



# Miami Dade College

## DISTRICT ADMINISTRATION

### Office of Equal Opportunity Programs/ADA/Title IX

#### MEMORANDUM

Date: March 3, 2017

To: Randel Carr  
Director, Campus Support Services  
Campus Services, North Campus

From: Cindy Lau Evans *Cindy Lau Evans*  
Assistant Director, Equal Opportunity Programs/ADA/Title IX

Subject: Investigative Findings  
-Allegations of Sexual Harassment by [REDACTED]

The Office of Equal Opportunity Programs/ADA/Title IX (EOP/ADA/Title IX) received a charge of sexual harassment filed by [REDACTED] (Complainant) regarding alleged actions on the part of the Director, Campus Support Services, North Campus (Respondent). Sexual harassment is "unwelcome conduct, based upon sex... that impacts either a condition of working or learning (quid pro quo) or creates a hostile environment". These actions are potential violations of College Policy I-21 Equal Access/Equal Opportunity and Title VII of the Civil Rights Act of 1964, as amended.

The Office of EOP/ADA/Title IX shared this charge with Respondent during a meeting on December 16, 2016 and in a Notification memo, with the Charge, which was transmitted to Respondent via email on December 16, 2016. In the Notification, during the meeting on December 16, 2016, and in an Allegations memo transmitted via email on January 3, 2017, Respondent was advised that the Office of Equal Opportunity Programs/ADA/Title IX would conduct a thorough investigation of the claim in accord with College Procedure 1665 Discrimination and Harassment Grievance Resolution Process.

The Office of EOP/ADA/Title IX has completed investigation of the charge and developed findings based on the preponderance of evidence in the form of Complainant's written and verbal accounts, Respondent's responses, witness interviews and review of pertinent relevant documentation. The Office of EOP/ADA/Title IX finds that the preponderance of evidence supports Complainant's allegation of sexual harassment related to the actions of the Respondent.

#### ALLEGATIONS AND FINDINGS

Complainant made allegations related to an incident on November 10, 2016 during which Respondent allegedly touched her, including allegations related to email exchange and meetings on November 14 and 21,

## **Specific Allegations and Findings**

### **1. On November 10, 2016, Respondent grabbed a part of Complainant's neck.**

Evidence supports the allegation that Respondent touched the neck of Complainant.

In his written response, Respondent stated, "I do not remember grabbing her neck, but I do remember giving her a hug around the neck."

One witness interviewed by Office of EOP/ADA/Title IX stated that the interview was an uncomfortable situation. When asked whether Respondent touched Complainant's neck, the witness responded, "Yes." When asked whether Respondent had grabbed Complainant's neck, the witness stated that it was more like a "caress" than grabbing.

In an interview with the Office of EOP/ADA/Title IX, another witness indicated that Complainant informed the witness that she would be sending an email to Respondent because of an incident that had made her uncomfortable. The witness indicated not asking Complainant "about it." When asked by the Office of EOP/ADA/Title IX whether Complainant discussed any details regarding the alleged incident, the witness indicated that after they had a meeting with Respondent on November 21, 2016, Complainant spoke of the Respondent "grabbing her by the neck" and that she stated that "it brought back memories."

### **2. As Respondent held this part of Complainant's neck, Respondent stated that if he squeezed, he would leave a hickey-like mark on Complainant's neck and she would have a hard time explaining that to her husband.**

Evidence supports the allegation.

In his written response, Respondent stated that he did not recall holding the complainant's neck but added that "saying that if I squeezed, it would leave a hickey was said."

The witness had no recollection of the entire phrasing but recalled that it was "something about her husband."

### **3. On November 11, 2016, Complainant sent an email to Respondent expressing her concern regarding his action on November 10, 2016 and Respondent responded that he would not do it again.**

Evidence supports the allegation.

In his written response, Respondent stated that, "This is correct on Veterans Day I did receive an email stating her concerns. I responded by saying "No worries will not happen again". So, I thought that was the end of this complaint."

**4. On November 14, 2016, Respondent asked Complainant to his office.**

Evidence supports the allegation.

In his written response, Respondent stated that, "Based on our past interactions, I was taken aback by the email so, I called [REDACTED] to my office to discuss the email." In his interview with the Office of EOP/ADA/Title IX, Respondent indicated that Complainant worked in a different area of the Campus before and that when he had to visit that work area and hugged a worker there, Complainant would ask him, "Where's my hug?" and he would then hug her. He indicated to the Office of EOP/ADA/Title IX that he was, therefore, surprised to receive her email over the weekend and wanted to discuss it with her when he came to work on Monday, November 14, 2016.

**5. When Complainant came to Respondent's office on November 14, 2016 as he had requested, Respondent referred to Complainant's November 11, 2016 email and asked her twice why had she "put it in writing?"**

Evidence supports the allegation.

In his written response, Respondent stated that, "I did call [REDACTED] to my office as stated above. I quickly noticed that she did not want to discuss this matter. I could see that this conversation was going nowhere, so I immediately ended the meeting."

**6. On November 21, 2016, Respondent called a meeting with Chief, Public Safety, North Campus and Complainant. During that meeting, Respondent evaluated Complainant's job performance stating that she had "passed the test with the exception of the email."**

Evidence does not support the allegation.

In his written response, Respondent stated that, "I did call the Chief and [REDACTED] to my office for a meeting. This meeting was my intention to show her that I recognized that she was learning her job and to show no ill feeling as it pertained to the complaint. I do not remember discussing the email about the complaint with the Chief in front of [REDACTED]"

The witness recalled a meeting "to speak about the incident" of November 10, 2016 and that the meeting was "very short" and that Complainant's performance meetings were separate from the meeting about the incident of November 10, 2016. The witness did not remember Respondent evaluating Complainant's performance and then stating that the exception was the email.

## **CONCLUSION**

The Office of EOP/ADA/Title IX has concluded its investigation and finds that the preponderance of evidence supports Complainant's allegation of sexual harassment related to the actions of the Respondent.

It is significant to note that Respondent was previously counseled by the Senior Director, Campus Administration, North Campus for allegedly touching another female employee, in a non-sexual manner, and directing foul language towards that employee on February 2, 2016; Respondent told that employee, "I don't give a Fuck about Media Services. I have more people to feed." Respondent's verbal counseling was witnessed by an Employee Relations Officer and documented in a memorandum, dated February 29, 2016 from the Senior Director, Campus Administration, North Campus to Respondent. In that memorandum, the Senior Director, Campus Administration, North Campus listed workplace expectations including: "Conduct yourself in a professional manner at all times with all employees" and "Set the example and provide guidance to the staff regarding a respectful work environment."

These findings of sexual harassment and Respondent's previous actions of February 2, 2016 represent, but are not limited to, violations of:

- College Policy I-21 Equal Access/Equal Opportunity
  - H.2.b. Hostile Environment Harassment unwelcome conduct which has the effect of creating an intimidating, hostile or offensive work or learning environment
- College Procedure 2410 Performance and Disciplinary Standards, Disciplinary Appeal Process, and Complaint Process for Full-Time Employees
  - IV.1.j. Conduct unbecoming a College employee, which includes behavior that reflects adversely on the College; and,
  - IV.2.c. Threats, pressure or physical action against another employee or group of employees

#### **ADVISORY REGARDING RETALIATION**

Please note that Federal law and College Policy I-21 Equal Access/Equal Opportunity, prohibit retaliation -- conduct causing any interference, coercion, restraint or reprisal against a person complaining of discrimination or harassment or participating in the resolution of a complaint of discrimination, harassment or whistleblowing. This protection applies to all parties related to a complaint (i.e., complainants, respondents, witnesses). Report allegations of retaliation to the Office of EOP/ADA/Title IX for review and resolution.

Please contact me at 305.237.0288 or by email at [claeuvan@mdc.edu](mailto:claeuvan@mdc.edu) should you require additional information regarding these findings or future assistance. Thank you.

#### **Links:**

College Policy I-21 Equal Access/Equal Opportunity  
<http://www.mdc.edu/policy/Chapter1/01-I-21.pdf>

College Procedure 1665 Discrimination and Harassment  
Grievance Process <https://www.mdc.edu/procedures/Chapter1/1665.pdf>