



CIVIL SERVICE COMMISSION CITY AND COUNTY OF SAN FRANCISCO

CIVIL SERVICE COMMISSION REPORT TRANSMITTAL (FORM 22)

1. Civil Service Commission Register Number: 0285-19-6
2. For Civil Service Commission Meeting of: March 16, 2020
3. Check One: Ratification Agenda
 Consent Agenda
 Regular Agenda X
 Human Resources Directors Report
4. Subject: Appeal by Juliet Valerio of the Human Resources Director's determination to administratively close Appellant's complaint of harassment and discrimination.
5. Recommendation: Adopt the report and deny Valerio's appeal
6. Report prepared by: Jude Diebold, DPH EEO Telephone number: (628) 206-5316
7. Notifications: Please see attached.
8. Reviewed and approved for Civil Service Commission Agenda:

Human Resources Director: Micki Callahan
Date: March 5, 2020



9. Submit the original time-stamped copy of this form and person(s) to be notified (see Item 7 above) along with the required copies of the report to:

**Executive Officer
Civil Service Commission
25 Van Ness Avenue, Suite 720
San Francisco, CA 94102**

10. Receipt-stamp this form in the ACSC RECEIPT STAMP box to the right using the time-stamp in the CSC Office.

Attachment

CSC-22 (11/97)

CSC RECEIPT STAMP

2020 MAR -5 AM 11:43
SAN FRANCISCO
CIVIL SERVICE COMMISSION
EXECUTIVE OFFICER
RECEIVED

NOTIFICATIONS

Juliet Valerio (Appellant)

[REDACTED]
[REDACTED]

Stephanie Felder (Respondent)

[REDACTED]
[REDACTED]

Sandra Stultz (Respondent)

[REDACTED]
[REDACTED]

Grant Colfax, MD

Director
Department of Public Health
101 Grove Street
San Francisco, CA 94102

Michael Brown

Human Resources Director
Department of Public Health
101 Grove Street
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Rhonda Simmons

Diversity and Inclusion Director
Department of Public Health
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Hallie Albert

EEO Programs Manager
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Human Resources Director
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Chief of Policy
Department of Human Resources
1 South Van Ness, 4th Floor
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Jude Diebold

EEO Programs Specialist
Department of Public Health
101 Grove Street
San Francisco, CA 94102

CIVIL SERVICE COMMISSION REPORT

MEMORANDUM

TO: Civil Service Commission

THROUGH: Micki Callahan, Human Resources Director
Department of Human Resources

THROUGH: Hallie Albert, EEO Programs Manager
Department of Public Health

FROM: Jude Diebold, EEO Programs Specialist
Department of Public Health

DATE: March 5, 2020

EEO FILE NO: 3207

REGISTER NO: 0285-19-6

APPELLANT: Juliet Valerio

I. AUTHORITY

The San Francisco Charter, Section 10.103 and Civil Service Commission (CSC) Rule 103 provide that the Human Resources Director shall review and resolve complaints of employment discrimination. Pursuant to CSC Rule 103.3, the CSC shall review and resolve appeals of the Human Resources Director's determinations.

II. BACKGROUND

Since 1987, Juliet Valerio has been employed with the City and County of San Francisco, and since 2010, Valerio has been a 2930 Behavioral Health Clinician with the Department of Public Health (DPH). From 2010 to 2016, Valerio performed crisis assessments. From 2016 to present, Valerio provides crisis case management services. Since 2016, Valerio reports to Sandra Stultz, 2953 Senior MFC Counselor/Case Manager Supervisor, though about twice a week she reports directly to Stephanie Felder, Comprehensive Crisis Services Manager.

A. Appellant's Complaint, EEO File No. 3207

On August 2, 2019, the Department of Human Resources, Equal Employment Opportunity Division (DHR EEO) received a "Department Report of Employment Discrimination Complaint" from Jude Diebold, EEO Programs Specialist, with the Department of Public Health Equal Employment Opportunity division (DPH EEO). Diebold reported Valerio's allegations

that Stultz (African American) harassed Valerio when Stultz “sided with Seneca contractors,” and “watched [Valerio] more carefully.” Additionally, Diebold reported Valerio’s allegation that Felder (African American) discriminated against Valerio due to Valerio’s age (over 40 years; on file) and ethnicity (Filipina) when Felder did not grant Valerio’s request to transfer away from Stultz’s supervision.

B. Human Resources Director’s Administrative Closure

In a letter dated September 27, 2019, the Human Resources Director explained that Valerio’s allegations, both those alleged in the intake interview and August 30, 2019 email, did not raise an inference of harassment or discrimination under EEO jurisdiction. The letter further stated that some of Stultz’s conduct, if true, may have violated the City’s Respect Policy and advised Valerio that DPH EEO took appropriate corrective action to address the alleged conduct. Thus Valerio’s harassment and discrimination complaint was deemed resolved and administratively closed without further investigation.

C. Valerio’s Appeal

On October 30, 2019, Valerio appealed the Human Resources Director’s determination to the CSC. In support of the appeal, Valerio asserted that Valerio’s complaint was misinterpreted by DPH EEO. Valerio did not provide any additional information or clarify what Valerio believes was misinterpreted about Valerio’s complaint.

III. ISSUE ON APPEAL TO THE CIVIL SERVICE COMMISSION

The issue on appeal is whether the Human Resources Director appropriately administratively closed Valerio’s complaint without conducting further investigation. Specifically, Valerio alleged DHR inappropriately closed the complaint because DHR did not meet with Valerio; DPH, as opposed to DHR, took corrective action to address the complaint and the corrective action taken was unclear to Valerio; and Valerio believes Valerio should be allowed to transfer away from Stultz’s supervision because four employees of different ethnicities and ages were allowed to do so.

IV. INVESTIGATIVE STANDARDS AND ANALYSIS

A. The City’s EEO Complaint Process

A DPH employee has the option of filing a discrimination complaint by reporting to a supervisor or filing directly with DHR or the DPH EEO office. Once received, the complaint is assigned to an investigator, who determines whether the complainant has alleged facts that, if true, would satisfy all the necessary elements for the particular theory of discrimination alleged.

To make this determination, the investigator usually schedules an intake interview. At the outset of the interview, the complainant is informed the investigator will take notes and the complainant observes the investigator taking notes during the interview. After the interview, the facts presented by the employee are summarized in the Intake Interview Notes. If DPH EEO conducts

the intake interview, the investigator sends the Intake Interview Notes and a Department Report of Complaint to DHR.

DHR reviews all complaints of discrimination, including recommendations for further investigation or resolution. If the complainant alleged facts that meet the elements of a claim or an investigation is necessary due to potentially warranted discipline, DHR assigns the complaint to DPH EEO for investigation. If the facts alleged do not fall within EEO jurisdiction or do not satisfy the elements of a claim, and/or appropriate corrective action can be taken without further investigation, DHR directs DPH EEO to draft a closure letter. If the alleged conduct taken as true, merits non-disciplinary corrective measures, such measures may be taken without further investigation. If non-disciplinary corrective action is appropriate within the guidelines of progressive discipline, DPH EEO takes that corrective action before DHR administratively closes the complaint.

A DPH EEO investigator then drafts correspondence to be reviewed and signed by the Human Resources Director and sent to the complainant informing the complainant that appropriate action was taken and further investigation is not needed. The letter does not disclose the action taken to preserve an employee's privacy rights.

Valerio believes the Human Resources Director is responsible for investigating every complaint, and every complaint must be investigated beyond the intake interview before it can be administratively closed. However, as explained above, this is not the City's process. As detailed below, further investigation was not required to sufficiently address Valerio's complaint.

B. The City's EEO Complaint Process was Properly Followed and the Administrative Closure was Appropriate

1. Valerio's Harassment Claim

To warrant further investigation, a harassment complaint must sufficiently allege all of the following: (1) the appellant was subjected to physical, verbal, or visual conduct on account of their membership in a protected category; (2) the conduct was unwelcome; and (3) the conduct was sufficiently severe or pervasive as to alter the terms and conditions of your employment and create an abusive working environment. Occasional, isolated, or trivial conduct does not give rise to a harassment claim.

a. Stultz Sides with Seneca Contactors Over Valerio

Based on the appeal and the administrative closure letter, Valerio believes that DPH EEO misinterpreted the facts presented in the intake interview, and incorrectly briefed the Human Resources Director, or the Human Resources Director misinterpreted what DPH EEO reported as to Valerio's complaint. However, Valerio did not present any new information in the appeal to demonstrate how her complaint was misinterpreted.

In the June 27, 2019 intake interview, Valerio alleged since early 2018, about once a week, Stultz sided with Seneca contractors by making comments to Valerio such as, "You need to learn

new things and do new things,” and implying Valerio needs to respond to emails within 24 hours. However, Valerio did not allege Stultz subjected Valerio to this verbal conduct on account of Valerio’s membership in a protected category, but rather because Stultz is “loyal to the Seneca contractors.” Additionally, the conduct is not objectively based on a protected category. Moreover, Stultz’s alleged conduct demonstrates a supervisor providing appropriate feedback and direction to an employee about the expectations of the position.

b. Stultz Watches Valerio More Carefully than Other Employees

Additionally, Valerio alleged Stultz “watches [Valerio] more carefully” than Valerio’s co-workers and requests Valerio to provide additional case analysis. Valerio was not sure why Stultz “targets” Valerio, but believes it may be because Valerio is Filipina. However, Valerio could not provide information to demonstrate Stultz’s conduct – which is a regular part of a supervisor’s duties – was due to Valerio being Filipina. First, the conduct is not objectively based on Valerio’s ethnicity. Second, Valerio – the only Filipina employee Stultz supervises – could not confirm whether Stultz follows up on the work of her non-Filipina coworkers. The information Valerio presented did not directly or by inference, support the claim that Stultz’s alleged conduct was due to Valerio’s ethnicity.

2. Valerio’s Discrimination Claim

To warrant further investigation, a complaint of discrimination must sufficiently allege all of the following: (1) the appellant is a member of a protected category; (2) the appellant suffered an adverse employment action; and (3) the appellant suffered an adverse employment action because of their membership in a protected category. An adverse employment action is any objectively materially adverse action affecting the terms, conditions, or privileges of employment. Actions considered materially adverse are those that impair a reasonable employee’s job performance or prospects for advancement.

Valerio is a member of a protected category based on Valerio’s ethnicity (Filipina) and age (over 40 years; on file). Valerio alleged that Felder denied Valerio’s request for a new supervisor due to Valerio’s ethnicity and age. However, Valerio did not suffer an adverse employment action because not being granted a requested change in supervision is not a materially adverse action. The terms, conditions and privileges of Valerio’s employment remained the same. Further, Valerio did not demonstrate that Felder’s denial of Valerio’s request to switch supervisors was based on Valerio’s ethnicity and/or age.

Not having one’s preferred supervisor does not necessarily impair an employee’s job performance or prospects for advancement. In Valerio’s case, Valerio acknowledged that Stultz actively encouraged Valerio to apply for a promotive position. While Valerio disliked Stultz’s feedback, the feedback Stultz provided to Valerio was intended to improve Valerio’s work.

While four employees who are non-Filipina were previously reassigned from Stultz’s supervision, those employees were Crisis Responders and were reassigned because, due to staffing changes, Felder was able to restructure supervision so they work under one of the two Crisis Responder Managers. Valerio is a Case Manager and Stultz is the Case Manager

supervisor. Assigning employees who perform specific functions to a supervisor who manages that same function is reasonable, as is reassigning or declining to reassign employees for that same purpose.

While the information Valerio provided did not support a claim of discrimination or harassment due to race or age, Valerio alleged that the non-Filipina coworkers who remain under Stultz's supervision also dislike working with Stultz. DPH EEO took appropriate corrective action to address with Stultz the conduct that, if true, violated the City's Respect Policy.

V. RECOMMENDATION

For the reasons set forth above, the Human Resources Director's decision should be upheld and the appeal should be denied.

VI. APPENDIX/ATTACHMENTS TO THE REPORT

Attached to this report are the following:

- Exhibit A: June 26, 2019 Interview Intake Notes and August 2, 2019 Department Report of Complaint.
- Exhibit B: September 27, 2019 Administrative Closure Letter from the Department of Human Resources.
- Exhibit C: October 30, 2019 Appeal Letter from Juliet Valerio.

Exhibit A



San Francisco Department of Public Health

Grant Colfax, MD
Director of Health

City and County of San Francisco
London N. Breed
Mayor

CONFIDENTIAL
INTERVIEW NOTES

Complainant: Juliet Valerio	DPH File No.: 19-06-00037
EEO Investigator: Jude Diebold, EEO Programs Specialist	Date & Time: June 26, 2018 from 9 a.m. to 10:30 a.m.
Others Present: n/a	
Location: DPH EEO, 2789 25 th Street, San Francisco, CA	Pages: 4

I. BACKGROUND INFORMATION

A. Complainant’s Employment History

Since 1987, Juliet Valerio has been employed with the City and County of San Francisco, and since 2010 she has been a Licensed Social Worker. From 2010 to 2016, she performed crisis assessments. From 2016 to present, she provides crisis case management services. Since 2016, Valerio reports to Sandra Stultz, Senior MFC Counselor, though about twice a week she reports directly to Stephanie Felder, Comprehensive Crisis Services Manager. Her regular hours are Monday through Friday, 11 a.m. to 7 p.m., with some flexibility. She sometimes flexes her hours on Tuesdays and Wednesdays to leave early.

B. Complainant’s Working Relationship with Respondents Sandra Stultz and Stephanie Felder

Valerio and Stultz have weekly supervision meetings. However, Valerio believes Stultz is incompetent, because when she asks for guidance Stultz often cannot provide an answer and does not always follow up with Valerio. Valerio often goes directly to Felder with her questions because Stultz can so seldom answer her questions. Valerio describes their relationship as “untenable,” and feels “bullied and harassed” by Stultz. They are not friends and do not go out socially. Valerio describes Stultz as, “not supportive,” and states that she “feels undermined” by Stultz.

Since 2010, Valerio has worked with Felder. Valerio consults with Felder when she has difficult cases. They are not friends and do not go out socially. She describes Felder as someone who, “hates confrontation,” and “tries to avoid confrontation.”

II. HARASSMENT ALLEGATIONS

A. Early 2018 to present – Stultz Sides with Contractor

From 2016 to 2018, Valerio believes her interaction with Stultz were okay. However, in early 2018, Valerio began receiving emails from a third party contractor, Seneca. The direct service worker “questioned [Valerio’s] clinical decisions,” and “made unrealistic requests,” such as requesting a response to emails within 24 hours. The contractor seemed to be “supported by Stultz.” Valerio received about one email a week from the Seneca contractors and believed the emails were, “aggressive and demanding.” Stultz was often copied on the email, and told Valerio, “We need to learn new things and do new things.” Valerio believes Stultz implied she needs to respond to the emails right away.

From early 2018 to present, Valerio believes Stultz made one comment a week that was in support of the Seneca contractors’ request. This made Valerio feel “undermined.” Valerio believes Stultz made comments such as, “We need to learn to learn new things and do new things,” because Stultz, “is more loyal to Seneca.” Valerio feels it would be more appropriate for Stultz to step in and let the Seneca contractor know they are being unreasonable in their requests. She believes [REDACTED] (title unknown) and [REDACTED] Health Worker III, may have heard Stultz speak with Valerio defending the Seneca contractors, because they all work in the same room.

B. March 2018 – Stultz Watches Valerio “More Carefully”

Since March 2018, Valerio believes Stultz “watches her more carefully.” Starting in March 2018, Stultz followed up with Valerio on her cases, and asked for additional analysis on some of her cases. Valerio is not sure why Stultz “targets her,” but believes it may be because she is Filipina. However, Valerio could not recall any comments or conduct that made her feel that she was targeted because of her Filipina ethnicity. She is unsure of whether Stultz follows up with her non-Filipina coworkers.

Valerio believes Stultz is more supportive of her coworkers who are not Filipina, but also acknowledged that many of her coworkers who are non-Filipina “hate working with [Stultz].” Valerio also acknowledged that she, “just had to ask if [her Filipina ethnicity] is why this is happening.”

C. March 2018 – Request to Change Supervisors

In January 2018, Valerio spoke with Stultz during her supervision meetings, and Felder who was sometimes present, about the emails from the Seneca contractor. Valerio felt bullied when Stultz and Felder sided with the Seneca contractor’s requests. Valerio is not sure how many times Felder “sided with” Stultz.

In January 2018, Valerio began going straight to Felder for her questions in order to avoid interactions with Stultz. Also in January 2018, Valerio asked Felder if she could no longer be supervised by Stultz. Felder responded, “I don’t know if that can be done, but maybe.” However, in mid-2018, Felder told Valerio, “Let’s try to work it out with [Stultz].” Valerio is aware of four employees, all who are not Filipina, who previously asked to be moved from Stultz’s supervision and were accommodated by Felder. The employees who were transferred away from Stultz’s

supervision include: [REDACTED] Behavioral Health Clinician, (Chinese), [REDACTED] Health Worker III, (Black), [REDACTED] Health Worker III (Black), and [REDACTED], Behavioral Health Clinician, (Chinese). Thus far, Valerio still works under Stultz's supervision and has not been reassigned.

In June 2019, Valerio became upset during a meeting with Stultz and Felder, and walked out of the meeting. On June 13, 2019, Felder emailed Valerio and said, "Despite the request for a new supervisor, [she] must attend weekly supervision with [Stultz] or could be subject to discipline." Valerio "feels sick" that her request to be moved away from Stultz's supervision has not been accommodated, and "just has to ask" if it is because of her Filipina ethnicity. Valerio does not understand why she was not "afforded the same treatment" as her other coworkers who no longer have to work under Stultz.

Additionally, Valerio acknowledged that Felder may not have moved her because, "No one wants to work under [Stultz]."

III. DISCRIMINATION ALLEGATIONS

In January 2019, Stultz and Felder told Valerio about a Senior Psychiatric Supervisor position and encouraged her to apply. In March 2019, Valerio applied for the Senior Psychiatric Supervisor position. She is concerned Stultz will not select her for the position due to her age ([REDACTED]). Stultz and Felder are the hiring managers for the vacancy.

In late 2018, Valerio applied for the same vacancy, but did not get the position. [REDACTED] (last name unknown) was awarded the position. [REDACTED] "is younger," however, Valerio also noted that [REDACTED] had more experience than her, and that is likely why she was awarded the position.

In late 2018, Valerio noticed [REDACTED] receiving additional training before the job was awarded. In June 2019, she noticed Stultz is providing [REDACTED] Behavioral Health Clinician, additional training, and Valerio believes [REDACTED] is being groomed for the new position. [REDACTED] is born in [REDACTED]

IV. IMPACT

Valerio has stomach aches and feels overwhelmed and anxious at work due to Stultz's lack of support. She takes medication for her stomach pains, and sees a doctor for her work related stress.

Valerio occasionally takes time off of work due to stress. She took off one day of work last week.

V. COMPLAINTS WITH EXTERNAL AGENCIES

Valerio has not filed a complaint with DFEH or the EEOC, but reached out to her Union, and is considering filing a grievance against Felder for not letting her transfer away from Stultz's supervision.

VI. REMEDIES

Valerio would like to no longer work under Stultz's supervision.

DEPARTMENT REPORT OF EMPLOYMENT DISCRIMINATION COMPLAINT

* Report Within Five Working Days of Receipt of Complaint*

Return to: Linda Simon, Director, DHR/EEO Division, One South Van Ness, 4th Floor, San Francisco, CA 94103

1. Department/Worksite: Department of Public Health, 3801 3rd St. San Francisco, CA 94124,

Comprehensive Crisis Services

2. Complainant: Juliet Valerio (DSW# [redacted]) Tel. No. (Work): 415-920-7712

Address: [redacted] Tel. No. (Home): [redacted]

3. Complaint Filing Date: June 26, 2019 Classification: 2930 Behavioral Health Clinician

4. Complainant's Current Employment Status (circle one):
PCS TCS LT NCS PV PE TE PROB NOT A CITY EMPLOYEE

- 5. Basis of Discrimination (specify):
Race:
Color:
Religion:
Creed:
Sex:
National Origin:
Ethnicity: Filipina
Age:
Disability/Medical Condition:
Political Affiliation:
Sexual Orientation:
Ancestry:
Marital or Domestic Partner Status:
Gender Identity:
Parental Status:
Other Non-Merit Factors:
Retaliation:

- 6. Issue complained of:
Denial of Employment
Denial of Training
Denial of Promotion
Denial of Reasonable Accommodation
Termination
Lay-off
Constructive Discharge
Disciplinary Action
Harassment
Work Assignment
Sexual Harassment
Compensation
Other (please specify):

7. Describe the circumstances of the alleged discrimination and include date(s) of adverse employment action(s): Please see attached Interview Intake Notes

8. Has the Complainant filed a grievance or lawsuit regarding this complaint? Yes No
If yes, please specify:

9. Is the Complainant represented by a Union or an Attorney? Yes No

Name: 0011 Organization/Firm: SEIU 1021

Address: _____

Phone No.: _____

- *10. What steps does the department recommend be taken to address this complaint? (For instance, investigation, alternative dispute resolution, dismissal)

DPH EEO Recommends Closure

I. Harassment Allegations

- A. Early 2018 to present, Stultz “sides with the contractor”

Valerio alleged that from early 2018 until present, about once a week, Sandra Stultz, Senior MFC Counselor, sided with a Seneca contractor’s “demanding requests” by telling Valerio, “we need to learn new things, and do new things” and implying Valerio needs to respond to emails within 24 hours. However, Valerio did not allege that this conduct occurred due to her membership in a protected category, but rather stated she believes it occurs because, “[Stultz] is more loyal to [the Seneca contractor].”

- B. March 2018, Felder does not allow Valerio to switch supervisors, “sides with” Stultz

Valerio alleged that in January 2018, Stephanie Felder, Comprehensive Crisis Services Manager, “sometimes” sided with Stultz’s opinion that Valerio should try to comply with the Seneca contractor’s “demanding requests.” Further, Valerio alleged that in January 2018, after she asked to be switched to a supervisor other than Stultz, Felder responded, “I don’t know if that can be done, but maybe.” However, mid 2018, Felder told Valerio, “Let’s try to work it out with [Stultz].”

Valerio alleged that she was denied transfer to a different supervisor because of her Filipina ethnicity, because she is aware of four non-Filipina coworkers who were previously allowed to transfer away from Stultz’s supervision. However, Valerio also acknowledged Felder may not have moved her because, “No one wants to work with [Stultz],” and Valerio could not recall any comments or conduct to infer a relationship between her protected category and the alleged conduct.

- C. March 2018, Stultz “watches Valerio more carefully”

Valerio alleged that from March 2018 to present, Stultz “watches her more carefully,” by following up on Valerio’s cases and asking for further analysis on her cases, due to her Filipina ethnicity. However, Valerio did not allege or offer any supporting information to demonstrate Stultz was treating her differently than non-Filipina co-workers. Additionally she acknowledged that many of her coworkers who are non-Filipina “also hate working with [Stultz],” and could not recall any comments or conduct to infer a relationship between her protected category and the alleged conduct.

II. Discrimination Allegations

In March 2019, Valerio applied for a promotive position, at the encouragement of Felder and Stultz. However, Valerio is concerned she will suffer an adverse employment action by not being awarded the promotion due to her age (██████████). However, as the position has not been awarded yet, Valerio has not suffered an adverse employment action. Valerio merely speculated ██████████ 2930 Behavioral Health Clinician, may be awarded the position, because Stultz has provided additional training to ██████████

Finally, Valerio acknowledged Stultz and Felder encouraged her to apply for the position, further inferring that even if she is not awarded the position, it is not due to her age, since Stultz and Felder pursued her candidacy for the position.

*10a. Name and position of staff who will implement recommended steps:

DPH EEO

11. Completed by: Jude Diebold, EEO Programs Specialist Date: August 2, 2019

Address: 2789 25th Street, San Francisco, California, 94110 Tel. No. (628) 206-5316

*12. Please notify DHR EEO in written form immediately upon resolution of this complaint.

***Subject to the Human Resources Director's approval**

HUMAN RESOURCES DIRECTOR REVIEW

Complaint is assigned EEO File Number: _____

Approve department's recommendations for addressing complaint. Proceed and notify HR Director of actions, findings, and recommendations for resolution.

Complaint is assigned by HR Director to: _____
and/or the following actions are to be taken: _____

for Micki Callahan, Human Resources Director

Date

Exhibit B

City and County of San Francisco
Micki Callahan
Human Resources Director



Department of Human Resources
Connecting People with Purpose
www.sfdhr.org

CONFIDENTIAL

September 27, 2019

Juliet Valerio
[REDACTED]

Via U.S. Mail

RE: Complaint of Discrimination, EEO File No. 3207

Dear Juliet Valerio:

The San Francisco Charter, Section 10.103 and Civil Service Rule 103, provide that the Human Resources Director shall review and resolve all complaints of employment discrimination. The Charter defines discrimination as a violation of civil rights on account of race, religion, disability, sex, age, or other protected category. The City and County of San Francisco (City) considers all allegations of discrimination a serious matter. The purpose of this letter is to inform you of my decision regarding your complaint, EEO File No. 3207.

On August 2, 2019 the Department of Human Resources, Equal Employment Opportunity Division (DHR EEO) received a "Department Report of Employment Discrimination Complaint" from Jude Diebold, EEO Programs Specialist, with the Department of Public Health Equal Employment Opportunity division (DPH EEO). Diebold reported that you alleged harassment by Sandra Stultz, (African American) 2953 Senior MFC Counselor, based on your ethnicity (Filipina) and discrimination by Stultz and Stephanie Felder, (African American) Comprehensive Crisis Services Manager, due to your age [REDACTED] and ethnicity.

Thank you for bringing your concerns to my attention. I recognize that the alleged conduct was upsetting to you and it may have been difficult for you to make your complaint. Some of Stultz's alleged conduct, if true, violated the City's Policy Regarding the Treatment of Co-Workers and Members of the Public. Therefore, DPH took appropriate action to address the alleged conduct and this matter is deemed resolved and your complaint will be administratively closed. Please be advised that should you experience any new instances of inappropriate conduct, please contact Hallie Albert, EEO Manager with DPH, at (628) 206-4158.

I. BACKGROUND AND ALLEGATIONS

Since 1987, you have been employed with the City and County of San Francisco. From 2016 to present, you have been a 2930 Behavioral Health Clinician with Comprehensive Crisis Services, reporting to Stultz, though about twice a week you report directly to Felder.

You alleged Stultz subjected you to the following conduct:

(1) From early 2018 until present, about once a week, Stultz sided with a Seneca contractor's "demanding requests" by telling you, "We need to learn new things, and do new things" and implying you need to respond to emails within 24 hours. You believe Stultz sided with the contractor because, "she is more loyal to Seneca."

(2) Since March 2018, Stultz watches you more carefully than your co-workers and asks for additional analysis on your cases. You believe Stultz is more supportive of non-Filipina employees, but did not provide additional information to support your allegations. You are not sure if Stultz follows up on your non-Filipina coworkers' work.

Further, you alleged in January 2018, you asked Felder if you could no longer be supervised by Stultz. Felder responded, "I don't know if that can be done, but maybe." However in mid-2018, Felder told you, "Let's try to work it out with [Stultz]," whereas four non-Filipina employees were previously allowed to transfer away from Stultz's supervision.

Also, you alleged in January 2019, Felder and Stultz told you about a Senior Psychiatric Supervisor position and encouraged you to apply. However in June 2019, you noticed Stultz providing additional training to [REDACTED], and you believe she is being groomed for the position. You believe you will not be selected for the position due to your age, (born in [REDACTED])

On August 30, 2019, you emailed Diebold and additionally alleged that in May 2019, Stultz gave you an additional task, despite your busy schedule and other staff being available to perform the task. However, you also acknowledged that upon request, the additional assignment was reassigned to another staff member.

Further, you alleged in your August 30, 2019 email to Diebold that on August 7, 2019, Felder inquired about your interest in being interviewed for a promotive position. On August 8, 2019, [REDACTED] was announced to be acting temporarily in the promotive position. On August 14, 2019, you were interviewed for the position.

Finally, you alleged in your August 30, 2019 email to Diebold that in late August 2019, Stultz accused you of not reporting on time to a scheduled shift and "threatened disciplinary action," which you believe is "fraud." However, you did not allege you were subjected to disciplinary action for this incident.

II. INVESTIGATIVE STANDARDS AND ANALYSIS

A. Harassment Allegations

To warrant further investigation, a harassment complaint must establish all of the following: (1) you were subjected to physical, verbal, or visual conduct on account of your membership in a protected category; (2) the conduct was unwelcome; and (3) the conduct was sufficiently severe or pervasive as to alter the terms and conditions of your employment and create an abusive

working environment. Occasional, isolated, or trivial conduct does not give rise to a harassment claim.

You alleged since early 2018, about once a week, Stultz sided with Seneca contractors by making comments to you such as, "You need to learn new things and do new things." However, you did not allege Stultz subjected you to this verbal conduct on account of your membership in a protected category, but rather, because Stultz is loyal to the Seneca contractors.

Further, you alleged Stultz "watches you more carefully" than your co-workers and requests additional analysis of your cases. You are not sure why Stultz, "targets you," but believe it may be because you are Filipina. However, you also could not provide sufficient information to link the conduct to your membership in a protected category, as you are not sure if Stultz follows up on the work of your non-Filipina coworkers as well.

B. Discrimination Allegations

To warrant further investigation, a discrimination/disparate treatment complaint must establish all of the following: (1) you are a member of a protected category; (2) you suffered an adverse employment action; and (3) you suffered an adverse employment action because of your membership in a protected category. An adverse employment action is any objectively materially adverse action affecting the terms, conditions, or privileges of employment. Actions considered materially adverse are those that impair a reasonable employee's job performance or prospects for advancement.

You are a member of a protected category based on your ethnicity (Filipina) and age (born in [REDACTED]). You alleged that Felder denied your request to move from Stultz's supervision due to your ethnicity. However, although four employees who are not Filipina had been previously moved from Stultz's supervision, you acknowledged that the non-Filipina coworkers who remain under Stultz's supervision also dislike working with Stultz.

You also alleged in March 2019, you applied for a promotive position, at the encouragement of Felder and Stultz. You believe you will suffer an adverse employment action by not being awarded the promotion due to your age. However, although [REDACTED] is acting in the position, [REDACTED] was not selected for the position, and therefore you have not suffered an adverse employment action.

Further, you alleged in May 2019, Stultz assigned you an additional task, when other employees were not as busy. However, you also acknowledged that upon your request, Stultz reassigned the task to another employee, thus you have not suffered an adverse employment action.

Finally, you alleged that in late August 2019, Stultz accused you of reporting late to a shift and "threatened discipline." However, to date, no disciplinary action has occurred, thus you have not suffered an adverse employment action.

III. DETERMINATION OF THE HUMAN RESOURCES DIRECTOR

Based on the information provided, it is my determination that your complaint, EEO File No. 3207, will not be further investigated and is administratively closed. My determination is final unless it is appealed to the Civil Service Commission and is reversed or modified. A request for appeal must be received by the Civil Service Commission at 25 Van Ness Avenue, Room 720, San Francisco, CA, 94102, within 30 calendar days from the postmarked mailing date of this letter.

For your information, you may file a complaint of employment discrimination with the California Department of Fair Employment and Housing, or the United States Equal Employment Opportunity Commission. Contact those agencies directly for filing requirements and deadlines.

Please feel free to contact Linda C. Simon, Director, EEO and Leave Programs, Department of Human Resources, at (415) 557-4837, should you have any questions.

Sincerely,



for Micki Callahan
Human Resources Director

- c: Grant Colfax, MD, Director, DPH
Ron Weigelt, Human Resources Director, DPH
Rhonda Simmons, Director, Diversity, Inclusion & Employee Relations, DPH
Hallie A. Albert, EEO Programs Manager, DPH
Linda C. Simon, Director, EEO and Leave Programs, DHR

Exhibit C



CIVIL SERVICE COMMISSION CITY AND COUNTY OF SAN FRANCISCO

LONDON N. BREED
MAYOR

NOTICE OF RECEIPT OF APPEAL

ELIZABETH SALVESON
PRESIDENT

KATE FAVETTI
VICE PRESIDENT

DOUGLAS S. CHAN
COMMISSIONER

F. X. CROWLEY
COMMISSIONER

JACQUELINE P. MINOR
COMMISSIONER

SANDRA ENG
ACTING EXECUTIVE OFFICER

DATE: November 4, 2019
REGISTER NO.: 0285-19-6
APPELLANT: JULIET VALERIO

Micki Callahan
Human Resources Director
Department of Human Resources
1 South Van Ness Avenue, 4th Floor
San Francisco, CA 94103

Dear Ms. Callahan:

The Civil Service Commission has received the attached letter from Juliet Valerio, appealing the Human Resources Director's decision to administratively close her discrimination complaint, EEO File No. 3207 without further investigation. Your review and action are required.

If this matter is not timely or appropriate, please submit CSC Form 13 "Action Request on Pending Appeal/Request," with supporting information and documentation to my attention at 25 Van Ness Avenue, Suite 720, San Francisco, CA 94102. CSC Form 13 is available on the Civil Service Commission's website at www.sfgov.org/CivilService under "Forms."

In the event that Juliet Valerio's appeal is timely and appropriate, the department is required to submit a staff report in response to the appeal within sixty (60) days so that the matter may be resolved in a timely manner. Accordingly, **the staff report is due no later than 11 a.m. on December 26, 2019** so that it may be heard by the Civil Service Commission at its meeting tentatively scheduled on January 6, 2020. If you will be unable to transmit the staff report by the December 26th deadline, or if required departmental representatives will not be available to attend the January 6th meeting, please notify me by use of CSC Form 13 as soon as possible, with information regarding the reason for the postponement and a proposed alternate submission and/or hearing date.

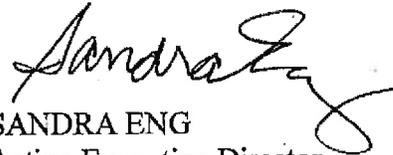
You may contact me at Sandra.Eng@sfgov.org or (415) 252-3247 if you have any questions. For more information regarding staff report requirements,

Appellant: Juliet Valerio
November 4, 2019
Page 2 of 2

meeting procedures or future meeting dates, please visit the Commission's website at www.sfgov.org/CivilService.

Sincerely,

CIVIL SERVICE COMMISSION



SANDRA ENG
Acting Executive Director

Attachment

Cc: Jeanne Buick, Department of Human Resources
Linda Simon, Department of Human Resources
Mawuli Tugbenyoh, Department of Human Resources
Matthew Valdez, Department of Human Resources
Michael Brown, Department of Public Health
Hallie Albert, Department of Public Health
Karen Hill, Department of Public Health



CIVIL SERVICE COMMISSION CITY AND COUNTY OF SAN FRANCISCO

LONDON N. BREED
MAYOR

Sent via U.S. Mail and Email

November 4, 2019

Juliet Valerio



ELIZABETH SALVESON
PRESIDENT

KATE FAVETTI
VICE PRESIDENT

DOUGLAS S. CHAN
COMMISSIONER

F. X. CROWLEY
COMMISSIONER

JACQUELINE P. MINOR
COMMISSIONER

Subject: **Register No. 0285-19-6: Appealing the Human Resources Director's Decision to Administratively Close your Discrimination Complaint, EEO File No. 3207 Without Further Investigation.**

Dear Juliet Valerio:

This is in response to your appeal submitted to the Civil Service Commission on October 30, 2019 appealing the Human Resources Director's decision to administratively close your discrimination complaint, EEO File No. 3207 without further investigation. Your appeal has been forwarded to the Department of Human Resources for investigation and response to the Civil Service Commission.

If your appeal is timely and appropriate, the department will submit its staff report on this matter to the Civil Service Commission in the near future to request that it be scheduled for hearing. The Civil Service Commission generally meets on the 1st and 3rd Mondays of each month. You will receive notice of the meeting and the department's staff report on your appeal two Fridays before the hearing date via email, as you have requested on your appeal form. A hard copy of the report will also be available for your review at the Commission's offices located at 25 Van-Ness Avenue, Suite 720, San Francisco, CA 94102.

In the meantime, you may wish to compile any additional information you would like to submit to the Commission in support of your position. The deadline for receipt in the Commission office of any additional information you may wish to submit is 5:00 p.m. on the Tuesday preceding the meeting date (note that the Commission requires an original and nine copies of any supplemental/rebuttal materials you wish to submit—all double-sided, hole-punched, paper-clipped and numbered). Please be sure to redact your submission for any confidential or sensitive information (e.g., home addresses, home or cellular phone numbers, social security numbers, dates of birth, etc.), as it will be considered a public document.

You may contact me by email at Sandra.Eng@sfgov.org or by phone at (415) 252-3247 if you have any questions. You may also access the Civil Service Commission's meeting calendar, and information regarding staff reports and meeting procedures, on the Commission's website at www.sfgov.org/CivilService.

Sincerely,

CIVIL SERVICE COMMISSION

SANDRA ENG
Acting Executive Director

Cc: Micki Callahan, Department of Human Resources
Jeanne Buick, Department of Human Resources
Linda Simon, Department of Human Resources
Mawuli Tugbenyoh, Department of Human Resources
Matthew Valdez, Department of Human Resources
Michael Brown, Department of Public Health
Hallie Albert, Department of Public Health
Karen Hill, Department of Public Health

0022

October 30, 2019

The Civil Service Commission
25 Van Ness Avenue, Room 720
SF, CA 94102

RE: Complaint of Discrimination, EEO File No. 3207

Dear Honorable Commissioners,

I am writing to formally appeal HR's final determination of my complaint against Comprehensive Crisis Services (CCS) Management including my supervisor of record Sandra Stultz and program Director Stephanie Felder. I made a verbal complaint of discrimination and harassment to DPH EEO. I was not asked to put it in writing. The complaint, as interpreted by EEO was passed on to Ms. Callahan to respond. There was no investigation by either EEO or Ms. Callahan and Ms. Callahan administratively closed it without even speaking to me to confirm that what she was told by EEO was accurate or complete. In fact, based on some of what Ms. Callahan wrote, such as the emphasis on Ms. Stultz siding with Seneca because she is more loyal to that contractor, she was not told the correct gist of my complaint or she mis-interpreted what she was told.

Ms. Callahan closed my complaint on the ground that if true it was a violation of the City's policy which freed her from the legal requirement of conducting an investigation into my discrimination and harassment complaint and allowed her to dispose of it without even speaking to me.

I am the only Filipina bi-lingual/bi-cultural Licensed Clinical Social Worker (LCSW). I have an excellent record at Comprehensive Crisis Services. I have worked in the Department of Public Health for 31 years and I am [REDACTED]

Ms. Callahan, HR director acknowledged in her written response to my verbal complaint to DPH EEO (Exhibit 1) that Sandra Stultz's conduct, "if true", violated the City's Policy Regarding the Treatment of Co-workers and Members of the Public. Thus, Ms. Callahan acknowledged that there was a problem, if my allegations were true, but there was no investigation. I know that no one from DHR ever spoke to me about my complaint and I only spoke with DPH EEO. I am not aware of anyone else being interviewed. Why not at least speak to me to be sure that what was passed on by DPH EEO was accurate?

Ms. Callahan did not accept my complaint as true, referring to it as "if true" and since there was no investigation, the "appropriate action" she referred to in her response letter was likely half-hearted at best. Ms. Callahan interpreted my complaint as a violation of City policy rather than discrimination, which she apparently believed meant that she did not need to investigate whereas a complaint of discrimination must be investigated as a matter of law. I provided information about my supervisor's being of a different race than I am-they were African-America and I am Filipina. Part of my complaint included refusal to transfer me to a different supervisor. And I provided the names, ages and races/national origins of 4 younger employees of different races/national origins than mine, who were transferred to different supervisors upon request. That was enough to establish a complaint of discrimination and my complaint should have been investigated.

Ms. Callahan deemed my complaint resolved and closed because DPH supposedly took appropriate action to address the alleged conduct without ever talking to me or investigating the circumstances. What kind of corrective action would they take if Ms. Callahan said Ms. Stultz's behavior was a violation of policy "if true" and without any investigation to determine the full extent of my complaint. Especially after Ms. Felder refused to correct some of Ms. Stultz's conduct.

My case was closed without any indication of corrective action/resolution by Ms. Stultz and Ms. Felder or offering options to mitigate the situation. This is not appropriate. It is disrespectful to me, a 31-year City

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X' M. Callahan
M. Tugbonyah
L. Simon
M. Valdez
J. Buick
M. Brown
K. Hill
H. Albert

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CIVIL SERVICE COMMISSION
25 VAN NESS AVENUE
SAN FRANCISCO, CA 94102

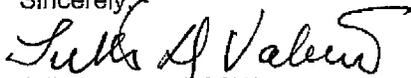
employee and it does not adequately address the City's obligation as an employer, to prevent discrimination/harassment against its employees. I am the only Filipina, bi-lingual/bi-cultural, Licensed Clinical Social Worker (LCSW) with excellent record at Comprehensive Crisis Services. Ms. Callahan should have done a full investigation.

To reiterate, I requested a new Supervisor because of Ms. Sandra Stultz's harassment and hostility towards me, but it was denied by Ms. Stephanie Felder, CCS Director. Both Ms. Stultz, [REDACTED] and Ms. Felder, in [REDACTED] is African American, of a different race/national origin than I and younger than I (Filipina, [REDACTED]). Much younger people/staff of different races/national origin who did not want to remain under Ms. Stultz's supervision had their request for a new supervisor approved and granted. These include the following: 1) [REDACTED] Health Worker III, African-American male, [REDACTED] 2) [REDACTED] Health Worker III, African-American female, [REDACTED] 3) [REDACTED] MFT, Behavioral Health Clinician, Chinese, female, [REDACTED] and 4) [REDACTED] LCSW, Behavioral Health Clinician, Chinese, female, [REDACTED] I am the only Filipina Licensed Clinical Social Worker (LCSW), [REDACTED] at Comprehensive Crisis Services. Ms. Stultz and Ms. Felder were not merely violating CCSF rules, they were discriminating against me in violation of state and federal law.

In the process of reviewing my complaint, did Ms. Callahan or anyone from her staff even talk with Ms. Stultz and Ms. Felder? They did not speak to me.

I was so distressed by this hostile work environment and on-going harassment at my worksite, and by EEO and DHR ignoring the essence of my complaint that my doctor put me on temporary disability, and I have been on FMLA since September 3, 2019. The remedy that I seek is a lateral transfer to an alternative CBHS work site because at this time, I am traumatized by this treatment after 31 years in the Department of Public Health and I feel that Comprehensive Crisis Services would be too stressful for me. Thank you.

Sincerely,



Juliet Valerio, LCSW
[REDACTED]

CC: Ms. Micki Callahan, Director, Department of Human Resources
One South Van Ness, 4th Floor, SF, CA 94103-5413

CC: e.benay

[REDACTED]