



UNIVERSITY of
NORTH FLORIDA

June 26, 2012

*Sent via Regular and Certified Mail with Return Receipt Requested
Receipt No. 7003 0500 0002 8701 8416*

Dear [REDACTED]:

This letter is written to inform you that the investigation of your complaint, filed on May 7, 2012, with the Office of Equal Opportunity and Diversity (EOD), has concluded. Your complaint alleged that you were sexually harassed by your supervisor, who was formerly your professor prior to you becoming his employee, with the most recent conduct occurring on April 25, 2012 while a University of North Florida student.

ALLEGATIONS

Your complaint allegations are outlined below:

- (1) On April 25, 2012, on a return flight from a Biology Conference in San Diego, California to Jacksonville, Florida, your supervisor, Dr. Gregory Ahearn, biology professor, described in detail how he used to suck the breasts of one of his girlfriends so much until the girlfriend would lactate.
- (2) Also on the flight in which you had the window seat and he sat next to you, you stated that Dr. Ahearn said, "You're going to have to let me congratulate you the right way for graduating." According to you, he then took off your hat with one hand and hid both of your faces with it, and used his other hand to hold your face still, and forced you to kiss him, after which he allegedly asked, "That wasn't so bad, was it?"
- (3) In a meeting with the EOD investigator, you stated that Dr. Ahearn made inappropriate comments about your body, asked how you would look naked, and talked about kissing you.
- (4) During the meeting with the EOD investigator, you acknowledged that Dr. Ahearn and you had a mentor/protégée type relationship and that you respected his professional achievements.
- (5) During a telephone conversation, you told the EOD investigator that he sent you text messages that were "flirtatious" and you provided the name of a student who actually saw the text messages before you deleted them from your cell phone.

HARM SUFFERED

As a result of the above allegations, you believe that you suffered emotional damage, humiliation, isolation from others in the workplace, fear, stress-related health problems and because of Dr. Ahearn's unwelcome advances, premature loss of your UNF employment working for Dr. Ahearn in his laboratory.

RELIEF SOUGHT

You seek relief based on the premature loss of your UNF employment and unwelcome conduct by Dr. Ahearn.

SCOPE AND SUMMARY OF REVIEW PROCESS:

The scope and summary of the investigation included, but was not limited to, the following:

1. Interviews and Statements:

a. Student Complainant

[REDACTED]

d. Dr. Gregory Ahearn, Biology Professor, College of Arts and Sciences

e. Dr. Courtney Hackney

[REDACTED]

2. Document Reviews:

a. Charging Party's Complaint with attachments

b. E-Mails Presented by Charging Party

c. E-Mails Presented by Dr. Ahearn

d. Relevant University Regulations and Policies including the Collective Bargaining Agreement

INTERPRETATION OF THE EVIDENCE AND STANDARDS OF PROOF:

In determining whether there was sexual harassment, the investigator notes that the University subscribes to and enforces all policies regarding the prohibition of any form of illegal harassment and discrimination, has established and continues to communicate a non-discrimination policy for this purpose, provides information to all employees about its stance, reports on equity before the University Board of Trustees, and periodically informs employees via e-mail of its stance requiring employees to respond that they received and reviewed applicable regulations.

The University of North Florida's standards with regard to non-discrimination, sexual harassment and related matters at the of the filing of this complaint were found in the University's *Equal Opportunity and Diversity (EOD) Regulation*, (attached as Exhibit A), *Sexual Harassment*

Regulation (attached as Exhibit B), and the *Collective Bargaining Agreement* (attached as Exhibit C). It is important to note that the University's *Amorous or Sexual Relationship Policy* is not under the purview of EOD.

The *EOD Regulation* prohibits "conduct that is severe, persistent or pervasive so as to limit or deny a student's ability to participate in or benefit from an academic program, event or activity or to otherwise participate in campus-life... free from discrimination, harassment or retaliation. Potential violations of this regulation will be evaluated from the perspective of a reasonable person in the alleged victim's position, considering the totality of the circumstances, such as the nature of the alleged conduct and the context in which the alleged conduct occurred."

The *Sexual Harassment Regulation* describes sexual harassment (paraphrased) as unwelcome sexual advances, requests for sexual favors, or other communications (verbal, written and electronic) or physical conduct of a sexual nature from any person when submission to such conduct is a term or condition of a student's status or employment; or submission to or rejection of such conduct or request is used as a basis for an academic/employment decision; or is sufficiently serious (i.e., severe, persistent or pervasive) to alter the conditions of or substantially interfering with one's employment or denying or limiting one's ability to participate in or benefit from University educational programs or activities.

In addition to not condoning any act of retaliation against a person who files a discrimination charge, or otherwise participates in the investigation of a charge, the University's prohibition of non-discrimination includes complying with Title IX of the Education Amendments of 1972. The U.S. Department of Education Office for Civil Rights issued a Revised Sexual Harassment Guidance addressing harassment of students by school employees. Although your allegations of sexual harassment occurred while you were performing work in the College of Arts and Sciences as a student employee, your primary relationship with the University was that of a student albeit in nursing instead of biology at the time of your complaint. Accordingly, your allegations have been examined pursuant to Title IX as well as the University's Sexual Harassment regulation and relevant, applicable standards. Relevant excerpts from Title IX follow:

According to the Guidance for Title IX, educational institutions are to consider whether the conduct at issue creates a hostile environment that denies or limits a student's ability to participate in or benefit from the program based upon their gender.

In order to draw common sense distinctions between what constitutes sexual harassment and conduct that does not rise to that level, the following factors must be considered:

- The degree to which the conduct affected one or more students' education;
- The type, frequency, and duration of the conduct (pattern or practice of harassment, or if the harassment is sustained and non-trivial);
- The identity of and relationship between the alleged harasser and the subject or subjects of the harassment;
- The number of individuals involved;

- The age and sex of the alleged harasser and the subject or subjects of the harassment;
- The size of the school, location of the incidents, and context in which they occurred;
- Other incidents at the school; and
- Incidents of gender-based, but non-sexual, harassment.

According to the Office for Civil Rights Guidance, it is the totality of the circumstances in which the behavior occurs that is critical in determining whether a hostile environment exists. In addition to the above factors that must be considered, in order for conduct of a sexual nature to be sexual harassment, it must be unwelcome.

The investigator considered all of the above.

ALLEGATIONS AND FINDINGS:

The University had a duty to take prompt and immediate action to ensure a workplace and educational environment that is free from sexual harassment upon being advised that alleged sexual harassment had occurred and, in this instance, the University did that based on the information presented.

The University had a duty to investigate said complaints and immediately proceeded to do so.

Based on the interviews, statements, and documents reviewed, findings are noted below:

- (1) **Regarding the alleged incident on April 25, 2012, on a return flight from a Biology Conference in San Diego, California to Jacksonville, Florida, where you stated that your supervisor, Dr. Ahearn described in detail how he used to suck the breasts of one of his girlfriends so much until the girlfriend would lactate: Although disputed and retold differently by Dr. Ahearn, there is evidence that comments deemed offensive by you occurred on your return flight to Jacksonville from the biology conference held in San Diego.**

Instead, Dr. Ahearn said that this entire subject came up because [you] brought up the subject of lactation, not him. He explained that he had asked what did you learn during the conference and when you said not much, he replied that you should have because it was one of the lessons he taught in his class. Specifically, he sought to remind you of what he taught you in his *Introduction to Physiology* class when you were one of his undergraduate students at UNF. While on the airplane enroute to Jacksonville, he said he related to you that "human lactation is the coordination between the breast and the brain, that when a baby is nursing, the stronger a baby is sucking, the more the hormone is released from the brain causing increased milk to be released." Then he said "... , "in some cases, a lactating woman can secrete milk spontaneously by thinking about the child sucking." He then said, for some reason, you became upset and did not want to talk about this anymore.

- (2) **Regarding your assertion that during the same flight, Dr. Ahearn said, "You're going to have to let me congratulate you the right way for graduating." According to you, he then took off your hat with one hand and hid both of your faces with it, and used his other hand to hold your face still, and forced you to kiss him. Afterwards, he allegedly commented, "That wasn't so bad, was it?" Although disputed and retold differently by Dr. Ahearn, and while there were no witnesses, there is evidence that more likely than not something happened on the plane that caused you discomfort and consternation.**

Dr. Ahearn asserted that while drinking a drink that he offered and you accepted, he said, "I'd like to kiss you on the cheek as a farewell." You reportedly replied, "No." He said "Ok," and he reiterated that there was never a forced kiss of any type, but that he "just asked" for your permission. He also said that "neither the kiss on the cheek nor anything else ever happened." He further claimed that the "confines" of the airplane seats made your account impossible. He added that your comment and the "alleged forced kiss" were "totally wrong."

However, regardless of his written explanation contained in his interview statement, two e-mails from him confirm that he knew that he hurt you and there is evidence of repeated offensive behavior on his part because he noted, for example that "I got the message. I won't touch you again," while also trying to rationalize his conduct by stating that hugs and kisses are simply signs of unromantic friendship. Therefore, the incident during the flight is but one instance of others where no witnesses exist, but where Dr. Ahearn has admitted that he knew his actions were unwelcome.

- (3) **On the assertion that Dr. Ahearn made inappropriate comments about your body, and asked how you would look naked and talked about kissing you: This allegation was corroborated in part.**

Dr. Ahearn said explicitly stated, "No," on this question. According to him, one of the things that you did while in San Diego was to buy a dress that you planned to wear at convocation for graduation from Nursing School. He said that he asked if you were going to put the dress on and also asked how would it look if you put that on? According to him, you said just a minute, went away and came back. Reportedly, you both hugged, your cheeks touched and it was for a very brief period of time. He then denied ever saying anything about your body. He also explained that in the two years he has known you, the only thing that he said was that your convocation dress looked nice.

However, this is one incident, and you both described other incidents that occurred in which you and Dr. Ahearn went to lunch on a least six occasions that ended with Dr. Ahearn kissing you on the cheek, which Dr. Ahearn described as not romantic in nature, but which you described as behavior that progressively grew worse.

- (4) **On your account that the two of you had a mentor/protégée type relationship and that you respected his professional achievements:** This was mutually corroborated.
- (5) **Regarding evidence of behavior of other conduct towards you of a sexual nature through text messages sent by Dr. Ahearn:** Although disputed by Dr. Ahearn, this was independently corroborated.

Dr. Ahearn explained that the last text he received from you was after the convocation that occurred when you graduated from nursing school. Prior to that time, he said that he sent you two short texts about what you were going to do in the lab and to inform you that he was going to present your work at a conference in Phoenix in July. He said that he never sent you a text message about dreaming about you nor one with sexual context, but "it may have been that I dreamed about her problems," but that he does not dream about you at all. He also said, "I really don't know. I don't think so."

On the contrary, a non-biology major stated that he saw the text messages and described what he viewed (paraphrased), as a "lawsuit waiting to happen." He noted that there was heavy sexual connotations in these texts and advised you to report this.

CONCLUSION

Having investigated this complaint with information presented by you; having interviewed and received statements from some current and former student employees who worked in Dr. Ahearn's laboratory and/or co-wrote articles for publication as a result of their experiments; having interviewed and received a statement from Dr. Ahearn; having discussions with administrators in the Biology Department and the College of Arts and Sciences; and having spoken to and received a statement from one of your classmates (male) regarding text messages that you received from Dr. Ahearn, there was unwelcome verbal, written and physical conduct that occurred while you were a student and student-employee under the direct tutelage and supervision of Dr. Ahearn.

Based on your experience as a student of Dr. Ahearn, you described to the investigator conduct by Dr. Ahearn that you deemed was offensive touching and which created an environment that denied your desire to continue to conduct research and write articles for publication. Although you were a successful nursing student, your ability to participate in an area of high interest or benefit from your educational experience at UNF appeared to have been hampered based upon your gender and Dr. Ahearn's actions toward you. At the point where you felt "safe" enough to make your concerns known, you quit a job that you said you enjoyed because you felt you could no longer work in the environment caused by Dr. Ahearn or to continue an association with him. You stated that you endured what you had to in order to be successful because you needed to work while attending school studying in a stressful accelerated nursing program, and Dr. Ahearn knew this, a point that he also made known during his interview. You also stated that it was not likely that female students

working in the field of biology would speak out against Dr. Ahearn because he is well known and respected in the field of biology, and "he knows that he has a certain amount of power over people," that you also classified as "charismatic." You said that you do not blame them because he writes great letters of recommendation, and that your concerns were for others you left behind.

Although you became a nursing student, you sought to pursue your interest in laboratory work and research. According to Dr. Ahearn, you are unique and brilliant and, indeed, he takes some credit for your achievement, and allowed you to attend the San Diego conference to lend legitimacy to your work and confirmed that you co-authored an article that was published. Therefore, if one believes that you are intelligent and bright as Dr. Ahearn stated, then it is reasonable to believe that your account of what occurred on the plane and elsewhere while a student are also credible. Significantly, this investigator questions what benefit or motive you have to create a story after having attended a conference without a role, e.g. neither presenting nor demonstrating a project; having published an article with the supervisor/professor; and subsequently leaving a job that you enjoyed? You stated that you "quit" when you felt in control of your future without any fear of retaliation or interference by her former supervisor/professor. Yet, you decided to speak out because of your experiences in spite of the imbalance of influence and power. Additionally, this investigator finds that while your allegations are credible, Dr. Ahearn's responses to the allegations are not plausible, are mere attempts to rationalize his conduct.

In retrospect, this investigator saw neither motive nor benefit for you to present your concerns about the incident/conduct on the plane to University officials. It was evident to the other female travelers and Dr. Ahearn that you were angry about something, which means that "something" pervasive and serious enough happened to cause your change of demeanor and for you to decide to leave your job aspiration of first choice. After all, you did not "fear" Dr. Ahearn enough to not sit next to him on the plane as originally assigned. Would mere tête-à-tête on lactation have caused your noticeable disposition? You explained that it was more than that and were willing to immediately divulge the history of your association with Dr. Ahearn to those from whom you sought help. Dr. Ahearn, on the other hand, appeared to marginalize some of your concerns as inconsequential, and indeed sought to blame you for matters where he had the responsibility to exercise proper judgment and conduct, and determine boundaries as a faculty member, prominent researcher and supervisor. His position, given the circumstances, is understood.

However, in light of the explanations previously noted and considerations outlined in the *Interpretation of the Evidence* section of this report, it is concluded that based on a review of the totality of circumstances that Dr. Ahearn violated the University's Equal Opportunity and Diversity Regulation, Sexual Harassment Regulation, Chapter 9.2 of the Faculty Handbook, and Article 11 of the Collective Bargaining Agreement, when you were a student-employee under Dr. Ahearn's purview.

Because such reported conduct can be unbecoming and potentially damaging to you and the University, the University's administration will determine whether disciplinary action should be taken toward Dr. Ahearn. The issue of initiating disciplinary action is outside the purview of our

June 26, 2012

Page 8 of 8

office and will be determined by the Department Chair, College Dean and/or Provost. Meanwhile both you and Dr. Ahearn were advised that the University prohibits retaliation and should report the same should such occur.

University regulation and policy does allow for reconsideration of the Director's decision by filing a written request within ten (10) business days after the receipt of a decision as noted in the attached EOD Complaint and Investigation Procedures. However, grounds for seeking reconsideration to a decision must be based on "*newly discovered or other relevant evidence that was not relied upon*" during this investigation. Finally, you may also seek state or federal remedies that you believe are relevant to your situation such as the Equal Employment Opportunity Commission (EEOC), the Florida Commission on Human Relations or the U. S. Department of Education Office for Civil Rights.

Sincerely,



Cheryl Gonzalez
Director

CG/fdc

Attachments