



The University of Georgia

Equal Opportunity Office
January 21, 2016

VIA EMAIL – twc@uga.edu

T.W. Cauthen III, Ph.D.
Associate Vice President
Division of Student Affairs
306 Memorial Hall
Athens, Georgia 30602

Re: NDAH Policy Investigation

Dear Dr. Cauthen:

I am writing to summarize the investigation and findings arising from a November 2015 complaint made by University of Georgia (UGA) [REDACTED]. [REDACTED] reported a complaint of sexual harassment based on your conduct toward [REDACTED]. [REDACTED] had engaged in online and text communications of a sexual nature in [REDACTED]. [REDACTED] also reported allegations that you had pursued or engaged in past sexual or romantic relationships with students and/or employees under your authority.

As a representative of the Equal Opportunity Office (EOO), I investigated [REDACTED] complaint pursuant to the University's Non-Discrimination and Anti-Harassment Policy ("NDAH Policy"), located at <https://eoo.uga.edu/policies/non-discrimination-anti-harassment-policy>. This Policy prohibits, among other things, sexual harassment between members of the University community. See Section I.B. This Policy, in its current version, also prohibits faculty or staff members "from pursuing or engaging in dating or sexual relationships with any student whom [the faculty/staff member] supervise[s], teach[es], or evaluate[s], in any way," or "from having a dating or sexual relationship" with another employee whom the faculty/staff member "supervises, evaluates, or in any other way directly affects the terms and conditions of the other employee's employment." Section II.E. Prior to September 15, 2011, the NDAH Policy discouraged but did not prohibit sexual relationships between faculty/staff members and employees or graduate students whose work the faculty/staff member supervised. It is the EOO's obligation to thoroughly investigate all reports of alleged conduct by any member of the UGA community that may violate the NDAH Policy, to make an appropriate determination as to whether any violation(s) occurred, and to impose an appropriate sanction and/or other remedial action as warranted. The EOO's obligation to investigate extends to conduct alleged to have occurred in the past where the respondent individual is still a member of the University community or where the alleged conduct is continuing to presently impact the University community.

In viewing all of the information obtained in the investigation of [REDACTED] complaint, and applying a standard of preponderance of the evidence (e.g., "more likely than not"), I do not

find that you engaged in conduct that violated the NDAH Policy. However, as a preventative measure pursuant to Section III.E.1 of the Policy, I am requiring training on the consensual relationships provision and NDAH reporting requirements for certain Student Affairs units that are not already receiving such training on a regular basis. This is further explained below.

[REDACTED]

Based on a preponderance of the evidence, I find that in [REDACTED] you and [REDACTED] a [REDACTED] engaged in consensual communications of a sexual nature online and via text message without either of you realizing the identity of the other person, as relates to UGA. I find that once you realized that [REDACTED] was an undergraduate UGA student, and particularly once you realized that [REDACTED] was involved with [REDACTED] - a Student Affairs unit which you supervise -- you stated that it was not appropriate to continue the communications and tactfully withdrew. [REDACTED] asserts that thereafter you engaged in sexual harassment by failing to acknowledge [REDACTED] at campus events where you were both present, and by actively avoiding [REDACTED]. There is not a preponderance of the evidence that you actively avoided [REDACTED] although you acknowledge that you did not affirmatively seek to interact with [REDACTED] stating that this was no different than how you had behaved toward [REDACTED] prior to your online and text communications in [REDACTED] when you did not know [REDACTED]. I do not find that your conduct toward [REDACTED] following your communications with [REDACTED] in [REDACTED] falls within the parameters of the NDAH Policy's definition of sexual harassment. The Policy requires, as a threshold matter, that there have been "unwelcome" conduct of a sexual nature in order for harassment to be found. Based on the text messages that you and [REDACTED] exchanged in [REDACTED] there is no evidence that any unwelcome conduct occurred; the communications and their content appear to have been consensual and mutual.

Prior Relationships

Regarding the allegation that you had pursued or engaged in sexual or romantic relationships in the past with students and/or employees under your authority, I find by a preponderance of the evidence that in [REDACTED] when you were [REDACTED] and in [REDACTED] when you [REDACTED] engaged in two separate incidents of inappropriate activity with two [REDACTED]

While these interactions in [REDACTED] and [REDACTED] would be prohibited under the current version of the NDAH Policy, at the relevant times, the NDAH Policy did not proscribe sexual relationships between faculty/staff and graduate students or employees who they supervised; the Policy only strongly discouraged such relationships and required the person in the relative position of authority to recuse themselves from decisions affecting their subordinate's employment. While you did not recuse yourself regarding the [REDACTED] referenced above, there is not a preponderance of the evidence that your isolated encounters with them constituted a sexual "relationship" as contemplated by the NDAH Policy at the time. Accordingly, I do not find that your conduct in [REDACTED] and [REDACTED] violated the then-applicable versions of the NDAH Policy.

You have acknowledged that the [REDACTED] and [REDACTED] incidents above occurred within a context of, at times, blurred professional and friendship boundaries between you and other Student Affairs employees, [REDACTED] over who you had authority. Based on the information obtained through the investigation, I find that your friendship with some of the male [REDACTED] took on, at times, a flirtatious or sexual component. This blurring of boundaries between you, as the supervisor/mentor, and the [REDACTED] as your supervisees/mentees created, at a minimum, the risk of abuse of authority given your comparative position of power, both within the University as well as within the national collegiate Student Affairs field where these graduate students were, or soon would be, seeking to establish themselves following the completion of their degrees.

Moreover, information obtained during the investigation indicates that others [REDACTED]

[REDACTED] and reported by you to your superiors, but was never referred to the Equal [REDACTED] Even if the [REDACTED] conduct toward the [REDACTED] and [REDACTED] did not violate the NDAH Policy, as it existed at the time, such conduct was illustrative of an environment that would not be in compliance with the current NDAH Policy.

While the investigation revealed no information suggesting that you are continuing to blur professional and friendship boundaries in your role as Associate Vice President of Student Affairs, the past continues to have some impact in the present as evidenced by the fact that word of mouth of this past reached [REDACTED] who was involved with the [REDACTED] and [REDACTED] [REDACTED] are Student Affairs units under your supervision. Hearing of this past exacerbated the already uncomfortable situation for [REDACTED] arising from your online and text communications with [REDACTED] in [REDACTED]

Thus, while I do not find a violation of the NDAH Policy for the reasons explained above, I do find that due to the close and personal nature of the collective work between Student Affairs professionals, graduate assistants, and undergraduate students it would be beneficial to increase awareness of the consensual relationships provision of the NDAH Policy, as well as to increase awareness of the Policy's current reporting requirements, within [REDACTED] units which are not already receiving regular NDAH Policy training. Pursuant to Section III.E.1 of the NDAH Policy, I am therefore requiring annual training on these policy points for all employees, graduate assistants and student workers (both paid and volunteer) [REDACTED]

[REDACTED] I also encourage you and other Student Affairs administrators to be attuned to the potential for blurred boundaries given the nature of your profession, and to be vigilant in personally

T.W. Cauthen III
January 21, 2016
Page 4

maintaining appropriate boundaries, proactively intervening where you see risk of transgression by others, and reporting any knowledge, whether direct or indirect, of potential violations of the current NDAH Policy to the EOO, as required by Section II.C of the Policy.

No Retaliation

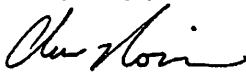
The NDAH Policy prohibits retaliation against any person for making a report of discrimination or harassment, for participating in the EOO's investigation of such a complaint, or for otherwise being associated with an EOO investigation. Allegations of retaliation are separately investigated and, if substantiated, provide an independent basis for disciplinary action. Retaliation includes intimidation, discrimination, harassment or any other adverse action against a person if motivated by a desire to punish that person for seeking the assistance of the Equal Opportunity Office or for cooperating with, or having any association with, an EOO investigation. Accordingly, neither you nor anyone else affiliated with UGA may retaliate against [REDACTED] or anyone else associated with this investigation or its outcome. Should you believe that retaliation is occurring, please immediately notify the Equal Opportunity Office.

Appeal Rights

The NDAH Policy gives any party (i.e., the complainant(s) and the respondent(s)) the opportunity to appeal the EOO's investigative findings to the University President. To do so, you must notify the Office of the President in writing that you want to appeal. This must be done within ten (10) working days (i.e., business days) from the date of receipt of this letter. Once the ten (10) day period has expired without your notifying the President's Office that you want to appeal, the findings become final and are not subject to further review. For more information on the appeal process, please see the "Right to Appeal" section of the NDAH Policy.

If you have any questions or concerns about the investigation or anything in this letter, please do not hesitate to contact me at (706) 542-4150 or cnorins@uga.edu.

Very truly yours,



Clare Norins
Assistant Director
Equal Opportunity Office

Cc. Victor Wilson, Vice President of Student Affairs

T.W. Cauthen III
January 21, 2016
Page 5

Bcc. Dr. Kathy Pharr