




Angelina “Angel” Colonnese

Clerk of the Circuit Court & Comptroller of Manatee County

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MEMORANDUM

TO: Manatee County Board of County Commissioners

FROM: Lori Stephens, Inspector General 

DATE: August 16, 2023

RE: Human Resources Process Investigation – Final Report*

Enclosed please find the final report summarizing the results of the Human Resources Process Investigation conducted by Colleen Flynn, Esq., on behalf of the Division of Inspector General. This engagement was undertaken to investigate a complaint received by our office in January 2023, which alleged that the County’s Human Resources Department (HR) had improperly handled a workplace complaint reported to HR in early December 2022. The scope of the investigation was limited to determining whether proper policies, procedures, rules, and/or laws were followed by County employees during the complaint and investigation process.

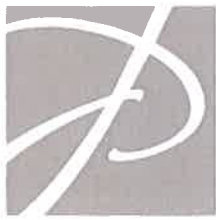
We appreciate the assistance and cooperation provided by current and former County personnel throughout this investigation. If you have any questions regarding the report, please contact me at (941) 749-1800 ext. 4170.

cc: Charlie Bishop, Acting County Administrator
Courtney De Pol, Deputy County Administrator
Kate Barnett, Interim Director, Human Resources Department
William Clague, County Attorney
Angelina “Angel” Colonnese, Clerk of the Circuit Court and Comptroller
Michael Gallen, General Counsel, Clerk of the Circuit Court and Comptroller

****Pursuant to Florida Statute §119.071(2)(n), the personal identifying information of an alleged victim in an allegation of sexual harassment is confidential and exempt from disclosure. Therefore, the report refers to the alleged victim as “AV.” Moreover, consistent with Attorney General Opinions 2014-07 and 2004-20, information leading to the personal identifying information is also confidential and exempt, and is redacted in this report.***

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August 14, 2023

Lori Stephens, Inspector General
Manatee County Clerk of Circuit Court
1115 Manatee Avenue W.
Bradenton, FL 34205

Re: HR Process Investigation into workplace complaint made to HR

Dear Ms. Stephens:

In accordance with the Memorandum dated January 24, 2023, as well as the letter of engagement with the Manatee County Clerk of the Circuit Court effective January 19, 2023, please allow the following to serve as the report regarding the assigned investigation.¹

Scope of Investigation

The Division of Inspector General received a complaint on January 10, 2023 regarding the handling of a workplace complaint made to the Manatee County Human Resources Department in early December 2022. The Clerk of the Circuit Court and Comptroller of Manatee County retained the services of the undersigned to investigate the complaint pursuant to applicable law in conjunction with the Division of Inspector General. As described in the Memorandum to the Manatee County Board of County Commissioners dated January 24, 2023, the scope of the investigation was limited to determining whether proper policies, procedures, rules and/or laws were followed by County employees during the complaint and investigation process.

Process of Investigation

The Division of Inspector General requested and reviewed County records and conducted interviews with the individuals involved. Present during the interviews was the undersigned as lead investigator who conducted the interviews as well as Lori Stephens, Inspector General. Michael P. Gallen, General Counsel, was present for most of the interviews. The interviews occurred in the office of the Division of Inspector General. During several of the interviews, the undersigned was present on zoom. Two

¹ In accordance with F.S. 119.0713(2)(b) this report becomes a public record only when the investigation becomes final. See Nicolai v. Baldwin, 715 So. 2d 1161, 1163 (Fla. 5th DCA 1998).



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of the individuals interviewed were interviewed on two occasions. As the allegations in the complaint to Human Resources involve sexual harassment, personal identifying information of the alleged victim in an allegation of sexual harassment is confidential and exempt from disclosure.² Thus, this report refers to the alleged victim as "AV."

Witness interviews occurred between late January and mid-May 2023. Witnesses interviewed were as follows: AV – two interviews; Debbie Scaccianoce, former Records Manager³ – two interviews - the undersigned attended the second via zoom; Jennifer Harmon, former HR Director⁴; Zachary Ribble, Employee Relations Manager; Leslie Kearns, Agenda Specialist – the undersigned attended the interview via zoom; Bill Logan, Public Information Officer - the undersigned attended the interview via zoom; Quantana Acevedo, Agenda Coordinator – the undersigned attended the interview via zoom; Lauren Grubb, former Assistant to the County Administrator⁵; Robert Reinshuttle, former Deputy County Administrator⁶; Mitchell Teitelbaum, Esq. applicant/appointee for Deputy County Administrator position; and Dr. Scott Hopes (with his attorney in attendance), former County Administrator⁷.

The undersigned, Ms. Stephens and Mr. Gallen also met with County Attorney, William Clague and Assistant County Attorney, Doug Polk at the County Attorney's office.

Documents reviewed include, but are not limited to, Manatee County Board of County Commissioners Personnel Policy, Rules, and Procedures Manual; Human Resources' Internal Investigations SOP; Human Resources' document titled "Illegal Discrimination or Harassment" which sets forth the process of investigating complaints of illegal discrimination or harassment; Manatee County HR Form 197 "Complaint of Illegal Harassment Discrimination" completed by AV signed December 13, 2022; records of door swipes, emails, jabber messages, phone records, notes, public records requests made related to the alleged incident as well as the County's response thereto; communications from Mitchell Teitelbaum requesting an investigation made to Chair of County Commission and Dr. Hopes as well as to the Division of Inspector General; attendance records; records of County Commission meetings; photos submitted by Mitchell Teitelbaum; communication from Mr. Reinshuttle post-employment; and Mitchell Teitelbaum's new hire paperwork.

² F.S. 119.071(2)(n). Because the personal identifying information is confidential and exempt pursuant to the cited statute, by law, the Clerk of the Court is prohibited from disclosing the personal identifying information of the victim of sexual harassment. Moreover, consistent with AGO opinions, information leading to the personal identifying information is also confidential and exempt and is redacted herein. See: AGO 2014-07; 2004-20,

³ Ms. Scaccianoce was interviewed while employed but is not currently an employee of Manatee County.

⁴ Ms. Harmon was interviewed while employed but is not currently an employee of Manatee County.

⁵ Ms. Grubb was interviewed while employed but is not currently an employee of Manatee County.

⁶ Mr. Reinshuttle was interviewed after his employment with Manatee County had ended.

⁷ Dr. Hopes was interviewed after his employment with Manatee County had ended.



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Complaint by AV

As an initial matter, this investigation was not to investigate the underlying complaint made by AV. As a general matter, when an employee complains of sexual harassment or inappropriate work-place behavior an employer investigates to determine whether any type of harassment or policy violation occurred and then takes appropriate remedial action to be sure the employee has a working environment free of harassment. As the person about whom AV complained, Mitchell Teitelbaum ("Mr. Teitelbaum") did not become an employee of the County because he withdrew from the appointment, Mr. Teitelbaum would not be in a position to impact the working conditions for AV or any other employees of the County. Thus, upon his withdrawal from appointment there became no further need for the County to investigate the underlying complaint as it had no need to take remedial action as a result of the alleged incident.

However, it is impossible to investigate the resulting handling of AV's complaint by Manatee County without understanding the complaint, the individuals involved in the alleged incident and the timeline of events. Notably, during the investigation, a discrepancy on the date of the alleged incident came to light and it appears that the actual date of the alleged incident was November 30, 2022 and not November 29, 2022 as set forth on HR Form 197. Had this discrepancy been realized during the investigation it may have streamlined and clarified the process.

This investigation confirmed that Mr. Teitelbaum came to the 9th Floor offices on three days – November 29, 2022 after he was appointed⁸ at the Board of County Commissioners meeting with his wife; the next day on November 30 with his paralegal to show her his office; and on December 1 to pick up his access badge from Ms. Grubb. The evidence showed that the alleged incident occurred not on November 29 but on November 30 as Mr. Teitelbaum's paralegal was with him on the 30th and his wife was with him on the 29th and because Ms. Kearns and Ms. Acevedo would not have been on the 9th floor late morning on the 29th as they would have been in the Board of County Commissioners meeting in furtherance of their job duties as Agenda Coordinator and Agenda Specialist. Mr. Teitelbaum confirmed during his interview that he came to the 9th Floor with his wife at approximately 10:30 a.m. on November 29, 2022 following his confirmation at the meeting and that he went to the 9th Floor the following day Wednesday November 30, with his paralegal late morning to show her his new office. During interviews Ms. Grubb also stated that the report had the wrong day and that it was the 30th that Mr. Teitelbaum came to the 9th Floor with his assistant. Ms. Acevedo also confirmed that it would not have occurred on November 29 because she would have been in the Board of County Commissioners meeting.

⁸ Although he was confirmed by the Board on November 29, 2022, his anticipated start date with the County was December 19, 2022.



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From the interviews, documents, emails and information gleaned during the investigation, on Friday December 2, 2022 at 9:51 a.m. AV emailed Zach Ribble, Employee Relations Manager, requesting to speak with him on Monday December 5. Mr. Ribble scheduled a meeting with AV for Monday December 5 at 8:30 a.m. AV met Mr. Ribble on Monday December 5. They met for about 15 minutes (Joe Derisma who was a temporary employee at the time was in the meeting for training purposes) wherein AV relayed the incident to Mr. Ribble. During that meeting AV stated that on the 9th Floor of the County Administration Building, outside of the office to be used by the incoming Deputy County Administrator, Mr. Teitelbaum, when being introduced to Mr. Teitelbaum he reached around and grabbed AV around the waist and pulled AV close to him. AV stated that the witnesses to this event were Leslie Kearns, Bill Logan, and Mr. Teitelbaum's paralegal. Mr. Ribble could not recall if during that meeting AV stated that AV wanted to remain anonymous. Mr. Ribble believes that AV told Ms. Harmon at a later meeting that AV wanted to remain anonymous. During that meeting AV relayed to Mr. Ribble that there are no cameras in the location where it occurred. AV also told him that AV believed that Mr. Teitelbaum had made an inappropriate comment to Lauren Grubb about her long legs being attractive.

On December 5, 2022 Mr. Ribble talked with the HR Director, Ms. Harmon and met with County Administrator Dr. Hopes about the allegations by AV. During his interview, Dr. Hopes confirmed he met with Ms. Harmon and Mr. Ribble on that date. Dr. Hopes stated that it was his understanding that AV was not concerned about Mr. Teitelbaum and did not want to file a written complaint or have AV's name used. Mr. Ribble was directed to talk with individuals named and to "fact check" the statements made and to keep both Ms. Harmon and Dr. Hopes posted on what he learned. During his interview, Dr. Hopes seemed to believe that at that time it was not an "official" complaint because it was not in writing on a County form.

Dr. Hopes stated that on December 5, 2022 he told Mr. Teitelbaum that someone had made a report to HR. Mr. Teitelbaum denied physical contact with anyone as he stated that his wife was with him during and after the Board of County Commissioners' meeting.

On December 6, 2022 AV received an email from the HR Director, Jennifer Harmon, requesting to meet with AV. AV met with Ms. Harmon for approximately 10 minutes and relayed the same complaint that AV relayed to Mr. Ribble the previous day. Ms. Harmon's notes indicate that AV stated that the alleged incident occurred on November 29, 2022. However, her notes also indicated that Mr. Teitelbaum's paralegal was in attendance when the incident occurred which would have been November 30, 2022. During that meeting AV relayed to Ms. Harmon that [REDACTED] and could not understand why he would still be hired after the incident. To both Mr. Ribble and Ms. Harmon, AV made a verbal complaint and at the time of the verbal complaint did not file HR Form 197. Ms. Harmon's notes from that meeting stated that AV does not want to file a formal complaint. During the interview for



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this investigation AV was asked why AV wanted to be anonymous at the time. AV stated that AV was worried about being fired so AV made the verbal complaint in person to HR as opposed to putting it in writing. AV stated AV was worried because Mr. Teitelbaum and Dr. Hopes were powerful. AV never stated that the incident was not a big deal contrary to Dr. Hopes' stated understanding and AV stated AV was especially concerned [REDACTED] AV indicated AV was fearful of Dr. Hopes retaliating because Dr. Hopes had selected Mr. Teitelbaum for the new Deputy County Administrator position.

A. Prior to AV making the verbal complaint to HR

Both AV and Ms. Scaccianoce stated that prior to AV contacting HR with the complaint AV reached out to Ms. Scaccianoce, via jabber and asked to come speak with her. When they spoke face to face, Ms. Scaccianoce stated that AV told her that the new appointee for Deputy County Administrator had behaved in a way that made AV very uncomfortable. AV described to her that AV was standing outside what was to be Mr. Teitelbaum's office and Mr. Teitelbaum was introduced to AV and when AV walked over to shake his hand he put his arm around AV as in a side hug. Ms. Scaccianoce encouraged AV to report this to HR as she believed it was inappropriate behavior in the workplace. Ms. Scaccianoce reported that she believed that AV had told Mr. Reinshuttle about the incident prior to speaking with her. During her interview, Ms. Scaccianoce stated that she told AV that Ms. Scaccianoce had to say something to HR [REDACTED]

Mr. Reinshuttle also stated that he became aware of the incident with AV and Mr. Teitelbaum immediately after it happened as he states that AV came to speak to him informing him that Mr. Teitelbaum had crossed a boundary. AV confirmed that AV told Mr. Reinshuttle on the day it occurred, he told her to go talk to Ms. Scaccianoce about it. Mr. Reinshuttle stated during his interview that AV described the same incident as was described to Ms. Scaccianoce. During his interview with the undersigned, he also stated that "he may have seen it" occur but he never said anything at the time and that he saw Mr. Teitelbaum try to "shake AV's hand and pull her in."

Records reviewed during the investigation reveal that Ms. Scaccianoce and Mr. Reinshuttle engaged in email prior to AV discussing this matter with HR. When asked during the interview, Ms. Scaccianoce stated that she and Mr. Reinshuttle attempted to find out if there was a camera recording on the 9th floor to see if there was a recording of the alleged incident. To that end, Ms. Scaccianoce emailed Colby Zachery regarding the location of cameras and whether they recorded. She then spoke to Mr. Reinshuttle about the existence of cameras but that there were no preserved recordings prior to AV speaking with HR.



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B. Mr. Ribble's interviews into the verbal complaint

After being directed to talk to the individuals identified by AV as witnesses, Mr. Ribble began interviewing witnesses and spoke with all of them within a few days. Mr. Ribble conducted the following interviews in addition to speaking with AV prior and reported the following on December 12, 2022 in an email to Ms. Harmon.

1. Leslie Kearns. She told Mr. Ribble she was present at the alleged incident and confirmed that Mr. Teitelbaum grabbed AV by the side of the waist. She told Mr. Ribble that Mr. Teitelbaum's assistant was with him at the time of the incident. She also stated that Mr. Logan should have been able to see the incident. She told him that Ms. Acevedo was in her office and most likely would not have seen the incident, but she states that Acevedo should have noticed the environment change since it became very tense and quiet very suddenly after Mr. Teitelbaum grabbed AV.

2. Bill Logan. When Mr. Ribble interviewed Mr. Logan he did not corroborate that Mr. Teitelbaum grabbed AV or made any physical contact with AV. He stated he definitely did not see anything. Mr. Logan told Mr. Ribble that Ms. Acevedo shared that "there's something off (weird) about that guy" (meaning Mr. Teitelbaum).

3. Quantana Acevedo. Ms. Acevedo told Mr. Ribble that she did not see any alleged incident with Mr. Teitelbaum and never noticed the environment change or become quiet and tense. She has not noticed anything "off or weird" about Mr. Teitelbaum. Ms. Acevedo told Mr. Ribble that Mr. Teitelbaum only interacted with Mr. Logan and not other County Administration staff.

4. Lauren Grubb. Ms. Grubb told Mr. Ribble that Mr. Teitelbaum made a comment to her before, but that AV took the comment out-of-context and Ms. Grubb was not offended. Ms. Grubb stated that Mr. Teitelbaum was comparing Ms. Grubb to his wife when his wife was around Ms. Grubb's age. Ms. Grubb told Mr. Ribble that Mr. Teitelbaum does not have any bad intent and does not know personal boundaries. She also stated that Mr. Teitelbaum can be very animated, eccentric, and overly expressive when communicating.

Throughout the course of this investigation it became apparent that the alleged incident more likely than not occurred on November 30 for two reasons (1) on November 30, 2022 Mr. Teitelbaum's paralegal was with him on the 9th Floor and (2) Ms. Acevedo and Ms. Kearns would not have been on the 9th Floor on November 29 because there was a commission meeting going on and they would have been at the meeting. Ms. Acevedo stated during her interview with the undersigned that she told Mr. Ribble that she did not believe the incident occurred on the 29th. She stated that it had to have occurred on Wednesday the 30th because she was in the commission meeting on the 29th after Mr. Teitelbaum was confirmed. Mr. Ribble was relying on the email from AV which contained the date of the 29th as the date of the alleged incident.



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However, it does not seem that during the investigation anyone realized that on the 29th Ms. Acevedo and Ms. Kearns would have been in the Board meeting and not on the 9th Floor late in the morning when the incident is alleged to have occurred.

During his interview Mr. Ribble stated that during his process of interviewing the witnesses he talked with Ms. Harmon about the information he was receiving. He also stated that he “probably” talked to Dr. Hopes between December 5 and his email December 12 about the summaries but could not explicitly recall a discussion. Immediately after sending the December 12, 2022 e-mail at 10:50 a.m. to Ms. Harmon about the interviews he had conducted, Mr. Ribble went on vacation and did not return until December 19, 2022.

C. Assistance to AV by Ms. Scaccianoce

In addition to the discussions between AV and Ms. Scaccianoce, set forth above, prior to AV informing HR of the complaint, Ms. Scaccianoce on December 5, 2022 called Mr. Ribble relaying the details of AV’s complaint. She stated that Mr. Ribble advised her that she was doing the right thing and thanked her. Mr. Ribble told Ms. Scaccianoce that there was no need to fill out a form and that the call and information from AV was sufficient. A few days after speaking with HR, AV approached Ms. Scaccianoce because AV was upset that AV had not heard back from HR. Ms. Scaccianoce stated that she also had not heard back from Mr. Ribble about AV’s complaint and so on December 8, 2022 Ms. Scaccianoce emailed Mr. Ribble asking if Ms. Scaccianoce needed to fill out HR-176 form⁹. He responded via email that same day that a phone call will suffice and that Ms. Scaccianoce does not need to fill out the form.

D. AV files the Written Complaint

After meeting with Mr. Ribble on December 5th and Ms. Harmon on the 6th, AV expected HR to respond quickly. AV stated during AV’s interview that no one from HR had reached back out and on approximately Thursday the 8th of December AV overheard Ms. Harmon speaking on her cell phone stating words to the effect that the complaint is not in writing and therefore it is not a formal complaint. AV at that time became worried that nothing would be done about the complaint so AV made the decision to no longer remain anonymous and to file a written complaint. On Monday December 12, 2022 at 12:30 p.m. AV emailed Mr. Ribble asking if there was a written form to be filled out because AV wanted to “make sure this is properly documented.” In that email AV stated “Also, there is no need to be anonymous.” It appears that 5 minutes later AV also sent the email to Ms. Harmon, after receiving Mr. Ribble’s out of office response to the email. AV stated during AV’s interview that AV found the form on the inter-office website, spoke with Ms. Scaccianoce about it and filled the form out as

⁹ The proper form number is 197.



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no one had responded to AV's December 12 emails. Evidence gleaned during the interview process revealed that Ms. Scaccianoce assisted AV in filling out the complaint form.

The written complaint on HR Form 197 was e-mailed by AV to Ms. Harmon with a copy to Mr. Ribble on Tuesday December 13, 2022 at 10:37 a.m. In that email, AV states "I found this form and filled it out because I have not seen anything documented."

E. AV Instructed to move locations

On December 13, 2022 at approximately lunch time, AV went to the bathroom and when AV attempted to return to the work area AV's access badge would not work. AV was told by Ms. Harmon that AV's position would be moving from the [REDACTED]

[REDACTED] During her interview, Ms. Harmon stated that on December 13, 2022 Dr. Hopes told her to move AV [REDACTED] Ms. Harmon agreed because [REDACTED]

[REDACTED] Ms. Harmon also stated that she told AV that there may be a temporary job available in HR that AV could apply for if AV wanted to do so. Ms. Harmon stated that she did not recall if AV asked why AV was being transferred or anything else AV stated during the meeting. She stated that AV was not crying or upset. Other people who were interviewed stated that AV was very upset to be moving [REDACTED]

[REDACTED] Evidence shows that AV went home for the day after being told about the move and that AV was already scheduled to have the remaining two days of the week, Thursday and Friday off.

Dr. Hopes was asked why AV was told to move to [REDACTED] Dr. Hopes stated that he [REDACTED] He claimed that [REDACTED]

[REDACTED] Note that this is contrary to testimony about AV's position [REDACTED]

[REDACTED] Dr. Hopes also stated that if it were to be found to be a valid complaint he would not want [REDACTED]

[REDACTED] Mr. Ribble did not know about the proposed move as he was on vacation on this date.

F. Suspension of Ms. Scaccianoce

On December 13, 2022, Ms. Scaccianoce was out picking up her lunch when she received a call from the records supervisor who stated that two people from HR are here to see you and you must come back. Ms. Scaccianoce came to her office and Ms.



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Harmon told her that she was being put on administrative leave immediately. Ms. Scaccianoce claims she was not told why she was being placed on leave. Kate Barnett, the employee services manager was also present. During this investigation a records request was made for "any documents, interviews, notes and files regarding Debbie Scaccianoce being placed on administrative leave on or about December 13, 2022."

Mr. Ribble responded that Human Resources does not have any documents but to please check with County administration leadership to see if they have any documentation. No documentation was provided when requested.

During the investigation Ms. Harmon was asked why Ms. Scaccianoce was placed on administrative leave. She stated that at lunchtime on December 13, 2022, she spoke with Dr. Hopes and they determined that during investigation into AV's allegations she should suspend Ms. Scaccianoce so she would not have access to records as there was a suspicion that Ms. Scaccianoce and Mr. Reinshuttle were accessing information and Dr. Hopes believed that they may have knowledge that certain things were untrue and were "setting up" Mr. Teitelbaum. Dr. Hopes also believed that she may have improperly been inserting herself into AV's complaint. She did not believe it had to do with retaliation over AV's complaint but because of Ms. Scaccianoce allegedly accessing documents without authority. Mr. Ribble was asked this same question and he stated that because he was on vacation he did not find out until Monday the 19th of December that she had been placed on leave.

Dr. Hopes confirmed that he had Ms. Scaccianoce placed on leave as he believed her behavior was improper but needed to have an investigation to "dot his I's and cross his T's." When asked why he believed that Ms. Scaccianoce may have acted improperly he stated that he believed that because she and Mr. Reinshuttle were inquiring about security cameras, door swipes and e-mailing articles about sexual harassment in New York outlining a similar scenario he had concerns that there was a behind the scenes effort by Ms. Scaccianoce and Mr. Reinshuttle to coordinate the documentation by AV and were pushing AV and possibly improperly injecting themselves where they should not be. Dr. Hopes stated that HR should be doing an investigation of this type. Dr. Hopes believes that Ms. Scaccianoce and Mr. Reinshuttle should have immediately taken the allegations to HR and not attempted to handle it or look into it themselves. He wanted to investigate if they may have been colluding with or pressuring AV.

During a follow up interview on May 5, 2023 AV was asked if AV was pressured by Ms. Scaccianoce or Mr. Reinshuttle to file a complaint about Mr. Teitelbaum. AV stated there was no pressure from either of them and AV decided independently and with free will to file a written complaint and to disclose AV's name to HR. In Ms. Scaccianoce's follow up interview on May 11 she reiterated that while she had encouraged AV not to remain anonymous that AV was afraid to be fired and did not want to have this complaint negatively impact AV because AV loved the job.



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G. Mr. Teitelbaum withdraws from consideration

On Tuesday, December 13, 2022 at 2:21 p.m. Mr. Teitelbaum sent an email withdrawing from the appointment as a Deputy County Administrator. During his interview Mr. Teitelbaum stated that he had spoken with Dr. Hopes on December 5 about the verbal complaint and that on December 12 Dr. Hopes told him that there was no formal complaint against him but the verbal complaint had not been withdrawn. Mr. Teitelbaum stated during his interview that the reason he withdrew from the Manatee County appointment was because his resignation was going before the School Board on December 13. The Superintendent told him that she had posted his job and that once his resignation went to the School Board it could not be undone. Based on that discussion, he told her to table his resignation and that he was not going to accept the Deputy County Administrator position. Mr. Teitelbaum stated that he spoke with Dr. Hopes and then sent the email withdrawing from the appointment. Although Mr. Teitelbaum stated he believed that if the County conducted a formal investigation into the allegations that he would be vindicated, he did not believe that the County Attorney and its outside employment counsel would be impartial as he felt that the County Attorney did not want him to come on board.

Dr. Hopes stated that he did not recall talking to Mr. Teitelbaum on December 13, 2022 about the formal written complaint being filed. However, he stated that Mr. Teitelbaum found out about the formal written complaint, called Dr. Hopes to tell him that he was withdrawing from the Deputy County Administrator appointment, and then sent his formal withdrawal via email which was received by the County Administrator during the work session.

H. Ms. Scaccianoce and AV returned to positions

AV was called and told to come back [REDACTED] on Monday as AV had Thursday and Friday off. AV never moved to [REDACTED]. Ms. Scaccianoce stated during her interview that on Wednesday December 14, 2022, after 6 p.m. Ms. Harmon called her and left her a voicemail. She returned the phone call and Ms. Harmon told her that she could return to work the next day. Ms. Harmon during her interview denied calling Ms. Scaccianoce to tell her to return to work and stated that she did not know who told Ms. Scaccianoce to return to work. Phone records from Ms. Scaccianoce's cell phone confirm Ms. Scaccianoce's statements that Ms. Harmon called her that evening. Dr. Hopes stated that he had received phone calls from the County Attorney and Commissioner Baugh and as a result of those calls he returned Ms. Scaccianoce to her position and stopped the transfer of AV.



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Manatee County Policies

Manatee County has a "Personnel Policy, Rules, and Procedures Manual" applicable to all employees. Policies implicated in this review include the below:

XIII. ILLEGAL DISCRIMINATION OR HARASSMENT

A. *Policy*

1. Manatee County is committed to providing workplaces that are non-discriminatory and afford equal treatment to all. The County will not condone or tolerate illegal discriminatory behavior. This specifically includes sexual harassment and any other type of harassment or discriminatory conduct based on race, color, national origin, religion, gender, marital status, age, citizenship or disability (protected class).

2. Employees shall not engage in conduct which violates this policy at any time during working hours or on County premises while off duty.

3. All administrative and supervisory personnel are expected to abide by the County's commitment to equal opportunity and treatment under the law and to ensure that this policy is fully implemented and enforced.

4. Due to the severity of illegal discriminatory conduct, and the legal questions which are often involved in investigating such conduct, the procedures in this policy shall be used in investigating and dealing with illegal discrimination complaints. The County's general Complaint Procedures shall not be used to address such complaints.

B. *Definitions*

1. Illegal harassment or discriminatory conduct can be any verbal or physical conduct that belittles or otherwise shows hostility or aversion toward an individual or group based upon that individual's or group's race, color, religion, gender, national origin, marital status, age, citizenship or disability, and that for a reasonable person:

(a) has the effect of creating an intimidating, hostile or offensive work environment; or

(b) has the effect of unreasonably interfering with an individual's work performance; or



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(c) otherwise adversely affects an individual's terms and conditions of employment.

2. Examples of illegal harassment include, but are not limited to, epithets, slurs, jokes, negative stereotyping, or other acts which are threatening, intimidating, or hostile in nature, that relate to a protected class, or any display of written or graphic material such as photographs or cartoons that belittles or shows hostility or aversion toward an individual or group because of the same.

3. Sexual harassment is generally defined as abusive treatment of an employee by the employer or by a person or persons under the employer's control which would not occur but for the person's gender, when:

(a) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment; or

(b) submission to such conduct by an individual is used as the basis for employment decisions affecting the individual; or

(c) such conduct has the effect of unreasonably interfering with an individual's work performance or creating an intimidating or offensive work environment.

4. Some examples which may constitute sexual harassment may include, but are not limited to, the following:

(a) unwelcome sexual advances, flirtations, or propositions

(b) actual or implied demands for sexual favors in exchange for favorable treatment or continued employment

(c) unwelcome jokes or remarks of a sexually oriented nature

(d) verbal abuse of a sexual nature

(e) unwelcome commentary about an individual's body, sexual prowess, attractiveness or sexual deficiency

(f) any display in the workplace of sexually suggestive objects, pictures, posters or reading material

(g) uninvited physical contact of a sexual nature such as pinching, grabbing, patting or brushing against another person



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(i) uninvited leering, whistling, or gestures of a sexual nature

C. Procedure

1. Any employee or applicant who believes that he or she is being or has been illegally discriminated or retaliated against or harassed must file a timely written complaint with the Human Resources Director or specifically designated senior-level Human Resources personnel. To the extent the County maintains an official form for the purpose of filing a charge under this section, such form must be used.

2. Departmental directors, managers and supervisors are responsible for bringing any allegations or concerns related to potential cases of illegal discrimination or harassment to the immediate attention of the Human Resources Department.

3. The Human Resources Department will be responsible for evaluating all complaints under this policy and making the determination on whether or not an internal investigation is warranted. In cases where such an investigation is determined to be warranted, the County Administrator will designate an appropriate person or persons who shall be responsible for conducting a prompt, thorough and objective investigation.

4. Employees questioned during the course of an investigation are obligated to cooperate in a full and honest manner. No employee shall face any form of reprisal for making a complaint or for his or her cooperation with an internal investigation. Employees who either refuse to cooperate in an internal investigation or who intentionally give false information at any point within an investigation, shall be subject to disciplinary action.

5. Once an internal investigation has been concluded, the Human Resources Department will review the investigator's written report with the County Administrator and appropriate senior staff, to include the department director(s) at interest and a representative of the County Attorney's Office. This panel will determine the remedial action to be taken, if required. A final written report containing the final findings and the actions taken will be generated at the conclusion of the investigation and review, with a copy provided to the complainant. Individuals against whom allegations were raised will likewise be entitled to receive a copy of the final report upon request.

6. Once an investigation has been concluded it shall be the responsibility of the department director at-interest to implement the remedial actions which were determined by the review panel to be appropriate. The Human Resources Department shall be responsible for monitoring the workplace



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situation, and should be contacted by the complainant or other affected parties if they at any point feel that either retaliation is taking place or the illegal behavior is continuing.

7. This internal complaint and investigation process does not preclude an aggrieved employee from filing a complaint with the United States Equal Employment Opportunity Commission and/or the Florida Commission on Human Relations. However, failing to utilize this internal procedure may under the law result in the loss of important legal rights.

Note that the County has a policy titled "Employee Complaint Procedure" at Section XII that applies to "a work-related complaint" which makes clear that it "shall NOT be used to address allegations of illegal harassment or discrimination. Complaints regarding such matters must be processed under the provisions of Section XIII, Illegal Discrimination or Harassment." Because of the nature of the complaint by AV, Section XIII Illegal Discrimination or Harassment would apply and not the general complaint policy at Section XII.

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XI. DISCIPLINE AND DISCHARGE

A. General Provisions

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3. Probationary and temporary employees, employees of the County Attorney's Office and other employees designated as serving at the will of the County Administrator, do not possess a property interest in their positions and therefore may be discharged without cause and are not entitled to any recourse in the event of discipline or discharge, except as provided in this paragraph and Section XI.D.2.d. of this Policy. Further, employees who have waived their appeal rights by virtue of having entered into a last chance agreement or voluntary separation agreement are not entitled to appeal any subsequent discharge to the extent set forth in such agreements. If any such employee believes he/she has been disciplined or discharged as a result of illegal discrimination, the employee must follow the procedures outlined in Section XIII of this Policy regarding Illegal Discrimination or Harassment

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C. Progressive Discipline

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5. When a supervisor determines that an employee's behavior or performance fails to meet standards established by the County or violates any



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provision of this policy, the supervisor should discuss such concerns with the employee and recommend a course of action for improvement. The discussion should include the following interactive process:

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g. Document this process on official Counseling/Warning or Discipline forms as appropriate.

Step 1 - Oral Counseling or Warning. Progressive discipline may begin with an informal discussion between the supervisor and the employee.

Step 2 - Written Counseling or Warning. Absent an improvement in performance, or Upon recurrence of a minor violation, the supervisor issues a written warning or counseling to the employee on appropriate County form. A copy of the counseling/warning, together with a copy of the employee's response (if any) will be sent to Human Resources for inclusion in the employee's official personnel file.

Step 3 - Written Discipline Notice, Suspension without Pay, Probation, Demotion. Absent an improvement in performance following a written counseling/warning, or upon the occurrence or recurrence of a serious violation, the department director may discipline with written notice, suspend without pay, place on probation, or demote, the employee. These measures are coordinated with Human Resources. Discipline actions shall be taken through issuance of the County's official Notice of Employee Discipline form and will be sent to Human Resources for inclusion in the employee's official personnel file.

Step 4 - Discharge. Absent an improvement in performance following suspension without pay, probation, or demotion, or upon the occurrence or recurrence of a serious violation, the department director may decide to discharge the employee. Documentation associated with discharge will be included in the employee's official personnel file.

6. The progressive discipline policies specified herein are guidelines only and shall not be interpreted as creating a condition precedent to the issuing of justified disciplinary action or any particular level of discipline. Furthermore, managerial or professional personnel of the County who have been



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designated as serving at the pleasure of the County Administrator or County Attorney are not covered by this progressive discipline policy and may be terminated at any time without regard to cause. To the extent the County adopts official forms for the purpose of issuing counseling, warnings or discipline, department directors will be required to make use of such official forms to communicate these actions to employees.

Manatee County Human Resources Department has internal policies and Standard Operating Procedures copies of which were provided during the investigation by Zach Ribble in response to the IG's request for "any HR policies, protocols or processes for handling complaints by employees." One is titled "Illegal Discrimination or Harassment" and the other is titled "HR Internal Investigations SOP." Ribble also provided the Illegal Discrimination or Harassment personnel policy and advised of the Employee Complaint Procedure for complaints unrelated to illegal harassment/discrimination.

HR Internal Policies state as follows:

**ILLEGAL DISCRIMINATION OR
HARASSMENT**

This applies to all employees, including probationary and temporary employees, and applicants for employment who wish to file a complaint concerning Illegal Discrimination or Harassment. All are required to report in writing (HR Form 197) allegations of illegal discrimination or harassment to the HR Director, manager-level employee, or designee in HR. Management is also responsible for bringing such matters that come to their attention to HR.

Procedures for Discrimination/Harassment Complaints:

When HR receives the HR Form 197 Illegal Discrimination/Harassment, the complaint will be evaluated by the HR Director to determine whether an investigation is required. If it is determined that an investigation is warranted, the HR Director will forward the information to the EE Relations/Development Coordinator for processing. The EE Relations/Development Coordinator will:

- Send a start-up investigation memo located at S:\Employee Relations Documentation, Retention, Retain until obsolete, superseded, or administrative value is lost\EE Complaint with supporting documentation (e.g., statement/complaint) to County Administrator requesting assigning an Investigator. Once the County Administrator selects a designee (usually HR), go to the next step



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- Open Excel and open the case log located at S:\Employee Relations Documentation, Retention, Retain until obsolete, superseded, or administrative value is lost\EE Complaint, log-case log (by yr) assign next case number; (e.g., 110201, then 110202, 110203 -- this means 3 case numbers assigned in February 2011)
- Create a case folder for the employee located at S:\Employee Relations Documentation, Retention, Retain until obsolete, superseded, or administrative value is lost\EE Complaint\Statements. (e.g., employee name, dept, case number, and reason ex. Sec. XIII)
- Send the memorandum the Notification of Section XIII Investigation to the Department Director located in Word, located at S:\Employee Relations Documentation, Retention, Retain until obsolete, superseded, or administrative value is lost\EE Complaint, called Start-up investigationmemo.doc
- Schedule meetings with witnesses to take statements, notes are transcribed (not verbatim) and presented to witnesses to read and sign. Interviews are to be conducted at the HR Department if possible.
- Prepare the final Investigative Report for the HR Director's review. Forward to the County Administrator for signatures after completion of the investigation, (outline located at S:\Employee Relations Documentation, Retention, Retain until obsolete, superseded, or administrative value is lost\EE Complaint\Final Invst Rpt in a Word document)
- Make four (4) copies of the Investigative Report (Copy for County Administrator, HR Director, and Assistant County Attorney, including all exhibits and evidence. The Department Director will receive the investigative report without exhibits and evidence.
- The County Administrator has the option to direct a Senior Management Review. To schedule a Senior Management Review meeting, the EEO/Dev Coordinator will obtain dates from the County Administrator's HR Liaison after they coordinate with the



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**Department Director, HR Director and Assistant County Attorney.
(Investigator and employee do not attend this meeting)**

- **Schedule Conference Room with County Administrator HR Liaison (usually County Administrator Office/County Attorney's Office)**
- **Prepare a report of Final Findings for County Administrator based on the Senior Management Meeting and obtain a signature from County Administrator and forward a copy to the employee (no exhibits or evidence.) Forward the Final findings to the Department Director and Assistant County Attorney.**
- **Close case in Excel and file in the employee case file.**

Outside Applicant Discrimination Claims

- **Non-employee applicants and applicants for temporary employment, who allege discrimination, must file a complaint in writing to the HR Director.**
- **HR will conduct the necessary investigation in accordance with Section XIII.**

****Charges of discrimination filed with outside agencies - Equal Employment Opportunity Commission (EEOC)/Florida Commission on Human Relations (FCHR)**

- **These charges are forwarded to the County Attorney for a response.**
- **HR makes a file for the charging party and keeps a copy of the claim.**



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HR Internal Investigations SOP

Introduction

Internal investigations support the Manatee County Board of County Commissioners to ability monitor itself to ensure that its managers, supervisors, and employees comply with the law and internal policies and guidelines. The purpose of an investigation is to gather facts so that the Investigator can make a credible determination about what happened and whether a violation occurred. There will be situations where employees believe their rights were disregarded or that the Personnel Policies, Rules, and Procedures Manual or the Collective Bargaining Agreement guidelines were not applied fairly. Manatee County investigates claims of discrimination and harassment, and all other complaints are required to follow the employee complaint procedure located in the Personnel Policies, Rules, and Procedures Manual.'

1. Receipt of a complaint:

Employees who are wishing to file charges of discrimination and harassment are required to submit an HR Form 197 to the HR Department

2. Selection of the Investigator:

- A. The EEO Development Coordinator will assign a case number using the investigation log located at \$:\Employee Relations Documentation, Retention, Retain until obsolete, superseded, or administrative value is lost\Investigations. Case numbers are determined by the year, month, and number of cases for the month. For example, if there are two complaints submitted in June 2020, the case numbers are 200601 and 200602.
- B. The EEO Development Coordinator will prepare the start-up investigation memorandum appointing an Investigator, located at \$:\Employee Relations Documentation, Retention, Retain until obsolete, superseded, or administrative value is lost\Investigations. The memorandum is submitted to the HR Director and County Administrator for signature and approval.

TIPS:

The appropriate Investigator should possess all of the following:



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- An ability to investigate objectively
- To have no "stake in the outcome." They should not have a personal relationship with the involved parties. The outcome should not directly affect the Investigator's position within the company
- Skills that include prior investigative knowledge and working knowledge of employment laws
- Strong interpersonal skills to build a rapport with the parties involved and be perceived as neutral and fair
 - Attention to detail
 - The right temperament to conduct interviews
 - To be in a position to maintain confidentiality, be respected within the organization (since his or her conclusions will be used to make a determination), can act as a credible witness and, have the likelihood of continued employment with Manatee County Government

3. Create a plan for the investigation:

- A. Outline the issue
- B. Gather evidence, for example, video surveillance, e-mails, badge scans, visit the location where the incident occurred if necessary, obtaining a layout of the location where the incident occurred, preparing sketches, and any other relevant information.
- C. Develop the witness list and determine the order in which all parties will be interviewed. The Complainant is interviewed first, and the Respondent is interviewed last.
- D. Schedule a location for the interviews. The area should be reserved for the entire day, and interviews should be conducted, allowing at least 30 minutes between interviews to complete notes and to update questions if necessary. Investigation interviews can take multiple days.
- E. Develop questions for interviews. Questions should be developed ahead of time, although additional questions will be added throughout the investigation as more evidence and information are shared. Good questions are relevant and designed to draw out facts without leading the interviewee; they should be open-ended to elicit as much information as possible:
 - i. For the Complainant and witnesses, ask the "who, what, when, where, why, and how. Ask additional clarifying opened ended questions if the answers provided are unclear. If there is anyone who has witnessed what has occurred?
 - ii. For the Respondent, ask: How do you respond to the allegations? Why would someone lie on you? Do you have



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any witnesses who can validate your story?

4. Conduct interviews:

- A. Interviews should be conducted with two people present, if possible. One person to ask questions and observe body language and the other person to take notes.
- B. The Investigator should be located near the exit door for security reasons.
- C. The Investigator should inform all parties involved of the need for an investigation and the urgency for confidentiality and then explain the investigation process.
- D. Take detailed notes, look for inconsistencies, looking for opportunities for more evidence and names of other potential witnesses

Credibility determinations: Interviews provide differing accounts and even conflicting versions of the events. Keep in mind, because of the personal and emotional nature of investigations, individual perceptions of the events that occurred can be clouded.

What to Tell the Complaining Employee(s)

- The purpose of the interview is to obtain a thorough understanding of what has occurred, and to identify all evidence and witnesses who may have knowledge of the incident.
- Your name will be used in the investigative process only as and/or if necessary.
- There will be no retaliation against you for making a good-faith complaint. Notify management of HR immediately if you believe retaliation has occurred or is occurring.
- Keep the matter confidential to protect the integrity of the investigation.

Questions for the Complaining Employee(s)

For each allegation that the complaining employee raises, the investigator should ask him or her:

1. What occurred?
2. When (include the date, appropriate time period involved)?
3. Where did it happen?
4. How did it happen?
5. Who did and said what? In what order? Was anything else said or done?



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6. If there was physical contact, describe the contact in detail.
Demonstrate the physical contact.
7. How did you respond?
8. Have you ever reported this incident before? If so, to whom?
When? Response?
9. Did you discuss the incident(s) with anyone? If so, who? Where?
When? What was said?
10. Are you aware of any other incident(s) involving this person? If so, who?
What?
Where? When?
11. Do you know why it happened?
12. What is your relationship with the respondent?
13. Why are you coming forward now?
14. Are there any notes, documents, or other evidence to support your
claims? Did the respondent give you anything in writing, any gifts, or
other items?
15. Were there any witnesses? Who was nearby? Within earshot?
16. Who else may have relevant information?
17. Was your work affected? How?
18. How did the situation make you feel?
19. What outcome would you like to see from this process?

What to Tell the Accused Employee

We are investigating a complaint of alleged inappropriate conduct involving you. (Inform the respondent of each allegation in sufficient detail to enable a full response.)

- The purpose of the interview is to obtain a thorough and accurate understanding of what has occurred, and to identify all evidence and witnesses who may have knowledge of the incident.
- Keep the matter confidential to protect the integrity of the investigation.
- It is against the law and internal policy to retaliate against anyone who has filed a complaint or participates in the investigation of the complaint. Notify management or HR if you believe retaliation has occurred or is occurring.

Questions for the Accused Employee

1. What occurred?
2. If denied, what motive would anyone have to make these allegations up? Where were you at the time of the alleged incidents occurred?



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Who witnessed your presence?

3. **When did it happen?**
4. **Where did it happen?**
5. **How did it happen?**
6. **Who did or said what? In what order?**
7. **How did the complainant(s) respond?**
8. **Are you aware of any other incident(s) involving the complainant(s)? If so, who? What? Where? When?**
9. **Are you aware of any other complaints by the complainants?**
10. **Do you know why it happened?**
11. **Are there any notes, documents, or other evidence to support your version of the facts?**
12. **Who else may know relevant information?**
13. **Did you discuss the incident(s) with anyone prior to this interview? If so, who?**

5. Make a decision:

- A. The Investigator will evaluate all information and make a formal recommendation.
- B. The Investigator and the HR Director will make the final determination of any employment actions warranted based on the investigation findings. (discipline, termination, training, etc.).
- C. The Investigator and the HR Director will inform the Complaint's and Respondent's Department Director on the investigation findings.

6. Prepare a written summary of investigation results:

- A. The final report will summarize (Refer to the Investigation Template Document, Step 9 for formal located at \$:\Employee Relations Documentation, Retention, Retain until obsolete, superseded, or administrative value is lost\Investigations:
 - The incident or issues investigated, including dates
 - Parties involved (interview listing)
 - Findings of the Fact - Key factual and credibility findings, including sources referenced in bullet format.
 - Employer policies and/or guidelines and their applicability to the investigation
 - Specific conclusions
 - Party (or parties) responsible for making the final determination



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- Issues that could not be resolved and reasons for lack of resolution
- Employer actions taken
- A working copy of the investigative report is located at \$:\Employee Relations Documentation, Retention, Retain until obsolete, superseded, or administrative value is lost\Investigations\Final Invst Rpt

7. Closure of Investigation:

- B. The Department Director will notify the Complaint and Respondent in person regarding the investigation outcome and employment actions required.
- C. The HR Director will determine if workplace policies needed to be modified.

8. Post investigation

- A. The summary is signed by the County Administrator or designated representative and filed at \$:\Employee Relations Documentation, Retention, Retain until obsolete, superseded, or administrative value is lost\Investigations\Final Invst Rpt
- B. The finalized summary is distributed to the appropriate Department Director's
- C. The EEO Coordinator will follow up with the Complainant 30 and 90 days after completion of the investigation.

Ms. Harmon was asked about the process HR uses when it receives an employee complaint. She stated that if it is a verbal complaint that Mr. Ribble meets with the employee and takes notes. She stated that HR would like them to fill out an official HR complaint form but even if the employee does not fill out the form that HR will still investigate the claim. She stated that if it is a "higher level" claim that they will bring in a third-party investigator to be objective and ease the burden on HR. Depending on the results of the investigation the offending employee could be terminated or suspended but that they would use the progressive discipline policy accordingly. She stated that the HR SOP currently being used needs to be updated. She stated that the Employee Handbook, policies, SOP and hiring processes are all being looked at by HR. She stated that the review had started and that meetings were scheduled every other week until November. She stated that the priority was the handbook, then the interview and hiring processes. She stated that the changes would



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first go through the HR committee and then anyone with input from field staff and that the Board of County Commissioners would ultimately approve the proposed updated personnel policies.

Email obtained in the investigation between Mr. Ribble and Mr. Reinshuttle showed that Mr. Ribble understood that employee complaints could be received by County on a form, email, phone call or anonymous. Mr. Ribble stated "regardless of how the complaint was received, Human Resources will meet with the employee/witness, and then determine how to proceed."

The County Attorney also met with the investigator and provided insight on the role of the Office of the County Attorney into HR matters. The County Attorney advised that his office does not supervise HR and is not involved in setting up HR processes. The County Attorney indicated the personnel policies need updating and that there have been a lot of personnel changes over the past few years with a high rate of turnover. The County Attorney advised that there is one attorney in his office who generally works with HR and advises HR if HR brings legal issues to the County Attorney's office. There is also a contract with an outside labor and employment attorney, Mark Leavitt, who the County Attorney can consult with or bring in as needed on HR issues. The County Attorney also advised that his office is available for real time legal advice to HR which is designed to prevent legal issues from arising later. He also stated that there is a more formal process in his office where a County Department/Employee can electronically send a request for legal services to the County Attorney's office.

Findings regarding possible violations of Manatee County Policies

With respect to the complaint made by AV, AV clearly made allegations of conduct that may constitute sexual harassment under the Illegal Discrimination or Harassment policy as listed at XIII.B.4 which states "*examples of conduct which may constitute sexual harassment may include, but are not limited to, the following: (h) uninvited physical contact of a sexual nature such as pinching, grabbing, patting or brushing against another person.*" That policy also states at XIII.A.4 that "*(t)he County's general Complaint Procedure shall not be used to address such complaints.*" XII.B.1. of the Employee Complaint Procedure states "*(t)he Complaint Procedure shall NOT be used to address allegations of illegal harassment or discrimination. Complaints regarding such matters must be processed under the provision of Section XIII, Illegal Discrimination or Harassment.*" However, when looking at the procedure for filing a claim involving possible sexual harassment Section XIII.C.1. states that "*(a)ny employee or applicant who believes that he or she is being or has been illegally discriminated or retaliated against or harassed must file a timely written complaint with*



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the Human Resources Director or specifically-designated senior-level Human Resources personnel. To the extent the County maintains an official form for the purpose of filing a charge under this section, such form must be used."

While both Mr. Ribble and Ms. Harmon stated during their interviews with the undersigned (and Mr. Ribble explained the same thing to both Ms. Scaccianoce and Mr. Reinshuttle in emails previously discussed) that a complaint of sexual harassment to HR does not need to be in writing and could be given verbally, email, anonymously etc. and will be acted upon by HR, the written policy states that a complaint must be in writing and timely. Both Mr. Ribble and Ms. Harmon are correct in that even if a complaint of sexual harassment is not in writing (and even if it is anonymous), HR should investigate the allegations in order to take prompt remedial action as required by law to protect employees and provide a safe work environment free from harassment or discrimination. In this instance, Mr. Ribble acted appropriately upon receiving the verbal complaint from AV and Ms. Scaccianoce. During the interview Dr. Hopes seemed to believe it was not an "official" or "formal" complaint because it was not in writing. This is also what AV testified to overhearing Ms. Harmon discuss while on a cell phone call. While County policy states that it requires a "timely written complaint" it was appropriate and best practices for HR to begin an inquiry upon receipt of the verbal complaints in order to meet its legal requirements and ensure that the County work environment is free from harassment. Discounting verbal complaints of harassment or discrimination because they are not in writing or on a specific form is not appropriate and could result in employee claims and liability.

Another issue raised was the location of the form. Information received indicated that it was not easy for AV to find the form. AV clearly followed appropriate policy by promptly reporting the alleged incident which seems to have occurred on Wednesday November 30. On Thursday December 1 AV was not at work and on Friday morning December 2 AV reached out to Mr. Ribble before leaving for the day due to illness. AV also immediately reported the incident to Mr. Reinshuttle and also reported it to Ms. Scaccianoce. Pursuant to XIII.C.2 "*Departmental directors, managers and supervisors are responsible for bringing any allegations or concerns related to potential cases of illegal discrimination or harassment to the immediate attention of the Human Resources Department.*" Mr. Reinshuttle apparently did not bring it to HR's attention, in violation of required policy, but records and testimony are clear that Ms. Scaccianoce contacted HR on Monday December 5 in accordance with policy as she is a managerial employee who became aware of a complaint.

Second, XIII.C.4 of the personnel policy, rules and procedures manual, states in part "*No employee shall face any form of reprisal for making a complaint or for his or her cooperation with an internal investigation.*" In addition, an employee who



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makes a good faith complaint of sexual harassment is protected from retaliation pursuant to Title VII, the Florida Civil Rights Act and Florida's Whistleblower statute. Testimony from Dr. Hopes and Ms. Harmon is contradictory as to the reasons for instructing AV to move [REDACTED]. Dr. Hopes claimed [REDACTED] whereas Ms. Harmon stated that it was for AV [REDACTED]. Ultimately, AV was not moved to [REDACTED]. Had she been moved to [REDACTED] it may have felt or appeared retaliatory to AV that the move was due to the report. Employers need to be mindful of their duties to take remedial action but in a way that is not perceived by the complainant to be retaliatory as employees have a legal right to make a good faith report of behavior that they deem harassing. In this instance, appropriate remedial action was complicated by the fact that Mr. Teitelbaum was set to begin employment on December 19 in a high level position. Ultimately, AV was not moved and thus did not suffer any retaliation in the form of moving to [REDACTED] as a result of her complaint.

Likewise, at the same time, Ms. Scaccianoce was told she was being suspended. While reasons for this were given by Dr. Hopes during the interview with the undersigned and Ms. Harmon relayed the reasons given to her at the time by Dr. Hopes for the suspension, the suspension of Ms. Scaccianoce could also have been perceived as retaliatory. She was clearly following the requirements of XIII.C.2 as a County employee at the managerial level by reporting the information received from to HR. As such, she was also protected by XIII.C.4 and should not face any form of reprisal for making a complaint or cooperating with any investigation. In this instance, it seems that placing her on suspension was due to suspicions that she was attempting to collude with Mr. Reinshuttle to make up this event or encourage AV to report or embellish the event because Dr. Hopes perceived that neither Ms. Scaccianoce or Mr. Reinshuttle were pleased that Mr. Teitelbaum was coming on board because Mr. Teitelbaum would be taking over certain of their job duties. While the personnel policies in section XI.C. set forth a progressive discipline policy as well as a procedure to suspend an employee (XI.C.5.g – suspension requires issuance of the County's official Notice of Employee Discipline form and will be sent to Human Resources for inclusion in the employee's official personnel file."), the progressive discipline policy does not apply to Ms. Scaccianoce who according to the job description as "Records Management Division Manager" serves at the pleasure of the County Administrator and is at-will. The progressive discipline policy would not apply to her. However, while the progressive discipline policy does not apply to an at-will employee, an at-will employee legally may not be retaliated against for reporting sexual harassment or participating in an investigation in good faith and is protected by the anti-retaliation provisions of Title VII and the Florida Civil Rights Act as well as Florida's Whistleblower Statute. Thus, the suspension could have been perceived as retaliation for reporting the incident on behalf of AV (yet in reporting she was following required policy for an employee at her



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level). As set forth above Dr. Hopes stated that he believed there was inappropriate behavior with accessing cameras and possible interference in the investigation as the reason for the suspension and not because she assisted AV in filing the complaint. Ultimately, Ms. Scaccianoce was returned to work immediately the next morning and thus, there was no damage to Ms. Scaccianoce as a result of the suspension.

It seems that the handling of the complaint resulted from a perfect storm of condensed timing, Mr. Teitelbaum's presence in the building before actually starting employment, Mr. Ribble going on vacation, suspicion by Dr. Hopes of Mr. Reinshuttle and Ms. Scaccianoce and Ms. Harmon following instructions from Dr. Hopes without independently verifying his concerns. As stated above, County HR acted appropriately in beginning the investigation immediately upon receiving the verbal complaint from AV. AV did not delay- AV told Deputy County Administrator, Mr. Reinshuttle the day it occurred – November 30. AV was out of the office December 1 and reached out to HR on December 2 before leaving ill on December 2. It seemingly should have been apparent to HR that the incident would have occurred on the 30th and not the 29th by the people present. The situation deteriorated when Dr. Hopes deemed it not an "official" complaint or that AV was not "really" upset because the complaint was not in writing. It also deteriorated further due to Dr. Hopes' suspicions that Mr. Reinshuttle and Ms. Scaccianoce did not want Mr. Teitelbaum at the County and would fabricate this incident to prevent Mr. Teitelbaum from becoming a Deputy County Administrator. There was no evidence of any fabrication or collusion. Although Mr. Reinshuttle did not timely report to HR, Ms. Scaccianoce clearly did and was attempting to assist AV. Ultimately both AV and Ms. Scaccianoce were not retaliated against since neither was actually moved to another position and both were immediately returned to their positions and did not lose any pay.

Recommendations

Based on the testimony and documents reviewed, the undersigned has several recommendations for future HR matters. The personnel policies should be reviewed. Both Ms. Harmon and Dr. Hopes indicated that the review was a priority and should be undertaken. With respect to any claims of illegal harassment or discrimination, while a written complaint on a form is an easier way for HR to handle it and can be the preferred method, the policy as well as internal HR SOP should be clear that a verbal complaint received by HR will be handled and investigated appropriately. In addition, HR should train County directors, managerial employees and supervisors to know how to handle any complaints of illegal harassment or discrimination and to recognize if they witness any such conduct. The supervisory employees should relay the complaint or conduct to HR immediately and should not attempt to investigate any such complaint or conduct on their own. In addition, HR



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must be neutral in investigating employee complaints and should not be on an agenda or following instructions to achieve a desired result. In this instance, it seems that HR took Dr. Hopes' word for it that there may be something inappropriate going on rather than asking for any proof or conducting any form of preliminary investigation prior to suspending Ms. Scaccianoce. Although she was an at-will employee and at that time she was not entitled to the protections of the progressive discipline policy HR should be certain that any time it is suspending an employee that it has all information to be sure the suspension is appropriate under the circumstances. As it may not have been required under County policy to provide a disciplinary notice prior to the suspension, a suspension could still be retaliation under the law. HR should use the resources provided by the County Attorney's office. Not only does the County Attorney have internal attorneys to assist on employment related issues as needed on a day-to-day basis, the County Attorney's Office has outside counsel to assist as needed. Last, in this instance, Mr. Teitelbaum was not slated to begin working until December 19. However, he received his access badge on December 1. Access badges should not be given out prior to someone becoming an official employee of the County.

Thank you very much for allowing me to conduct this investigation on behalf of the Inspector General. All individuals provided cooperation in the investigation appropriately. If you have any questions, please do not hesitate to contact me.

Very truly yours,

Colleen M. Flynn

CMF:cmf

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