growing. It was less than 30 days from when I learn[ed] of [the issues] and when I reach[ed] out to [DOJ]. I think they were all circling and storming and they didn’t have anything to ground them. I think [Ms. Acting PFMLI Division Deputy Director] was trying, she didn’t feel like she had the support of [Mr. Acting PFMLI Division Director], [Mr. Acting PFMLI Division Director] decide[d] to retire, and he was feeling the pressure as well.

In addition, they also conducted a climate survey, and shared those results with [Ms. Acting PFMLI Division Deputy Director].

Ms. Agency Deputy Director

Ms. Agency Deputy Director noted that many of Ms. Acting PFMLI Division Deputy Director's assessments of PFMLI were founded. In addition to their recruitment needs, they had structural issues. They needed stronger leaders, there were many interpersonal issues, and without strong leadership stepping in to disrupt the interpersonal issues that were acted out, circumstances worsened.

Ms. Agency Deputy Director said:

I think [Ms. Acting PFMLI Division Deputy Director] saw that Paid Leave ... was needing a stronger leader, she was stepping in to do a lot of that, which is what I was hoping she would do ... [O]ne conversation I had with both of them [was] about getting the team together, talking, leading their team through conflicts, into what are our agreements here. People weren't getting along, and I don't think either she or [Mr. Acting PFMLI Division Director] knew how to get people on the same page ... She did point out issues that she observed, and we talked a lot about what she could do with those issues. I didn't jump in and do it for her ... In hindsight, I really was counting on people using their high-level management skills to at least come to me to update me on progress of changing the culture.

When I asked Ms. Agency Deputy Director specifically when it came to her attention that PFMLI was having real issues, she said August or September of 2021 was when things came to a head.

Ms. Senior HRBP

Ms. Senior HRBP relayed her perspective that another significant organizational issue is lack of management accountability. She said, "we make excuses for accountability because people are too busy doing, and not managing." She illustrated this from the Human Resources perspective, noting that the size of their Human Resources team was not sufficient to address unexpected problems or larger scale projects such as their organizational structure. She created a limited duration staffing plan to ask for more HR-related resources, in part knowing that PFMLI was coming, and even then they were "slow to get those resources."

Ms. Current PFMLI Director

Ms. Current PFMLI Director identified another issue she observed. She noted that the parameters around decision-making within PFMLI presented a problem: "where does a decision go, who has authority to make a decision, where does [the] handoff go, what happens when [the department] make[s] a decision but [an individual] disagree[s] with it, do [they] get to keep bringing it up. The lack of those lines of authority and handoffs and putting on paper those process documents, that [] led to a lot of the swirl."

She also noted that making decisions by consensus was in part related to worry over getting things right. She said:

The leadership model was also on a consensus model which made it slow, it's a new program, there are a million opinions, people want to get it right, we aren't going to get everything right, there is some fear factor of technical smart people that you don't want your name on something that is wrong, so the longer we let it swirl, the more likely we land on the right outcome. There wasn't a leader saying we "have to get it done and we have to write it down and I will write my name on it and make the call." I think there was a big fear factor that people didn't want to put their name on a wrong decision, but we're going to make some wrong decisions ... There were decisions I made in November and December [2021] that they had been talking about for a year, and because of one hold out, nobody had ever decided.

Ms. Modernization Division Director

Ms. Modernization Division Director also noted the overlapping issues between PFMLI and Modernization. She said, "[t]here was significant conversation around [whether] we merge contributions between the two. There was work between staff in Paid Leave and Modernization, but never really landed with a direct answer, so we needed to get resolution to that question so that we knew how to proceed in Modernization."

Mr. Acting PFMLI Division Director

Mr. Acting PFMLI Division Director emphasized the impact of working virtually. He said, "[w]e were also building out a new program in a virtual environment; a lot of us [hadn't] had the opportunity to meet or develop those relationships. We had to form in a virtual environment, not just transition to a virtual environment."

Weight of Expectations Placed on Ms. Acting PFMLI Division Deputy Director

Several people acknowledged that PFMLI was lacking when Ms. Acting PFMLI Division Deputy Director was brought in, and at the same time, that they expected that her skills and experience would enable her to manage the practical realities of the team and its existing leadership structure. Several people concluded, in hindsight, that she was not the right person for the job.

Ms. Agency Deputy Director

Ms. Agency Deputy Director said that Ms. Acting PFMLI Division Deputy Director "knows IT, HR, procurement, union, employees, she understands building teams, that's why I brought her, to get help for [Mr. Acting PFMLI Division Director]. In my mind, she was the whole package. So frankly, I was very surprised that she was unable[.]"

Ms. Agency Deputy Director acknowledged that Ms. Acting PFMLI Division Deputy Director came into a challenging environment, but also noted that some of the issues that were struggles were ultimately surprising. For example, Ms. Acting PFMLI Division Deputy Director was asked questions about certain staffing or appointment plans. To Ms. Agency Deputy Director, the questions seemed appropriately placed. She said, "[Ms. Acting PFMLI Division Deputy Director] want[ed] to appoint [a] person to this high-level position, we would want to make sure they [had]

the minimum qualifications and desired attributes. [And she was] looking to promote someone who [previously] had a hard time with others. We typically want a diversity and inclusion plan, [we] want a competitive process. There are ways to get to something quickly while you are planning for the long range without mis-stepping.”

Ms. Agency Deputy Director believed that Ms. Acting PFMLI Division Deputy Director instead received those questions as an affront, and was targeting in a number of the positions she took. Ms. Agency Deputy Director related, “I said we have a brand-new person, we had a major change in HR, a very positive change, and we need to give them a minute to build something, but [Ms. Acting PFMLI Division Deputy Director] was just infuriated that HR was blocking her.” And regarding another employee, “[Ms. Acting PFMLI Division Deputy Director said the employee] said this [and] she needs to be disciplined for that. And I’m like ‘what? We would work with HR on things when people would make mistakes, and we would address them. I just didn’t understand the concrete targeting of the observations, and they were not solution oriented, other than just these people need to go.”

Ultimately, while acknowledging the challenges, Ms. Agency Deputy Director described that Ms. Acting PFMLI Division Deputy Director “was not just frustrated, but infuriated, when she would hit some kind of block. And it’s true that I didn’t say ‘let me call HR and help move things,’ and in hindsight maybe I should have. I do think [Ms. Acting PFMLI Division Deputy Director] was thinking ‘why isn’t [Ms. Agency Deputy Director] picking up the phone and paving the way for me, she just keeps sending me back to HR or budget.’ And I was thinking ‘you’re a high-level manager so you know how to do this.’”

Ms. Senior HRBP

Ms. Senior HRBP described, “[Ms. Acting PFMLI Division Deputy Director’s] approach was not a partnership kind of approach. She got frustrated rather quickly, didn’t really deal with our bureaucracy and organizational issues very well. She wanted things to happen, and we were in the middle of pandemic and all kinds of other issues, so we couldn’t drop what we were doing and immediately get her needs met.”

Ms. Current PFMLI Director

Ms. Current PFMLI Director noted that where Mr. Acting PFMLI Division Director had been passive and had not made decisions:

[Ms. Acting PFMLI Division Deputy Director] in contrast was like bull in a China shop, people were very shocked by her style, she suddenly came in and had to be in every decision [] hear everything, help make every decision, so now there is this odd contrast where people are whipping over it ... I can also understand her [position] of needing to be in the room, but it led to a case of extremes. A lot of people were upset by her micromanaging, but that might have also been in contrast to [Mr. Acting PFMLI Division Director] specifically ... [I]t showed up almost as good cop and bad cop instead of showing up as a unified approach. You could also tell, when talking to [Ms. Acting PFMLI Division Deputy Director], that she had disregard for [Mr. Acting PFMLI

Division Director] and his leadership style. You could tell she wanted to fix all the things and fill in, and it came across as division in upper ranks of leadership.

Ms. Modernization Division Director

Ms. Modernization Division Director also believed that the divergence in leadership styles between Ms. Acting PFMLI Division Deputy Director and Mr. Acting PFMLI Division Director caused difficulties. She said, “[Ms. Acting PFMLI Division Deputy Director] came in with a completely different style, and a clear sense of what she thought she needed to accomplish, that was in such contrast [to Mr. Acting PFMLI Division Director] that it confused people, to where people had sides ... People had zero trust, [and] they felt [there] was zero communication whether that is true or not[.]”

Ms. Modernization Division Director explained that there were downstream effects to the management approach taken by Ms. Acting PFMLI Division Deputy Director which caused other work to falter. She said:

I think when [Ms. Acting PFMLI Division Deputy Director] came in, she tried to put some of that structure in, but it turned into more of micromanagement and devaluing of staff who are in high positions, they are supposed to be technically proficient and trusted to make decisions, but they weren't allowed to. So, when they met with my team, they couldn't make decisions, [and] we needed the decisionmakers in the room. It would create this cycle and spin of work. We had the right people in the room, but they weren't being supported ... [s]o it stalled, delayed, [and] minimized their work. They didn't feel valued.

Ms. Modernization Division Director said that several members of her team did not want to attend meetings with PFMLI without her presence, because of antagonistic or bullying behaviors. She said that several of her team members found Ms. Acting PFMLI Division Deputy Director to be passive aggressive, that “[s]he would unnecessarily escalate and blast people by email on what seemed like minimal topics,” and that some people were guarded around her as a result.

Ms. Modernization Division Director further noted an instance where Ms. Acting PFMLI Division Deputy Director took concerns about Modernization to Mr. Acting Agency Director and Ms. Agency Deputy Director, and it became clear to her that they had not been provided the relevant context, where the issue was really PFMLI, Mr. Acting PFMLI Division Director, and Ms. Acting PFMLI Division Deputy Director.

Mr. Acting Agency Director

Mr. Acting Agency Director said that Ms. Acting PFMLI Division Deputy Director:

[W]as good at identifying issues, but some of them were not addressed the way they should have been, like some of the behavioral issues, people playing nice with each other, that's her role. If she sees these tensions, she should identify them, which she did, [but] also address them. Even when [supports] were offered ... there wasn't the type of follow up action that I think was appropriate. I would say the same for

[Mr. Acting PFMLI Division Director] ... So, I wasn't surprised that the issues came up, but I was more surprised as they continued to come up and weren't addressed.

When I asked Mr. Acting Agency Director about what actions were taken to support PFMLI, one of the steps he pointed to was hiring Ms. Acting PFMLI Division Deputy Director. He said:

I thought that we were taking action by bringing [Ms. Acting PFMLI Division Deputy Director] in. And also seeing that the new people leading [PFMLI after [Mr. Acting PFMLI Division Director] and Ms. Acting PFMLI Division Deputy Director] have been able to repair things, shows that a different path could be taken. I feel incredibly bad and guilty saying this, because I feel like I put [Mr. Acting PFMLI Division Director], and [Ms. Acting PFMLI Division Deputy Director] to some extent, and several other people, in a no-win situation. I think a lot of it was unavoidable. I can't overstate the stresses the Agency was under. But I do think those were the responsibilities of the job.

VI. ANALYSIS AND FINDINGS

Ms. Complainant's Concerns

Differential Treatment

Assignment of Comparable Work

I find, based on a preponderance of the evidence, that Ms. Complainant was at times assigned work which was not comparable to that of the work assigned to her OPA 4 counterpart, that Ms. OPA4 had a greater number and scope of projects assigned to her, and that this was because Ms. PFMLI Policy and Operations Manager selected the OPA 4 counterpart for certain tasks on the basis of the counterpart's past experience, and on the basis of the past working relationship between the counterpart and Ms. PFMLI Policy and Operations Manager. Ms. PFMLI Policy and Operations Manager acknowledged the difference in assignments, but also pointed to the struggles Ms. Complainant had as part of the basis for allocating certain projects to Ms. OPA4. I do not find that Ms. PFMLI Policy and Operations Manager avoided assigning certain projects to Ms. Complainant on the basis of bias. In reaching this conclusion, I credited the fact that Ms. PFMLI Policy and Operations Manager had provided Ms. Complainant with a timeline for adding her to certain tasks (for example, in the next legislative cycle); that Ms. PFMLI Policy and Operations Manager explained that some of the assignment of duties was driven by difference in background between Ms. Complainant and Ms. OPA4, and it was not only known, but anticipated; that Ms. PFMLI Policy and Operations Manager had advocated for Ms. Complainant's hire, which tends to indicate that there was not a surface level prejudice or antagonism; and that other employees interviewed seemed to believe that Ms. PFMLI Policy and Operations Manager was not necessarily purposeful or planned in her approach to allocation of certain work. Multiple sources attributed the allocation to potential disorganization, which reflects the opposite of intentional exclusion. However, to the extent that Ms. PFMLI Policy and Operations Manager had good or neutral intentions, the ultimate impact to Ms. Complainant was negative.

Team Meetings and Assumptions About Ms. Complainant's Role

Other employees interviewed did not recall specific instances of these particular comments or assumptions made about Ms. Complainant's role or authority, and therefore I do not reach specific conclusions about these meetings or interactions.

Lack of Respect and Deference; Undermining Ms. Complainant's Role

I find, based on a preponderance of the evidence, that Ms. Complainant encountered pushback and resistance to certain ideas or viewpoints that she raised. I also find that these experiences were not limited to Ms. Complainant, that they were driven in large part by broader resistance to change, and that others who spoke up about similar topics or changes were also met with resistance and pushback. Even where there was not an affirmative resistance to change, several witnesses expressed that people had conflicting views on the development of the program, and that where they expressed those professional opinions, that may have been seen as pushback where really it was the application of that person's knowledge and experience in the form of a diverging opinion. I also find that some of these experiences were driven by Ms. Complainant's position of leadership, in that many witnesses interviewed explained that there were substantial staff frustrations towards members of PFMLI leadership as a group. However, I also note that while those staff members interviewed referenced PFMLI leadership as a group towards which they directed their frustrations, Ms. Complainant (and any other affected member of the leadership team) experienced these behaviors as individuals. Namely, the staff frustration towards PFMLI leadership had a negative impact on the general environment, but Ms. Complainant may have absorbed those behaviors as directed towards *her*.

Microaggressions

I find, based on a preponderance of the evidence, that Ms. Complainant experienced microaggressions during her period of employment at OED. A microaggression, by definition, can be an *unintentional* act or comment which conveys a prejudice towards members of a marginalized group.

I emphasize that Ms. UI Status Unit – Lead Worker was unaware of any issue with using the term “alien,” and she credibly explained that she used that term because of the wording of the actual law.

Where a different employee told Ms. Complainant that she could take certain action once Ms. PFMLI Policy and Operations Manager and Ms. OPA4 approved her to do so, that was an assumption that could have conveyed lesser respect for a woman of color in leadership. While I credited the fact that neither Ms. PFMLI Policy and Operations Manager nor Ms. OPA4 perceived this statement as problematic and that both believed they were “recapping” the discussion as opposed to directing Ms. Complainant, the Agency's Equity and Inclusion Officer noticed immediately, telling me, “I could see the microaggression quite plainly,” despite the fact that she did not bear the impact of the experience personally. To the extent that neither Ms. PFMLI Policy and Operations Manager nor Ms. OPA4 perceived this statement as problematic, that also explains why neither of them spoke up to correct the statement.

Multiple other employees interviewed stated that while these behaviors were not limited to Ms. Complainant, they observed microaggressions and saw the resulting dynamic as one of disrespect.

There were a number of other instances of microaggressions Ms. Complainant experienced, beyond these two examples, some of which are referenced in other places throughout this report.

PFMLI Meeting: September 7, 2021

Reference to Mexico as Exotic

I find, based on a preponderance of the evidence, that during a September 7, 2021, group meeting, an employee spoke about Mexico as a vacation destination and referred to it as an “exotic” location in comparison to a vacation to Sunriver, Oregon. Ms. PFMLI Policy and Operations Manager was not the individual who made this statement.

Reference to Travel to Mexico as Vacation

I find, based on a preponderance of the evidence, that during a September 7, 2021, group meeting, Ms. PFMLI Policy and Operations Manager said she wanted to hear about Ms. Complainant’s recent trip to Mexico, although she was aware that Ms. Complainant had traveled there for grieving and religious purposes, and that this reference felt overly casual and therefore insensitive. I note that this was Ms. PFMLI Policy and Operations Manager’s first meeting with her team after a return from a period of leave, and that others interviewed felt that the context and tone of the conversation seemed to be a genuine desire on Ms. PFMLI Policy and Operations Manager’s part to catch up with the team. I find it to be reasonable that the reference in a group setting felt insensitive to Ms. Complainant, and also note that I found no evidence that it was intentional on Ms. PFMLI Policy and Operations Manager’s part.

PFMLI Daily Scrum Meeting: September 9, 2021

MIA Comments

I find, based on a preponderance of the evidence, that Ms. OPA2-3 said that Ms. Complainant was “MIA” from the meeting and referred to nobody knowing what Ms. Complainant was doing. To the extent that it was Ms. OPA2-3’s understanding that Ms. Complainant was supposed to be in regular and consistent attendance at the Policy Scrum meetings, and she therefore believed that Ms. Complainant was derelict in her attendance, Ms. OPA2-3 acknowledged that these statements were not professional. Only after this meeting did anyone even mention that Ms. Complainant may not be attending these meetings in the future, by design. I find that where Ms. OPA2-3’s confusion and frustration came from was justified, but her tone and approach were not. These were targeted statements, impactful to Ms. Complainant taken by themselves, and further impactful to Ms. Complainant when considered as one part of her larger experience. I also note that Ms. Acting PFMLI Division Deputy Director believed that if a broader announcement had been made, it might have called further attention and caused further discomfort for Ms. Complainant. I acknowledge the intent behind this decision, while also noting that the confusion and frustration that resulted for

other team members as a result of Ms. Complainant's unexplained absence manifested in further negative behavior towards Ms. Complainant and further negative perspective about her work. The fact that certain staff members acted rudely upon those frustrations is ultimately unprofessional.

Milk Carton Comments

The exact contents of the Teams Chat were available for review, and were verified.

I find, by a preponderance of the evidence provided, that Mr. Business Systems Analyst's comments about reporting Ms. Complainant as a missing person on a milk carton were intended in jest, that at least some others present took the comments as a jest, but that ultimately, they were inappropriate and unprofessional. While it is factually accurate that Ms. Complainant was not present for the policy-related meetings, and that team members who were connected to that work were not aware of any reason or explanation for her absence, referring to her as a missing person equates to turning her into a joke. I also find that these comments, and the lack of reaction or redirection by others present, reasonably indicate that there was a broader environment where comments of this nature were made and accepted. I also note that while management approached Ms. OPA2-3 about her unprofessional comments, nobody spoke with Mr. Business Systems Analyst about his.

Environment

Employee Resistance

I find, based on a preponderance of the evidence provided, that some employees within PFMLI were attached to keeping the development of PFMLI structures the same as those of the Unemployment Insurance department, and were resistant to changes that were intended to address inequities and disparities in the Unemployment Insurance program. Multiple members of leadership, including the Acting Agency Director, confirmed that the leadership direction sought to consider and address those historical disparities. Multiple witnesses interviewed expressed that they encountered frustration from certain OED employees to that direction, particularly those who had background working in the Unemployment Insurance Division, where it appeared that it was a personal affront to them to critique and to seek to improve.

While this aversion to change was not directed at Ms. Complainant, and was experienced by multiple other individuals, the aversion to change did not affect everyone equally. Those individuals, including Ms. Complainant, who were actively invested in advancing those improvements, particularly where related to equity and access, were therefore more frequently met with resistance and frustration.

At the same time, concluding that some employees within PFMLI were resistant to critiques and changes levied at the Unemployment Insurance program, specifically reflects that their aversion *stemmed* from the substance of the issue, not from the individual advancing the idea.

I find, based on a preponderance of the evidence provided, that the decision to have one subject matter expert as the speaker in certain meetings, requiring others to submit comments through that

person, was not intended to silence Ms. Complainant or anyone else, nor was it meant to stifle alternative ideas; it was meant to keep contentious interactions out of certain group settings.

Leadership Vacuum

I find, based on a preponderance of the evidence provided, that the negative environment within PFMLI was also the result of a vacuum in leadership. Multiple employees interviewed expressed a similar belief. I find that this leadership vacuum affected all of those involved with the program, but did not affect everyone equally. Those individuals, including Ms. Complainant, who were dealing with other hurdles and negative behavior, would have experienced these issues as compounding factors.

Anti-Discrimination Training

Complaints to Supervisor and Lack of Corrective Action

I find, based on a preponderance of the evidence provided, that there were a number of instances where Ms. Complainant expressed concerns to her supervisor about treatment by other employees, yet adequate resolution was not provided for those concerns. Her supervisor did not pass those concerns on to Human Resources, and did not herself close the issues with Ms. Complainant. For example, when Ms. PFMLI Policy and Operations Manager spoke with another employee to discuss concerns about that employee's behavior towards Ms. Complainant, Ms. PFMLI Policy and Operations Manager did not direct that employee to address the issue with Ms. Complainant, she did not even speak with the second employee who had exhibited similar concerning behavior towards Ms. Complainant, and did not herself inform Ms. Complainant of any steps that had been taken. While it is true that employees are generally not informed of how others may have been coached, and therefore they often do not have insight into accountability measures when they have in fact taken place, Ms. Complainant was not even told that the issues had been addressed.

I did not find evidence to conclude that her supervisor's approach was targeted at Ms. Complainant or to the types of issues raised. By multiple different accounts, her supervisor was new to management, was in need of support, and had a full plate of her own work while she had a substantial number of direct reports, which affected her capacity for direct management.

Comments About Diversity Hiring

I find, based on a preponderance of the evidence provided, that in response to a conversation about the DEI plan around hiring, an OED employee stated, "we just hired [Ms. Complainant]," which could have reasonably made it sound as if she was hired for her diversity-related characteristics when she was in fact hired for her considerable skill and background.

Insufficient Training

I find, based on a preponderance of the evidence, that Ms. Complainant was provided with multiple online training courses related to State processes and policies; I find that she was not provided with formal training or onboarding focused on the substantive performance of her duties. I find

that this approach was not limited to Ms. Complainant and was necessitated by the fact that OED was working to quickly hire a large number of people and therefore they did not have capacity, or specifically-assigned employees, to provide formal substantive onboarding. In addition, I specifically note that PFMLI as a program was in its development stages, and therefore, to some extent, its leaders were hired to build the program itself. Substantive training may have been more reasonable to expect if an employee was being hired into a program that was already developed.

Resignation

I find, based on a preponderance of the evidence provided, that Mr. Acting Agency Director's comments at an all-staff meeting referencing a discrimination complaint, an investigation, and a media briefing, were unexpected and alarming to Ms. Complainant, but were driven by an attempt to be transparent about the existence of a complaint and the Agency's commitment to taking it seriously. I also find that Ms. Complainant was not given any forewarning or explanation about why the comments would be made.

Other Perspectives Around Environment and Behavior Experienced by Ms. Complainant

Implications of PFMLI as a New Program Being Built

I find, based on a preponderance of the evidence provided, that the practical difficulties and limitations around building PFMLI as a brand new program placed some stresses on the working environment experienced by the employees. Building the program from the ground up meant that there were growing pains and some disorganization, lack of clarity or definition around roles meant that there was a measure of stepping on each other's toes, shifting responsibilities and priorities made the environment feel chaotic for some, and gaps in communication meant that people were frustrated, all before Ms. Complainant was ever hired, and which continued after her hire, unrelated to her presence at PFMLI.

Impacts Related to the Pandemic

I find, based on a preponderance of the evidence provided, that the COVID-19 pandemic, overlapping with the early establishment of PFMLI as a new program, alongside the incredible strain and need for resources to be redirected within OED towards the Unemployment Insurance Division caused a significant amount of strain for their team. I find that the fact that Ms. Complainant was seeking, and potentially expecting, to understand boundaries and rules and duties when the rest of the team had been surviving in an unstructured way created tension.

Aversion to Change

While I referenced aversion to changes focused on the historical inequities in the Unemployment Insurance program, I also find that there were some employees within PFMLI who were resistant to change and new perspectives, in part were proposed by employees who were newer to State government.

Problems with Team Dynamics and Behavior

I find, based on a preponderance of the evidence provided, that there was dysfunction within the team dynamic that contributed to an overall negative work environment, for both Ms. Complainant and for others. I find that a limited number of employees specifically behaved with dismissiveness and contributed to an environment of hostility, that these behaviors were at times directed at Ms. Complainant, but not solely directed at Ms. Complainant.

Negative Assumptions About Ms. Complainant by Other Team Members

I do not have sufficient support to conclude that employees held negative assumptions about Ms. Complainant's experience, background, or ideological positions unrelated to her race or gender.

Ms. Complainant was Driven by Certain Priorities Which Were Not Shared Uniformly by the PFMLI Team

I find, based on a preponderance of the evidence provided, that Ms. Complainant and certain other leaders sought to focus on priorities of equity, inclusion, and access in the work of PFMLI, that these priorities were not shared equally by some members of the PFMLI team, and that their divergence of opinions caused conflict. I do not find that anyone was *entirely* opposed to incorporating equity and inclusion into the work of the program, but several people told me they believed that the parameters of the program and the actual benefits should be determined first, and that equity and inclusion could be incorporated later. It was apparent to me that these individuals believed that equity and inclusion were add-on elements, and program parameters were something else—the more “fundamental” aspect of the work. In contrast, other leaders believed that equity, inclusion, access, community outreach, and engagement were integral to the foundation of the program and should be incorporated throughout the decision-making about the program parameters. Where substantive disagreements arose because of these differing perspectives, this was not necessarily because people had an issue with Ms. Complainant as a person, but because they disagreed with the priorities at issue.

At the same time, some staff members were disappointed in the role that Ms. Complainant did not play, because they were looking for, or expecting, certain kinds of support from her role. To a large extent, they made assumptions about the purpose of her role. To some extent, many people noted that roles and responsibilities were poorly defined and ever changing within the whole department.

Frustrations with Ms. Complainant's Personal Communication Style

I find, based on a preponderance of the evidence provided, that some team members believed that Ms. Complainant was abrasive in her communication style, that she at times disagreed with team members without providing sufficient explanation, that she at times did not communicate or respond on topics relevant to their work, that she at times did not appear for meetings where her presence was needed and/or expected, and that team members reacted negatively to her approach. Some people outside of the PFMLI team felt this way as well. I acknowledge that receptivity to a person's communication style can have as much to do with expectations and potential biases on

the part of the recipient as it does with the approach of the speaker. However, it was notable to me that even people who liked and admired Ms. Complainant expressed that her communication style was at times off-putting. Some of those people decided to remain open-minded and to try to work with Ms. Complainant in a manner where they could understand and appreciate her approach; other people felt that Ms. Complainant was responsible, at least in part, to provide leadership direction and communication in a way that was effective for the audience.

At the same time, Ms. Complainant's own supervisor acknowledged that while she tried to speak with Ms. Complainant about these concerns over communication style, she did not communicate clearly enough to where Ms. Complainant would have walked away from their conversations understanding that there was a need for personal improvement.

I also find that other leaders within PFMLI similarly felt that they had to modify the ways they spoke and presented, how they asked people to do things, to make sure it was being received. This could potentially reflect some lack of team receptivity towards women leaders. It could also potentially reflect on the condition of the team and the culture of the Agency around direct communications.

Other Frustrations with Ms. Complainant

I find, based on a preponderance of the evidence provided, that some team members perceived certain behaviors from Ms. Complainant which caused them to feel frustration towards her. To be clear, this finding is limited to what the other team members *believed*, rather than what actually happened and why, in part because I was unable to speak with Ms. Complainant for a counter perspective. And in particular, this finding does not mitigate any of the behaviors or issues Ms. Complainant herself experienced. This finding is included for this limited purpose: to the extent that some people could articulate specific behaviors from Ms. Complainant that caused them frustration, that lens is relevant to whether behavior that she experienced was rooted in discrimination or harassment, or whether it was impacted by their perceptions of her conduct at work.

The frustrations shared with me include: Ms. Complainant would decline meeting requests without response or explanation, and staff members expected their leaders and team members to be present; at times, Ms. Complainant did not provide direction or information in response to staff members' submissions, or explanation in response to her disagreement with their submissions; at times, staff members tried to engage her but she did not provide her feedback or guidance where requested, and at times when staff members did not attempt to engage her, they were told that she felt excluded; in communications around the substance of the work she was at times abrasive and demanding and short; in communication with people on topics outside of the substance of the work, there was not much on her part by way of forming relationships and building interpersonal connections;

At the same time, several people told me that when Ms. Complainant was first hired, she seemed receptive to conversations about her communication style. To the extent that frustrations continued to crop up, I also note that Ms. Complainant's willingness to adjust her own approach may have understandably been affected by the behaviors she had experienced from others as time went on.

Leadership Absence

I find, based on a preponderance of the evidence provided, that broader leadership within PFMLI was ineffective at guiding their team through both the substantive implementation of the work as well as personnel difficulties. This was a uniform perspective amongst the PFMLI team members I interviewed, and most of them felt that the approach taken by their leadership team caused them to spend substantial time and frustration spinning their wheels.

Racism and Gender Bias

I find, based on a preponderance of the evidence, that Ms. Complainant experienced racism, gender bias, and microaggressions. While all of the explanations above provide context and reasons for a portion of what Ms. Complainant experienced, I do not find that these other factors address the entirety of her negative experiences.

If the circumstances had been more ideal and if the issues that arose had been handled better, if communication had been more effective and clearer, I would reasonably expect that Ms. Complainant's negative experiences (and those of others) would not have been as pronounced, and potentially a smaller proportion of those negative interactions may have been experienced or processed as racism and sexism. The practical limitations they were all working within, and the other shortcomings addressed in this report, very likely exacerbated the experiences she had.

Multiple individuals interviewed expressed the belief that while all members of their team had a difficult time, Ms. Complainant had a *more* difficult time than other employees; some of these witnesses were themselves leaders. I considered and weighed the fact that some individuals interviewed believed that *everyone* was having a hard time, that there were team frustrations directed at all of PFMLI leadership, and that Ms. Complainant was not singled out any more than any other leaders; almost all of these witnesses were non-leaders. On balance, I gave more weight to the first perspective, in large part because there were leaders interviewed who could speak to their own experiences, and who could differentiate their own experiences from those of Ms. Complainant. To the extent that some said that team frustrations were directed at all of PFMLI leadership, some of the leaders interviewed could parse this further: they confirmed that team frustrations were directed at all of PFMLI leadership, and nevertheless believed that Ms. Complainant encountered more roadblocks and pushback than other members of their leadership team.

I also noted certain behaviors during the course of my interviews themselves. When I asked certain witnesses about employees who pushed back on Ms. Complainant, witnesses would say some version of, "oh you need to understand this is a complicated program, there are a lot of rules, a lot of different perspectives, people with knowledge and experience need to push back on each other to perform the work effectively, that's to be expected." However, when I would ask those same witnesses about Ms. Complainant pushing back on others, she was seen as difficult and antagonistic. In addition, several people spoke of Ms. Complainant's need for improvement in terms that indicated gender stereotypes. For example, instead of saying that Ms. Complainant's leadership style could benefit from improvements in collegiality and inclusivity, some said she should be more soft, be less abrasive, and she should smile more. Some of the witnesses

interviewed indicated that they made similar statements to Ms. Complainant herself. These are common gender stereotypes. I also gave weight to the perspective that although Ms. Complainant may have been “harder than average” to work with as compared to the culture of the Agency, she was not so difficult that others should be excused from meeting their own responsibilities to work towards collegiality and mutual understanding alongside people with differing perspectives and approaches; instead, a number of people took the position that because she was hard to work with, they therefore did not want to work with her, absolving themselves and others of their own poor behavior towards Ms. Complainant.

I also acknowledge that because there were so many examples of these negative interactions, some of them small and repeated, some of them larger and one-off, as a result, even when there were legitimate and appropriate disagreements about the substance of the work, there was not a foundation of mutual trust and respect on which to base those necessary discussions. Therefore, even those communications were experienced as hostility.

Broader Concerns About Mr. Acting Agency Director and Mr. Acting PFMLI Division Director

Backdrop of Circumstances

In first considering the backdrop of the changes in leadership structure that were implemented within PFMLI the following events provide important context: within days of March 8, 2020, Mr. Acting Agency Director was pulled primarily out of PFMLI to help with Unemployment Insurance issues. Mr. Acting PFMLI Division Director, as the Deputy Director, was asked to step in to cover more of the daily operational needs. On or around May 31, 2020, Mr. Acting Agency Director was asked to change roles to Acting Agency Director; at that time, Mr. Acting PFMLI Division Director was asked to become the Acting Director of PFMLI for what was intended to be a temporary basis, given that Mr. Acting Agency Director intended to eventually return to the role, and given that Mr. Acting PFMLI Division Director was the most appropriate choice amongst the other team members available at the time. Because of the severity of the pandemic, this situation remained in limbo for quite some time and Mr. Acting PFMLI Division Director therefore held the position of Acting Director for much longer than was anticipated or intended. During that time, despite the importance of PFMLI, the Agency was focused on crisis management around the pandemic and Unemployment Insurance, so Mr. Acting PFMLI Division Director and PFMLI received less support from the Agency and from Mr. Acting Agency Director than they would have otherwise wanted. Ms. Acting PFMLI Division Deputy Director was asked to transfer to PFMLI as the Deputy Director and she joined the team around March 2021, while for approximately a year, Mr. Acting PFMLI Division Director had been operating the team without Mr. Acting Agency Director, and without a Deputy Director to support him. When Ms. Acting PFMLI Division Deputy Director joined PFMLI, she was faced with developing positions, structures, objectives and goals, and timelines; as Ms. Acting PFMLI Division Deputy Director worked to implement these parameters and move the substantive work forward, ultimately a lot of the team members remained confused about both the overarching leadership direction as well as Ms. Acting PFMLI Division Deputy Director’s changes. Some of the parameters Ms. Acting PFMLI Division Deputy Director worked to develop were also delayed in implementation, in large part because Human Resources was also directing much of its support and bandwidth to hiring for

the Unemployment Insurance Division, in part because there were leadership changes within Human Resources in the middle, and in part because Human Resources needed to see some modifications from PFMLI and from Ms. Acting PFMLI Division Deputy Director before they could effectuate those requests. Ms. Acting PFMLI Division Deputy Director saw that as a failure to provide the necessary Human Resource-related supports. Human Resources and other leaders saw that as necessary protocols and checks and balances required of PFMLI.

Continuing Issues Within and Around PFMLI

I find, based on a preponderance of the evidence provided, that there were problems within PFMLI relating to leadership direction, defining roles and structures, identifying priorities and flow of priorities, providing clear communication to team members, and significant interpersonal problems between both leaders and staff members.

Concerns that Mr. Acting Agency Director was Complacent in the Face of Issues Around PFMLI

I find, based on a preponderance of the evidence provided, that Mr. Acting Agency Director and the Agency as a whole did not provide the support that PFMLI required; however, I find that the extreme circumstances of the pandemic prevented them from reasonably providing additional support beyond the measure given. I do not find that Mr. Acting Agency Director was complacent in the face of those issues.

Concerns that Mr. Acting Agency Director was More Willing to Listen to Longstanding OED Employees Over the Leadership of PFMLI

Based on a preponderance of the evidence provided, I do not find that Mr. Acting Agency Director was more willing to listen to longstanding OED employees over the leadership of PFMLI. I find that Mr. Acting Agency Director received comments and input from employees where provided, and it was noted that some employees may have felt comfortable approaching Mr. Acting Agency Director directly with their concerns or comments. Where Mr. Acting Agency Director heard these individuals, I found no basis to conclude that he then followed or agreed with what they said.

Concerns that Mr. Acting Agency Director Did Not Empower the PFMLI Leadership Team

Based on a preponderance of the evidence provided, I do not find that Mr. Acting Agency Director failed to empower the PFMLI leadership team. It was acknowledged that Mr. Acting Agency Director's attention, and much of the Agency's attention, was focused on pandemic-related responses, and therefore the opportunity available to focus on PFMLI was limited as a result. However, where PFMLI's roadblocks were related to hiring, working with Human Resources, obtaining approvals from the Department of Administrative Services, and the like, I found no basis to conclude that Mr. Acting Agency Director diminished the ability of PFMLI's leadership team. And where PFMLI's roadblocks were related to the team's structure, interpersonal issues internal to the team, conflicts with Mr. Acting PFMLI Division Director's approach, and the like, other leaders interviewed expected that those issues fell in large part to Mr. Acting PFMLI Division Director and Ms. Acting PFMLI Division Deputy Director to manage within their team.

Concerns that Mr. Acting Agency Director Did Not Support Women Leaders

Based on a preponderance of the evidence provided, I do not find that Mr. Acting Agency Director failed to support women leaders. A number of the members of his executive team consisted of women, and those interviewed said they had not experienced, and had not observed, any evidence of lack of support or differential treatment by Mr. Acting Agency Director towards women. Ms. Current PFMLI Director, another woman who took over leadership of PFMLI, confirmed the same. In particular, Mr. Acting Agency Director said he did not recall Ms. Acting PFMLI Division Deputy Director ever telling him that Mr. Acting PFMLI Division Director's approach was an affirmative problem, despite the fact that, after the fact, many of the issues in PFMLI were attributed to Mr. Acting PFMLI Division Director's leadership approach. Therefore, this was not an issue that Mr. Acting Agency Director had the appropriate awareness to address.

Concerns that Issues were Repeatedly Escalated and Mr. Acting Agency Director Did Not Make Clear He Would Intervene When Other Employees Behaved Badly or Unprofessionally

Based on a preponderance of the evidence provided, I do not find that Mr. Acting Agency Director failed to intervene or make clear that he would intervene when staff behaved badly or unprofessionally; I do not find that it was Mr. Acting Agency Director's role to intercede in personnel matters at the division level.

Concerns Mr. Acting Agency Director Did Not Address Issues with Mr. Acting PFMLI Division Director's Performance and Leadership

Based on a preponderance of the evidence provided, I do not find that Mr. Acting Agency Director failed to address issues with Mr. Acting PFMLI Division Director's performance and leadership.

First, several witnesses interviewed took issue with the fact that Mr. Acting PFMLI Division Director was appointed as Acting Division Director when he was not capable for the role. I find that Mr. Acting PFMLI Division Director was asked to step into the acting role only because of the emergency caused by the pandemic and the request that Mr. Acting Agency Director turn his attentions to pandemic response; there was not an appropriate alternative for the role amongst the PFMLI team, and because the role was intended to be temporary there was no reason to conduct an open recruitment.

Second, several witnesses interviewed took issue with the fact that Mr. Acting PFMLI Division Director remained in the role as Acting Division Director for so long when he was not capable for the role. I find that Mr. Acting PFMLI Division Director remained in the role because Mr. Acting Agency Director intended to return to his position, therefore there was no reason to conduct an open recruitment and there was not an appropriate alternative, and the uncertain nature and duration of the pandemic were what caused the duration to drag out much longer than originally envisioned.

Third, several witnesses interviewed took issue with the fact that Mr. Acting PFMLI Division Director and the team were left to fend for themselves. I find that OED executive leadership

decided to appoint Ms. Acting PFMLI Division Deputy Director as an Acting Deputy Director in large part to provide support to Mr. Acting PFMLI Division Director and the team. The Deputy Director role had been left open, so they were in need of that position regardless, and in addition, OED executive leadership selected an individual they felt would have skills and expertise that would meet the needs of the team and also create a more robust complement of skills to Mr. Acting PFMLI Division Director.

Fourth, several witnesses interviewed took issue with the fact that Mr. Acting PFMLI Division Director was permitted to remain in the role even after the addition of Ms. Acting PFMLI Division Deputy Director did not seem to bring the team back to equilibrium and forward momentum. I find that Mr. Acting Agency Director and others made some coaching efforts during the period following Ms. Acting PFMLI Division Deputy Director's hire around March 2021, including leadership skills evaluation (as part of a broader leadership survey), direct coaching about the need for better communication and organizational structure, attending some PFMLI meetings for presence and visibility, and providing him with a peer mentor. By August 2021, Ms. Human Resources Director spoke with Mr. Acting Agency Director about whether Mr. Acting PFMLI Division Director was the right person for the role, and Mr. Acting Agency Director responded that he had already been considering removing Mr. Acting PFMLI Division Director from the role, but Mr. Acting PFMLI Division Director informed him that he intended to retire, so the issue was already moving towards resolution. I find that Mr. Acting Agency Director was willing to make changes in relation to Mr. Acting PFMLI Division Director, and I note that for periods of Mr. Acting PFMLI Division Director's leadership of PFMLI, either the situation was intended to be temporary, or people were not aware of the severity of the issue, or they were working on approaches to improvement. Their timing for intervention was affected not only by the timing of when they were made aware of issues, but also by affording some time and opportunity to others to course correct.

Concerns that Mr. Acting PFMLI Division Director had a Lack of Knowledge and Experience with the Type of Work, with Program Implementation, with Technology Processes, and with Working Levers of Bureaucracy; that He Was Not Competent for His Role; and Was Not Capable to Lead the Implementation of PFMLI

I find, based on a preponderance of the evidence provided, that Mr. Acting PFMLI Division Director lacked knowledge and experience with the type of work, program implementation, technology processes, and other needs; I find that he was not able to lead the implementation of PFMLI. I find that Mr. Acting PFMLI Division Director was passive in his leadership style, at a time when PFMLI was in need of direct and assertive leadership. I find that Mr. Acting PFMLI Division Director was not communicative enough with his team or with other colleagues within OED, at a time when PFMLI was in need of clear and detailed communication. I find that Mr. Acting PFMLI Division Director was not able to set a clear and galvanizing vision for their team. I find that Mr. Acting PFMLI Division Director was not able to guide the team to concrete decisions for the development of the program. I find that Mr. Acting PFMLI Division Director was not able to address interpersonal issues amongst his team members, even where there were issues of substantial conflict.

At the same time, to the extent that Mr. Acting PFMLI Division Director was not capable for this role, it must be noted that this was not the role for which he was hired, nor was it a role he had sought out. He was asked to take this position in an effort to help hold over a transition in leadership for the Agency, and because of the circumstances of the pandemic, he was not left with much alternative or much excess support.

Concerns that Mr. Acting PFMLI Division Director was “Passive,” “Wishy Washy,” and Incapable of Making Decisions

I find, based on a preponderance of the evidence provided, that Mr. Acting PFMLI Division Director was passive in his leadership style and did not drive the group towards concrete decisions. Almost everyone interviewed described Mr. Acting PFMLI Division Director as passive in his leadership style. While people uniformly liked him and said he was a very thoughtful and intelligent and kind person, they said that PFMLI as a brand-new program was in need of more direct leadership and concrete decision-making. And while quiet leadership can be effective, in these circumstances, it was not. In parallel, some witnesses interviewed felt that his passivity could make people feel like their issues were not being carried forward, which contributed to the negative environment of the team.

At the same time, I also credited the perspective that there were many intersecting decisions to be made, and that some decisions were postponed due to extenuating circumstances.

Concerns that Mr. Acting PFMLI Division Director Lacked Leadership Skill

I find, based on a preponderance of the evidence provided, that Mr. Acting PFMLI Division Director was lacking in the leadership skills necessary for the development of the PFMLI program.

At the same time, I also credited the fact that he was in need of reasonable guidance and direction, yet resources and capacity to provide that were limited because of the pandemic-related responses which were more emergent at that time than the needs of PFMLI. In addition, his skills and style of leadership may have been better suited to the program at a different point in its development. He took the program to a certain point, but it was unfair to have him do that by himself. The hope was that Ms. Acting PFMLI Division Deputy Director would balance him, and it is important to note that executive leadership did not see him as a failed leader; they saw him as a contributor who was in need of support, and the support that was added to his team was also ultimately unable to resolve the team’s issues.

Concerns that Mr. Acting PFMLI Division Director Failed to Address Issues when Brought to His Attention

I find, based on a preponderance of the evidence provided, that Mr. Acting PFMLI Division Director did not remediate team issues that were brought to his attention, including about individual personnel issues, about broader team dynamics, and about engagement with inter-Agency partners.

Concerns that Mr. Acting PFMLI Division Director Failed to Manage Team Dynamics

I find, based on a preponderance of the evidence provided, that Mr. Acting PFMLI Division Director did not manage team dynamics. He did not engage Human Resources to help step in to interrupt problematic behaviors and habits, and he did not work with them to build foundations towards positive team behaviors. I find that there were many overlapping and intersecting reasons for how the problematic team dynamics arose, and a number of them were situational and based on extenuating circumstances. Nevertheless, the relevant managers and Division leaders are responsible for addressing those issues.

Concerns that Mr. Acting PFMLI Division Director Failed to Support Ms. PFMLI Policy and Operations Manager with Personnel Issues and Team Dynamics

I find, based on a preponderance of the evidence provided, that Mr. Acting PFMLI Division Director did not provide adequate support to Ms. PFMLI Policy and Operations Manager in managing personnel issues and team dynamics, for the same reasons listed in the prior two sections. In addition, Mr. Acting Agency Director explained that when Ms. PFMLI Policy and Operations Manager was moved into a managerial position, Mr. Acting Agency Director spoke with Mr. Acting PFMLI Division Director about the need to provide Ms. PFMLI Policy and Operations Manager with extra supports and guidance, given her newness to the role.

At the same time, Ms. PFMLI Policy and Operations Manager' newness to management, and the fact that she continued to maintain substantive policy work on her own plate rather than committing most of her focus to management of others, itself was a factor that created additional work and strain for Mr. Acting PFMLI Division Director in an already difficult environment.

Concerns that Mr. Acting PFMLI Division Director Failed to Provide His Team with Information and Communications They Needed for Their Work

I find, based on a preponderance of the evidence provided, that Mr. Acting PFMLI Division Director did not provide his team with sufficient information and communication needed for their work. By all accounts, the circumstances of their work and the fact that they were developing a new program meant that many details were in development and certain questions simply could not be answered. However, I found that even where information was available, Mr. Acting PFMLI Division Director did not always pass those details to his team. In particular, Ms. Modernization Division Director observed that information that had been provided to both of them in executive team meetings, such that Ms. Modernization Division Director knew that Mr. Acting PFMLI Division Director had the information, and which his team members needed to know, he did not pass to his team. PFMLI team members, at times, learned that information from other division directors, such as herself. She further noted that the resulting information gap and frustration created further problems for their own team's dynamics, as well as problems with their interactions with other teams.

Concerns that Mr. Acting PFMLI Division Director's Indecisiveness and Passivity Undermined and Eroded the Authority of the Women Leaders Who Tried to Advance the Program in His Stead

I find, based on a preponderance of the evidence provided, that Mr. Acting PFMLI Division Director's leadership approach negatively affected the PFMLI team and the progress of its work, as well as the authority and effectiveness of other leaders on his team; I do not find that any of those actions were related to gender. It is true that the other leaders on the team were women, and therefore the ultimate impact was that women leaders were affected, but I found no evidence to support the perspective that Mr. Acting PFMLI Division Director's approach was related to gender, or that it varied from any group of employees to another.

Concerns that PFMLI as a Program Was in Need of Strong Leadership Because It Was in Development

I find, based on a preponderance of the evidence provided, that PFMLI was in need of strong leadership, over and above what they would have been expected for any other program, specifically because it was in a development phase. Almost all witnesses interviewed relayed some version of this perspective. Therefore, at the same time that the leadership of PFMLI was lacking in direction and communication, the team itself had even greater need for those very qualities.

Concerns Mr. Acting Agency Director Did Not Address Issues with Mr. Acting PFMLI Division Director's Performance and Leadership

Based on a preponderance of the evidence provided, I do not find that Mr. Acting Agency Director failed to address issues with Mr. Acting PFMLI Division Director's performance and leadership. Much of this is analyzed in a previous section. In addition, I find that Mr. Acting PFMLI Division Director did not articulate to Mr. Acting Agency Director or others that he or his team were in need of intervention of significant problem solving.

However, Mr. Acting Agency Director said that he could observe actions which tended to show that Mr. Acting PFMLI Division Director was trying to take the necessary steps, even if those steps were not ultimately successful, and that when Mr. Acting PFMLI Division Director resigned, it showed some self-awareness about what he could offer and what the program needed.

Additional Information About the Leadership Environment

I find, based on a preponderance of the evidence provided, that a number of other factors impacted the environment experienced by those working in and around PFMLI:

- Their team reached decisions by consensus; if they couldn't all agree then decisions were not moved to completion.
- The parameters around decision-making within PFMLI were also unclear.
- A few specific individual team members were very challenging.
- Some managers were "too busy doing" rather than managing.
- PFMLI did not receive enough Human Resources related services.

- Developing the program within a virtual environment also presented challenges.
- The addition of Ms. Acting PFMLI Division Deputy Director, with her skills and experiences, was expected to manage the practical realities of the team and its existing leadership structure, but this did not happen.

VII. EXECUTIVE SUMMARY

Ms. Complainant's Concerns

I find, by a preponderance of the evidence provided, that:

- Ms. Complainant was at times assigned work which was not comparable to that of the work assigned to her OPA 4 counterpart, that Ms. OPA4 had a greater number and scope of projects assigned to her, and that this was because Ms. PFMLI Policy and Operations Manager selected the OPA 4 counterpart for certain tasks on the basis of the counterpart's past experience, and on the basis of past working relationship between the counterpart and Ms. PFMLI Policy and Operations Manager. I do not find that Ms. PFMLI Policy and Operations Manager avoided assigning certain projects to Ms. Complainant on the basis of bias.
- Ms. Complainant encountered pushback and resistance to certain ideas or viewpoints that she raised. I also find that these experiences were not limited to Ms. Complainant, that they were driven in large part by broader resistance to change, and that others who spoke up about similar topics or changes were also met with resistance and pushback. I also find that some of these experiences were driven by Ms. Complainant's position of leadership, in that there were substantial staff frustrations towards members of PFMLI leadership as a group.
- Ms. Complainant experienced microaggressions during her period of employment at OED.
- During a group meeting, an employee spoke about Mexico as a vacation destination and referred to it as an "exotic" location in comparison to a vacation to Sunriver, Oregon.
- During a group meeting, Ms. PFMLI Policy and Operations Manager said she wanted to hear about Ms. Complainant's recent trip to Mexico, although she was aware that Ms. Complainant had traveled there for grieving and religious purposes, and that this reference felt overly casual and therefore insensitive.
- Ms. OPA2-3 said that Ms. Complainant was "MIA" from the meeting and referred to nobody knowing what Ms. Complainant was doing. I find that Ms. OPA2-3's confusion and frustration about Ms. Complainant's absence were justified, but her tone and approach were unprofessional.
- Mr. Business Systems Analyst's comments about reporting Ms. Complainant as a missing person on a milk carton were intended in jest, that at least some others present took the comments as a jest, but that ultimately, they were inappropriate and unprofessional.
- Some employees within PFMLI were attached to keeping the development of PFMLI structures the same as those of the Unemployment Insurance department, and were resistant to changes that were intended to address inequities and disparities in the Unemployment Insurance program. I find that those individuals, including Ms. Complainant, who were actively invested in advancing those improvements, particularly where related to equity and access, were therefore more frequently met with resistance and frustration.

- The decision to have one subject matter expert as the speaker in certain meetings, requiring others to submit comments through that person, was not intended to silence Ms. Complainant or anyone else, nor was it meant to stifle alternative ideas; it was meant to keep contentious interactions out of certain group settings.
- The negative environment within PFMLI was also the result of a vacuum in leadership. I find that this leadership vacuum affected all of those involved with the program, but did not affect everyone equally. Those individuals, including Ms. Complainant, who were dealing with other hurdles and negative behavior, would have experienced these issues as compounding factors.
- There were a number of instances where Ms. Complainant expressed concerns to her supervisor about treatment by other employees, yet adequate resolution was not provided for those concerns. I did not find evidence to conclude that her supervisor's approach was targeted at Ms. Complainant or to the types of issues raised. By multiple different accounts, her supervisor was new to management, was in need of support, and had a full plate of her own work while she had a substantial number of direct reports, which affected her capacity for direct management.
- In response to a conversation about the DEI plan around hiring, an OED employee stated, "we just hired [Ms. Complainant]," which could have reasonably made it sound as if she was hired for her diversity-related characteristics when she was in fact hired for her considerable skill and background.
- Ms. Complainant was provided with multiple online training courses related to State processes and policies; she was not provided with formal training or onboarding focused on the substantive performance of her duties. I find that this approach was not limited to Ms. Complainant and was necessitated by the circumstances around the time of her hire and the development stages of PFMLI as a program.
- Mr. Acting Agency Director's comments at an all-staff meeting referencing a discrimination complaint, an investigation, and a media briefing, were unexpected and alarming to Ms. Complainant, but were driven by an attempt to be transparent about the existence of a complaint and the Agency's commitment to taking it seriously. Ms. Complainant was not given any forewarning or explanation about why the comments would be made.
- The practical difficulties and limitations around building PFMLI as a brand-new program placed some stresses on the working environment experienced by the employees, including disorganization, lack of clarity or definition around roles, shifting responsibilities and priorities, chaotic environment, and gaps in communication.
- The COVID-19 pandemic, overlapping with the early establishment of PFMLI as a new program, alongside the incredible strain and need for resources to be redirected within OED towards the Unemployment Insurance Division caused a significant amount of strain for their team.
- There were some employees within PFMLI who were resistant to change and new perspectives, in part, were proposed by employees who were newer to State government.
- There was dysfunction within the team dynamic that contributed to an overall negative work environment, for both Ms. Complainant and for others. I find that a limited number of employees specifically behaved with dismissiveness and contributed to an environment of hostility, that these behaviors were at times directed at Ms. Complainant, but not solely directed at Ms. Complainant.

- There was insufficient information to support the allegation that some employees held biases or negative assumptions about Ms. Complainant's work experience, professional background, or ideological positions.
- Ms. Complainant and certain other leaders sought to focus on priorities of equity, inclusion, and access in the work of PFMLI, these priorities were not shared equally by some members of the PFMLI team, and their divergence of opinions caused conflict. I do not find that anyone was *entirely* opposed to incorporating equity and inclusion into the work of the program.
- Some team members believed that Ms. Complainant was abrasive in her communication style, that she at times disagreed with team members without providing sufficient explanation, that she at times did not communicate or respond on topics relevant to their work, that she at times did not appear for meetings where her presence was needed and/or expected, and that team members reacted negatively to her approach. I also find that other leaders within PFMLI similarly felt that they had to modify the way they spoke and presented, how they asked people to do things, to make sure it was being received.
- Some team members perceived certain behaviors from Ms. Complainant which caused them to feel frustration towards her. This finding is included for this limited purpose: to the extent that some people could articulate specific behaviors from Ms. Complainant that caused them frustration, that lens is relevant to whether behavior that she experienced was rooted in discrimination or harassment, or whether it was impacted by their perceptions of her conduct at work.
- Broader leadership within PFMLI was ineffective at guiding their team through both the substantive implementation of the work as well as personnel difficulties.
- All of the explanations above provide context and mitigation to the degree and frequency of issues which Ms. Complainant experienced; I do not find that these other factors mitigate the entirety of her negative experiences, and therefore I find that Ms. Complainant experienced racism, gender bias, and microaggressions.

Broader Concerns About Mr. Acting Agency Director and Mr. Acting PFMLI Division Director

I find, by a preponderance of the evidence provided, that:

- There were problems within PFMLI relating to leadership direction, defining roles and structures, identifying priorities and flow of priorities, providing clear communication to team members, and significant interpersonal problems between both leaders and staff members.
- Mr. Acting Agency Director and the Agency as a whole did not provide the support that PFMLI required; however, I find that the extreme circumstances of the pandemic prevented them from reasonably providing additional support beyond the measure given. I do not find that Mr. Acting Agency Director was complacent in the face of those issues.
- I do not find that Mr. Acting Agency Director was more willing to listen to longstanding OED employees over the leadership of PFMLI. Where Mr. Acting Agency Director heard these individuals, I found no basis to conclude that he then followed or agreed with what they said.

- I do not find that Mr. Acting Agency Director failed to empower the PFMLI leadership team.
- I do not find that Mr. Acting Agency Director failed to support women leaders.
- I do not find that Mr. Acting Agency Director failed to intervene or make clear that he would intervene when staff behaved badly or unprofessionally; I do not find that it was Mr. Acting Agency Director's role to intercede in personnel matters at the division level.
- I do not find that Mr. Acting Agency Director failed to address issues with Mr. Acting PFMLI Division Director's performance and leadership.
- Mr. Acting PFMLI Division Director lacked knowledge and experience with the type of work, program implementation, technology processes, and other needs; he was not able to lead the implementation of PFMLI; he was passive in his leadership style, at a time when PFMLI was in need of direct and assertive leadership; he was not communicative enough with his team or with other colleagues within OED, at a time when PFMLI was in need of clear and detailed communication; he was not able to set a clear and galvanizing vision for their team; he was not able to guide the team to concrete decisions for the development of the program; he was not able to address interpersonal issues amongst his team members, even where there were issues of substantial conflict.
- Mr. Acting PFMLI Division Director was passive in his leadership style and did not drive the group towards concrete decisions.
- Mr. Acting PFMLI Division Director was lacking in the leadership skills necessary for the development of the PFMLI program.
- Mr. Acting PFMLI Division Director did not remediate team issues that were brought to his attention, including about individual personnel issues, about broader team dynamics, and about engagement with inter-Agency partners.
- Mr. Acting PFMLI Division Director did not manage team dynamics.
- Mr. Acting PFMLI Division Director did not provide adequate support to Ms. PFMLI Policy and Operations Manager in managing personnel issues and team dynamics.
- Mr. Acting PFMLI Division Director did not provide his team with sufficient information and communication needed for their work.
- Mr. Acting PFMLI Division Director's leadership approach negatively affected the PFMLI team and the progress of its work, as well as the authority and effectiveness of other leaders on his team; I do not find that any of those actions were related to gender.
- PFMLI was in need of strong leadership, over and above what they would have expected for any other program, specifically because it was in a development phase.
- I do not find that Mr. Acting Agency Director failed to address issues with Mr. Acting PFMLI Division Director's performance and leadership.
- A number of other factors impacted the environment experienced by those working in and around PFMLI.

VIII. CONCLUSION

This investigation was limited to factfinding only, and a recommendation regarding further action or disposition will not be provided. In order to ensure a thorough investigation, the undersigned is available to conduct follow-up as necessary.

Sincerely,

BARRAN LIEBMAN LLP
Shayda Z. Le