



CONFIDENTIAL

July 22, 2013

Dear Professors [REDACTED]

As you are well aware, you brought to the University's attention (by way of initial discussions with [REDACTED] late the evening of June 12, 2013) concerns regarding communications between you and Dr. Miguel Díaz. Specifically, you raised concerns that Dr. Díaz was sexually harassing you through various requests and references to explicitly sexual feelings.

First, I want to thank both of you for bringing this matter to our attention so it could be fully investigated and addressed. We are very mindful of our obligations under federal law, but above and beyond what the law requires, we are very concerned about any behavior that appears to be inconsistent with our Marianist values. Simply stated, we are committed to ensuring equal opportunity and strive to fully and fairly investigate such issues when we have notice of them; we do not tolerate sexual discrimination or harassment in any form. To that end, we appreciate your cooperation and patience with the University's efforts and also your sensitivity to the issues (*e.g.*, the confidential treatment you have accorded to the privacy interests of all involved). I trust you understand that the significant and sensitive nature of this matter necessitated the investigation's thoroughness in order to ensure fairness to all concerned.

Our investigation (conducted by outside counsel) concluded that there is reasonable cause to believe, based upon the preponderance of evidence, that federal law and University policy were violated; specifically, the evidence establishes that Dr. Díaz created a hostile environment by engaging in unwelcome conduct of a sexual nature, particularly after being told to stop. The notification of the results of our investigation, to which you are entitled under the federal law known as "Title IX," is attached.

Remedies

To remedy this violation, and as we have discussed with you, we are implementing the following measures:

- As a condition of his continued employment at the University, Dr. Díaz is to avoid contact with the two of you, whether in person, by phone, or electronic (including texting) communication, *unless* you voluntarily and specifically request in writing to him that you wish to reestablish a friendship.

- As a condition of his continued employment at the University, Dr. Díaz is not to provide any input, either directly or indirectly, in either of your employment, performance, service or other involvement at the University of Dayton or elsewhere, whether negative or positive. This means that Dr. Díaz is to refrain from even mentioning either of you to anyone in a position that could influence either of your employment, performance, service or other involvement at the University, or anywhere else. The University will monitor the situation to ensure that Dr. Díaz adheres to this restriction regarding input within the University.
- Dr. Díaz has been reminded and informed of the University's sexual harassment policy and his obligation to adhere to that policy.
- As a condition of his continued employment, Dr. Díaz is to refrain from discussing – in any personal, one-on-one, private or otherwise intimate way – matters of a sexual nature with any University student, anyone employed by the University who has a position of less influence or stature than Dr. Díaz, or any other invitee to the University (other than his immediate family).
- We are informing Dr. Díaz that, if another complaint is brought against him that – upon investigation – establishes he violated federal law or the University's sexual harassment policy, he will be terminated.
- We are implementing other requirements as well, but because of federal privacy laws, we cannot share the details of those with you. Rest assured that these measures go above and beyond what our outside investigator has recommended.

Assurances

I want to assure you that in no way will Dr. Díaz have any influence on your careers here at the University. Also, the fact that you raised these complaints will have no negative bearing on your careers here at the University. Your candidacy for any positions for which you have applied, or for which you may apply in the future, will be assessed on your own merits and consistent with our compliance with affirmative action requirements.

Finally, we trust you understand that the privacy interests of everyone involved require that you continue to treat this matter with the utmost of confidence. Should you observe any of the above measures not being followed by Dr. Díaz, we ask that you notify [REDACTED] immediately.

Thank you very much for your patience and understanding as we have worked through these issues.

Sincerely,



Joseph E. Saliba
Provost

Attachment (Title IX Summary Notice of Outcome – Confidential)

[REDACTED]

CONFIDENTIAL



July 22, 2013

Re: Title IX Summary Notice of Outcome – Confidential

Dear Professors

I am writing to inform you about the outcome of the investigation conducted independently by Outside Counsel ("Counsel") on behalf of the University of Dayton ("University") regarding your Complaint under Title IX that a tenured professor at UD created a hostile work environment for the two of you. Based upon the nature of your allegations, Counsel examined both Title IX of the Education Amendments of 1972 and Title VII of the Civil Rights Act of 1964, which both prohibit discrimination on the basis of sex and retaliation, as well as the University's Sexual Harassment Policy.

The University's Sexual Harassment Policy makes clear that "[t]he University of Dayton prohibits sexual harassment. Persons found to have engaged in harassment will be subject to disciplinary action" Pertinent to this matter, our Sexual Harassment Policy also explains that "sexual harassment can be verbal, visual or physical" and that "the suggestion or advance need not be direct or explicit – it can be inferred from the conduct, circumstances and relationship of the individuals involved." Moreover, the Policy explains that "sexual harassment can also consist of persistent, unwanted attempts to change a professional or educational relationship to a personal one" and that "[t]he victim of sexual harassment can be female or male." Among the examples delineated in the policy are "unwelcome and repeated flirtations and sexual advances" as well as "graphic commentary about an individual's body, sexual prowess, sexual deficiencies, or sexual preference." Finally, in order to rise to the level of creating an unlawful hostile work environment such sexual harassment must "ha[ve] the purpose or effect of (a) creating an intimidating, hostile, or offensive environment, or (b) substantially interfering with an individual's work, academic performance, or status." These policy statements are consistent with and echo the requirements of Titles VII and IX.

Given the nature of your allegations, we retained outside counsel to conduct the investigation on behalf of the University in order to help provide the utmost confidentiality. Counsel interviewed the two of you, the Respondent, and Respondent's wife, and also reviewed documents provided by both of you and the Respondent. Counsel also provided information about this matter to an independent medical expert who has considerable experience in dealing with issues of sexual abuse and harassment to obtain advice regarding possible remedial actions.

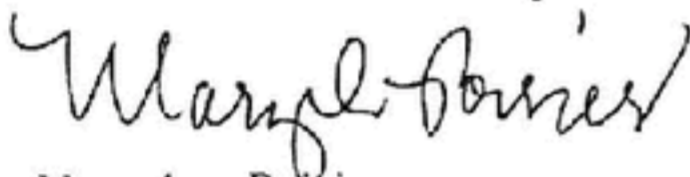
Based upon a preponderance of the evidence, Counsel concluded there was reasonable cause to believe that some of Respondent's conduct constituted sexual harassment that created an intimidating, hostile, or offensive environment. He recommends that immediate steps be taken to advise Respondent to refrain from initiating any contact with either you; to refrain from in any way retaliating, directly or indirectly, against you; and that his continued employment is contingent upon his compliance with these requirements. Other steps are recommended as well that we cannot detail here because of federal privacy laws, but allow me to assure you that we will be following Counsel's recommendations and even more in addressing this situation.

These findings and recommendations do not preclude you as Complainants from seeking relief under any process or procedure available under law.

The University understands how difficult this situation has been for all involved and that the healing process will take time. We have taken steps for the two of you to be able to avail yourselves of the University's Employee Assistance Program, which is a private consulting and service firm that provides professional, confidential counseling. Please feel free to make use of that service should you so desire. Contact information is 1-888-267-8126, www.lifeworks.com.

If you have any questions or concerns, please feel free to contact me.

Sincerely,



Mary Ann Poirier
General Counsel

