



CIVIL SERVICE COMMISSION CITY AND COUNTY OF SAN FRANCISCO

CIVIL SERVICE COMMISSION REPORT TRANSMITTAL (FORM 22)

Refer to Civil Service Commission Procedure for Staff - Submission of Written Reports for Instructions on Completing and Processing this Form

1. Civil Service Commission Register Number: 0081-20-6
2. For Civil Service Commission Meeting of: August 3, 2020
3. Check One:
 - Ratification Agenda
 - Consent Agenda
 - ✓ Regular Agenda
 - Human Resources Director's Report
4. Subject: Appeal by Dennis Mars of the Human Resources Director's determination to administratively close his complaint of discrimination.
5. Recommendation: Adopt the report and deny Mars' appeal.
6. Report prepared by: Jan Kawano, DHR EEO Telephone number: (415) 557-4963
7. Notifications: Please see attached.
8. Reviewed and approved for Civil Service Commission Agenda:
 - Human Resources Director: Micki Callahan
 - Date: July 23, 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:

A handwritten signature in blue ink, appearing to read "Micki Callahan", is written over the typed name and date.

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

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

CSC RECEIPT STAMP

Attachment

NOTIFICATIONS

Dennis Mars (Appellant)

[REDACTED]

Willie Haynes (Respondent)

[REDACTED]

Chauncey Jackson (Respondent)

[REDACTED]

Maggie Tan (Respondent)

[REDACTED]

Denise Fisher (Respondent)

[REDACTED]

Dr. Grant Colfax

Director of Public Health
101 Grove Street, Room 308
San Francisco, CA 94102

Michael Brown

DPH Human Resources Director
101 Grove Street, Room 303
San Francisco, CA 94102

Rhonda Simmons

DPH Labor Relations Director
375 Laguna Honda Blvd.
San Francisco, CA 94116

Michael Forman

Human Resources Analyst
DPH Labor Relations
375 Laguna Honda Blvd. Room B-100
San Francisco, CA 94116

Hallie Albert

DPH EEO Programs Manager
2789 25th Street, Room 339
San Francisco, CA 94110

Micki Callahan

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

Linda C. Simon

Director, EEO and Leave Programs
Department of Human Resources
1 South Van Ness Avenue, 4th Floor
San Francisco, CA 94103

Mawuli Tugbenyoh

Chief of Policy
Department of Human Resources
1 South Van Ness Avenue, 4th Floor
San Francisco, CA 94103

Jan Kawano

EEO Programs Specialist
Department of Human Resources
1 South Van Ness Avenue, 4th Floor
San Francisco, CA 94103

CIVIL SERVICE COMMISSION REPORT

MEMORANDUM

TO: Civil Service Commission

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

FROM: Jan Kawano, EEO Programs Specialist

DATE: July 23, 2020

EEO FILE NO: 3332

REGISTER NO: 0081-20-6

APPELLANT: Dennis Mars

I. AUTHORITY

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

II. BACKGROUND

Since November 17, 2014, Dennis Mars has been employed as a 2736 Porter with the Department of Public Health (DPH), Environmental Services (EVS) Department at Laguna Honda Hospital. Willie Haynes, 2736 Porter, is Mars' co-worker. Mars reports to Olga Daza, 2740 Porter Supervisor.

A. Appellant's Complaint, EEO File No. 3332

On November 5, 2019, Mars made a walk-in complaint with the Department of Human Resources, Equal Employment Opportunity (DHR EEO) Division, alleging that Haynes harassed and retaliated against Mars and subjected Mars to workplace violence. Mars also alleged that Chauncey Jackson, Director of EVS, gave him a low score on his Performance Plan and Appraisal Report (PPAR) and that Denise Fisher, 1244 Senior Human Resources Analyst with DPH, inaccurately reported a complaint against him.

On November 7, 2019, DHR EEO received a "Department Report of Employment Discrimination Complaint" from Hallie Albert, EEO Programs Manager with the Department of Public Health, EEO Division (DPH EEO). Albert reported that Mars alleged that Maggie Tan

(Asian), 2603 Food Service Worker, and Haynes (African American) harassed Mars due to his race (African American).

1. Harassment Allegations

Mars alleged that, from early 2018 to October 2019, Haynes subjected him to unwelcome verbal conduct as follows:

- (1) In early 2018, Mars greeted Haynes, and Haynes told Mars, “It ain’t my fucking Friday. Don’t say shit to me before I fuck you up. Say something.” Mars reported Haynes’ comment that day to George Falley, 2740 Porter Supervisor. Mars also reported his complaint to Jackson, and Jackson told Mars, “Why don’t you let it blow over?” and did not resolve the conflict since Jackson and Haynes are friends.
- (2) From 2018 to July 2019, about every other day, Haynes swore at and threatened Mars – Mars did not provide specifics regarding the alleged swearing or threats. When Mars greeted Haynes, Haynes sometimes told Mars, “Don’t say shit to me.”
- (3) Haynes spread rumors that Mars was lazy, better than everyone, and that he did not like Mars.
- (4) On October 18, 2019, Haynes told Mars, “What the fuck you looking at, you punk ass ni***? You got something to say to me?” Mars alleged that Haynes gave him a “violent” and “unstable” look, that Mars felt fearful and physically unsafe, and reported to EVS Management that Haynes was trying to intimidate him. Mars believes Haynes made these comments because Jackson told Haynes that Haynes’ name came up during an October 17, 2019 meeting about a grievance Mars filed against Jackson, Haynes and Jackson are friends, and Haynes believes that John Grimes, Chief Operations Officer, will protect him.

On October 18, 2019, Mars reported Haynes’ conduct to Daza, Falley, the Sheriff’s Department, and unsuccessfully tried to meet with Louise Brooks-Houston, Department Personnel Officer with DPH.

When asked why Haynes engaged in this conduct towards Mars, Mars stated, “[Haynes] doesn’t want you to rise above him... He’s envious of my success in my position.”

Additionally, Mars alleged that, on October 9, 2019, Tan asked him why he was not “sitting with [his] friends” while pointing at a group of African American employees.

2. Retaliation Allegations

Mars alleged that Haynes’ above described conduct was also retaliation for reporting Haynes for inappropriate conduct, participating in “conflict resolution” with Haynes, and for complaining to DPH HR about Jackson’s failure to report his previous harassment and workplace violence complaint against Haynes.

3. Non-EEO Allegations

Mars alleged that, on an unknown date, Jackson unfairly gave him a score of [REDACTED] on his PPAR so that Jackson could hire a “more submissive” employee, and that Jackson was uncomfortable with Mars in part due to Jackson’s loyalty to Haynes. Additionally, Mars alleged that Fisher inaccurately reported to Jackson that Mars drove recklessly on the freeway and tried to run Fisher off the road.

B. Human Resources Director’s Administrative Closure

On February 14, 2020, the Human Resources Director informed Mars that some of Haynes’ and Tan’s conduct, if true, violated the City’s Equal Employment Opportunity (EEO) Policy and Policy Regarding the Treatment of Co-workers and Members of the Public (Respect Policy), and that the department took appropriate action to address the alleged conduct. The letter also informed Mars that, based on the information provided, Mars’ allegations were insufficient to raise inferences of harassment and retaliation and would be administratively closed without further investigation. Ex. C.

III. ISSUE ON APPEAL TO THE CIVIL SERVICE COMMISSION

On March 13, 2020, Mars appealed the Human Resources Director’s determination. Ex. D. In Mars’ appeal, he states that his primary concern is that his workplace violence allegations were not taken seriously, and that the failure to respond and report is being “overlooked.” Mars also stated that there was a lack of follow through regarding his discrimination and harassment complaint. Finally, Mars stated that he “did not wish to address the Maggie Tan issue any longer.”

The issue on appeal is whether the Human Resources Director appropriately administratively closed Mars’ complaint without further investigation.

IV. INVESTIGATION STANDARDS AND ANALYSIS

A. Harassment Allegations

To warrant further investigation, a harassment complaint must sufficiently allege all of the following: (1) the complainant was subjected to physical, verbal, or visual conduct on account of complainant’s membership in a protected category; (2) the conduct was unwelcome; and (3) the conduct was sufficiently severe or pervasive as to alter the condition of the complainant’s employment and create an abusive working environment.

Mars alleged that Haynes subjected him to unwelcome verbal conduct by making threats, swearing at him, spreading rumors about him, and using a race-based term to refer to him, as described in Section II.A.1. However, Mars did not allege that Haynes’ conduct was due to his membership in a protected category. Although Mars alleged that Haynes used the n-word to refer to him, which can be an extremely offensive and racially derogatory term, Mars stated that he was not offended by Haynes’ use of the n-word since Haynes is also African American. Rather, Mars was offended that Haynes prefaced the n-word by saying “punk ass.” Excluding Haynes’

use of the n-word, none of Haynes' conduct was objectively related to Mars' membership in a protected category. Rather, Mars attributed Haynes' conduct to Haynes' jealousy of Mars' professional success, and Haynes' relationship with Grimes. As such, these allegations were insufficient to raise an inference of harassment and were not investigated further by DHR EEO. Nevertheless, Haynes' use of the n-word, if true, was inappropriate and violated the City's EEO Policy and Respect Policy, and the department took appropriate action to address the conduct. Additionally, while Mars alleged in his appeal that his workplace violence allegations were not taken seriously, DPH Labor Relations investigated Mars' October 18, 2019 allegation of workplace violence against Haynes and found insufficient evidence to substantiate Mars' claims. Ex. E.

Furthermore, Mars stated in his appeal that he "did not wish to address the Maggie Tan issue any longer." Nonetheless, Tan's conduct, if true, was inappropriate and violated the City's EEO Policy and Respect Policy, and the department took appropriate action to address the conduct. Therefore, this allegation was not investigated further.

B. Retaliation Allegations

To warrant further investigation, a retaliation complaint must sufficiently allege all of the following: (1) the complainant engaged in a protected activity; (2) the complainant suffered an adverse employment action; and (3) there is a causal link between the protected activity and the adverse employment action. Employees engage in protected activities when they oppose conduct that they reasonably and in good faith believe to be discriminatory, or when they file a charge, testify, assist, or participate in an investigation of discrimination.

Mars alleged that all of Haynes' conduct from early 2018 to October 18, 2019, was retaliation for reporting Haynes for inappropriate conduct, participating in "conflict resolution" with Haynes, and for complaining to DPH HR about Jackson's failure to report his previous harassment and workplace violence complaint against Haynes.

Mars' retaliation allegations do not fall within the jurisdiction of the City's EEO complaint procedures because Mars did not engage in a protected activity when he reported Haynes for non-EEO harassment and workplace violence, engaged in "conflict resolution" with Haynes, reported that Jackson failed to report his complaint about Haynes, and filed a grievance against Jackson for retaliation due to union activity. Mars did not provide any information during his walk-in interview or in the supporting documents to his appeal to suggest that he reported to Jackson a harassment or discrimination complaint against Haynes based on his membership in a protected category or participation in a protected activity. Rather, the crux of Mars' complaint was that Haynes subjected him to workplace violence based on interpersonal issues and that Jackson did not address these concerns. Therefore, this allegation was insufficient to raise an inference of retaliation and was not investigated further.

C. Non-EEO Allegations

Mars' remaining allegations did not fall within the jurisdiction of the City's EEO complaint procedures because he did not allege that Jackson gave him a low PPAR score or that Fisher made an inaccurate complaint against him due to his membership in a protected category or

participation in a protected activity. Therefore, these allegations were not investigated further.

V. RECOMMENDATION

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

VI. APPENDIX/ATTACHMENTS TO REPORT

Attached to this report are the following exhibits:

- Exhibit A: November 7, 2019 Department Report of Employment Discrimination Complaint, pp. 6-9.
- Exhibit B: November 5, 2019 DHR EEO Walk-in Memo, pp. 10-14.
- Exhibit C: February 14, 2020 Human Resources Director's Letter of Determination to Appellant, pp. 15-20.
- Exhibit D: March 13, 2020 Appeal by Mars and Submitted Documents, pp. 21-46.
- Exhibit E: March 30, 2020 DPH Labor Relations Investigative Report, pp. 47-51.
- Exhibit F: May 1, 2020 CSC Notice of Receipt of Appeal and Acknowledgement Letter to Appellant, pp. 52-55.

EXHIBIT A

November 7, 2019 Department Report of Employment Discrimination Complaint

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 941031. Department/Worksite: Department of Public Health/Laguna Honda Hospital, EVS2. Complainant: Dennis Mars [REDACTED] Tel. No. (Work): 415-759-4624Address: [REDACTED]
[REDACTED]

Tel. No. (Home): [REDACTED]

3. Complaint Filing Date: October 18n , 2019 Classification: 2736 Porter

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: African American
- Color: _____
- Religion: _____
- Creed: _____
- Sex: _____
- National Origin: _____
- Ethnicity: _____
- 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):

On October 16, 2019, Dennis Mars, 2736 Porter, called Hallie Albert, DPH EEO Programs Manager, to report that on October 9, 2019, a woman sat with him in the cafeteria and asked him why he was not "sitting with his friends" while pointing at a group of African American employees. The woman then said she had never seen him before. Mars believes the woman's name is Maggie and she works in Food Service.

On October 18, 2019, upon inquiry, Elvis Lavarreda, Food Service Director for LHH, confirmed that there is an employee named Maggie Tan () 2604 FSW in the LHH Food Service Department.

On October 18, 2019, Mars reported to EVS management and the Sherriff's Deputy on site that Willie Haynes (), 2736 Porter, walked toward him and as he passed by said, "What are you looking at you punk ass ni***. Do you have something to say to me?" Mars reported to the Sherriff because he believes Haynes was trying to intimidate him.

The Sherriff looked into the allegation as it pertained to safety. Haynes denied making the comment, and there were no witnesses. Labor Relations confirmed the Sherriff's position is that Mars' allegation did not meet the elements of a threat and a police report was not filed.

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: _____ Organization/Firm: _____
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:

Mars alleged Tan and Haynes each made an unwelcome comment based on his race (African American). On October 29, 2019, DPH EEO conducted a one-on-one policy review with Tan and on November 1, 2019, conducted one with Haynes. Therefore, appropriate action was taken.

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

11. Completed by: Hallie Albert, EEO Programs Manager Date: November 7, 2019
Address: 2789 25th Street, San Francisco, California, 94110 Tel. No. (415) 206-4158

*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

November 5, 2019 DHR EEO Walk-in Memo



MEMORANDUM

To: Linda C. Simon, DHR, EEO and Leave Programs
From: Jan Kawano, DHR, EEO Programs Specialist
RE: Walk-in Complaint, Dennis Mars
Dept: DPH; [REDACTED]
Job Title: 2736 Porter
Date: November 7, 2019

Complainant's contact information

Phone number: [REDACTED]

Email: [REDACTED]

Respondent: Willie Haynes, 2736 Porter with DPH

Basis: Race, Non-EEO (envious of Mars' success; retaliation for complaint of failure to report non-EEO harassment complaints)

Issue: Harassment, retaliation, and workplace violence

Complaint Filing Date: November 5, 2019

On November 17, 2014, Dennis Mars began working with the Department of Public Health (DPH), and since 2016, has been a 2736 Porter at Laguna Honda Hospital and Rehabilitation Center.

Mars alleged that, from early 2018 to October 2019, Willie Haynes, 2736 Porter, harassed Mars and retaliated against Mars by the following conduct:

- (1) In early 2018, Mars approached Haynes at the loading dock, and said "Happy Friday." Haynes told Mars, "It ain't my fucking Friday. Don't say shit to me before I fuck you up. Say something." Mars did not know why Haynes reacted this way, and believed that it was unwarranted.

Mars reported Haynes' statement to George Falley, 2740 Porter Supervisor, and Falley said that Haynes did the same thing to Falley. Falley started as a 2736, and quickly became a 2740 whereas Haynes was a 2736 for over 20 years and ranked 9 on the 2740 exam. Mars also reported Haynes' conduct to Chauncy Jackson, Director of Environmental Services. Jackson told Mars, "Why don't you let it blow over?" and went on vacation for a couple of weeks. Mars believes that Jackson should have obtained Haynes' statement and resolved the conflict, but did not do so because Jackson and

Haynes are friends.

- (2) When Mars told Haynes “Good morning,” Haynes sometimes replied with, “Don’t say shit to me.”
- (3) Haynes spread rumors about Mars that Mars was lazy, better than everyone, and that Haynes did not like Mars.
- (4) From 2018 to 2019, Haynes initially swore at and threatened Mars about every other day when they saw each other, but the frequency of Haynes’ conduct fluctuated. Haynes subjected Mars to “hostile retaliation,” and Haynes’ conduct is triggered whenever Mars reports Haynes’ inappropriate conduct or when Haynes is asked to do “conflict resolution” with Mars.
- (5) From around August to October 17, 2019, Haynes’ conduct stopped, and Haynes was cordial towards Mars. Mars filed a grievance against Jackson for harassment due to union activity, and on October 17, 2019, Mars, Jackson, and the union met to discuss the grievance. On the way to the meeting, Mars saw Jackson and Haynes “huddling” and talking. During the meeting, Haynes’ name came up. The next day, on October 18, 2019, Haynes (African American) told Mars (African American), “What the fuck you looking at, you punk ass nigga? You got something to say to me?” Haynes gave Mars a “violent” and “unstable” look as if Haynes wanted to hurt Mars. Mars believes that it is unfair that Mars was placed on “modified duty” and moved to a different area to separate Mars from Haynes. The grievance was ultimately dismissed.

Mars believes that Haynes said that to Mars because Jackson told Haynes what happened during the meeting. Haynes and Jackson are good friends, and Haynes is a “big influence” on Jackson. Mars also believes that Haynes did that because Haynes feels protected by John Grimes, Chief Operations Officer.

This statement made Mars feel fearful and physically unsafe. Mars was not offended by Haynes’ usage of the n-word because Mars does not get offended if the speaker is also African American. However, Mars was offended by the way that Haynes prefaced the word by saying “punk ass.”

Mars has a binder full of documentation of Haynes’ conduct towards Mars. Mars believes that Haynes’ conduct increased in severity, and Haynes is now spreading rumors about Mars and turning co-workers against Mars.

Mars believes that Haynes engaged in that conduct towards Mars because Haynes “has something going on within himself.” Additionally, Haynes was envious of Mars’ success as a 2736. Mars stated, “[Haynes] doesn’t want you to rise above him. Makes sense, George was a superstar and he wants to fight George. I’m doing all kinds of workshops, I joined the union where [Haynes] was VP, I’m doing well. He’s envious of my success in my position.”

Mars also believes that Haynes' conduct was retaliation for Mars filing a complaint about Jackson's alleged failure to report Mars' previous harassment and workplace violence complaint about Haynes. When Mars complained to Jackson, Jackson told Mars that Mars' complaints about Haynes were outside of Jackson's scope. Mars filed this complaint with Louise Houston, 0931 Manager III with Laguna Honda HR, and Scott Brown. When asked if there was any other reason why Mars believed that Haynes engaged in that conduct towards Mars, Mars stated no, and that Mars did not do anything to warrant that conduct.

While describing the relationship between Haynes and Jackson, Mars stated that Jackson gave Mars a score of [REDACTED] on Mars' Performance Plan and Appraisal Report (PPAR) because of Mars' absences. Mars had 12 absences for the year, but was allowed 13 absences. Other co-workers (unnamed) had more absences, some for bereavement leave. When asked why Jackson gave Mars that score, Mars stated that Jackson knew that Mars was a rank 2 on the Eligible List for a 2738 Porter Assistant Supervisor position, and wanted to hire someone else. Jackson wanted an employee who was more submissive to Jackson and whom Jackson felt more comfortable with. Mars believes that Jackson was uncomfortable with Mars in part due to loyalty to Haynes. Jackson ultimately hired the Rank 3 on the Eligible List.

Additionally, Haynes' cousin, Denise Fisher,¹ reported to Jackson that Mars was driving reckless on the freeway and tried to run Fisher off of the road. Jackson told Mars that Mars could be terminated for that conduct. Mars believes that Fisher is Jackson's girlfriend. Mars disputes Fisher's allegation, and said that someone was honking at Mars on the freeway and flipping Mars off, and that the other person was driving reckless.

Mars did not know where else to report Mars' complaint because Mars complained about Haynes' conduct to Mars' HR, and Haynes' conduct violated City's Workplace Violence Policy. Mars also reported Haynes' conduct to Olga Daza, 2740 Porter Supervisor, Falley, and the Sheriff's Department. Mars told Daza about Haynes' October 18, 2019 comment, and Daza said that Daza would pass the information to Jackson. Mars filed a statement with the Sheriff's Department and obtained a claim number. Mars tried to meet with Houston without an appointment, the front desk analyst took a "half statement" from Mars, and Houston left without meeting with Mars. Mars is trying to prevent Mars or Haynes from hurting each other.

Mars also reported to Houston and Brown that Daza harassed Mars, and that Haynes "violently threatened" Mars. Mars did not believe that Houston and Brown took Mars' complaint seriously. Mars reported the conduct to Mars' union representatives and they tried mediation, but Haynes and Jackson did not show up.

I provided Mars with the "How to File" form, and the Employee Assistance Program (EAP) flyer. I informed Mars that Haynes' alleged conduct, if true, violated the City's Respect Policy and that DPH would be advised to take appropriate action to address the conduct. I instructed Mars that my recommendation is that Mars' complaint was not EEO because Mars did not allege that Mars was subjected to the aforementioned conduct due to Mars' membership in a protected category, or due to Mars' participation in a protected activity, such as filing an EEO complaint. I told Mars that Mars' complaint will be placed in a queue for review and assigned to an

¹ Did not find name in PeopleSoft.

investigator, and that Mars would be contacted if more information is needed or if Mars' complaint was being closed.

I checked with Ruth Mercado, EEO Assistant, who checked with Linda C. Simon, Director, EEO and Leave Programs, and I told Mars to contact Mars' own department HR for workplace violence complaints as this is outside of the City's EEO purview. Mars stated that he tried working with his HR about feeling unsafe, that they did not do anything, and that Mars is "out of options." Mars believes that DPH HR is not taking Mars' complaint seriously.

EXHIBIT C

February 14, 2020 Human Resources Director's Letter of Determination to Appellant

City and County of San Francisco
Micki Callahan
Human Resources Director



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

CONFIDENTIAL

February 14, 2020

Dennis Mars
[REDACTED]

Via U.S. Mail

RE: Complaint of Discrimination, EEO File No. 3332

Dear Dennis Mars:

The San Francisco Charter, Section 10.103 and Civil Service Rule 103 provide that the Human Resources Director shall review and resolve 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 determination regarding your complaint, EEO File No. 3332.

On November 5, 2019, you came to the Department of Human Resources, Equal Employment Opportunity Division (DHR EEO) and spoke to Jan Kawano, EEO Programs Specialist. You reported that Willie Haynes (African American), 2736 Porter, harassed you based on your race (African American), retaliated against you, and verbally threatened you. On November 7, 2019, DHR EEO received a "Department Report of Employment Discrimination Complaint" from Hallie Albert, EEO Programs Manager with the Department of Public Health, EEO Division (DPH EEO). Albert reported that you alleged that Maggie Tan (Asian), 2604 Food Service Worker, and Haynes harassed you based on your race.

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 the alleged conduct, if true, violated the City's EEO Policy and Respect Policy, and DPH took appropriate action to address the alleged conduct. As this matter has been addressed, your complaint is deemed resolved and will be administratively closed. Please be advised that, should you experience any new instances of inappropriate conduct, contact Albert at (628) 206-4158.

I. BACKGROUND AND ALLEGATIONS

You are employed as a 2736 Porter with the Environmental Health Services Department at Laguna Honda Hospital (LHH).

A. Harassment Allegations

You alleged that, from early 2018 to October 2019, Haynes harassed you as follows:

- (1) In early 2018, you greeted Haynes, and Haynes told you, “It ain’t my fucking Friday. Don’t say shit to me before I fuck you up. Say something.” You stated that you reported Haynes’ comment that day to George Falley, 2740 Porter Supervisor, who told you that Haynes acted similarly with Falley, and Chauncey Jackson, Director of Environmental Services. You stated that Jackson told you, “Why don’t you let it blow over?” and did not resolve the conflict since he and Haynes are friends.
- (2) From 2018 to July 2019, about every other day, Haynes swore at and threatened you. You alleged that when you greeted Haynes, he sometimes told you, “Don’t say shit to me.”
- (3) Haynes spread rumors that you were lazy, better than everyone, and that he did not like you.
- (4) From August to October 17, 2019, Haynes’ conduct stopped. You alleged that, on October 17, 2019, you saw Jackson and Haynes talking after a meeting about your grievance against Jackson. You alleged that, the next day, Haynes told you, “What the fuck you looking at, you punk ass ni***? You got something to say to me?” You told Kawano that Haynes gave you a “violent” and “unstable” look, that you felt fearful and physically unsafe, and you told Albert that Haynes was trying to intimidate you. You believed that Haynes said that because Jackson told Haynes that Haynes’ name came up during the meeting, they are friends, and Haynes believes that John Grimes, Chief Operations Officer, will protect him.

You stated that DPH HR did not take your complaint seriously, and that on October 18, 2019, you reported Haynes’ conduct to Olga Daza, 2740 Porter Supervisor, Falley, the Sheriff’s Department, and unsuccessfully tried to meet with Louise Houston, Labor Relations Manager with DPH, without an appointment.

When asked why Haynes engaged in this conduct towards you, you also stated, “[Haynes] doesn’t want you to rise above him. Makes sense, [Falley] was a superstar and he wants to fight [Falley]. I’m doing all kinds of workshops, I joined the union where [Haynes] was VP, I’m doing well. He’s envious of my success in my position.” Kawano informed you that workplace violence complaints are outside of the City’s EEO jurisdiction, and instructed you to continue to work with DPH HR on these matters.

You alleged that, on October 9, 2019, a woman sat with you in the cafeteria and asked you why you were not “sitting with your friends” while pointing at a group of African American employees, and said she had never seen you before. You believe that her name is Maggie and that she works in Food Service. DPH EEO confirmed that the only employee in LHH Food Service named “Maggie” is Tan.

B. Retaliation Allegations

You alleged that Haynes' conduct was "hostile retaliation" for reporting Haynes for inappropriate conduct or for participating in "conflict resolution" with you. You also alleged that Haynes' conduct was retaliation for your complaint to DPH HR about Jackson's alleged failure to report your previous harassment and workplace violence complaint about Haynes.

C. Non-EEO Allegations

You alleged that Jackson unfairly gave you a score of [REDACTED] on your Performance Plan and Appraisal Report (PPAR). You stated that Jackson gave you that score due to your absences, but that you only had 12 absences and were allowed 13. You stated that other co-workers (unnamed) had more absences than you.

When asked why Jackson gave you that score, you stated that Jackson knew that you were a Rank 2 on the Eligible List for a 2738 Porter Assistant Supervisor position, and wanted to hire another applicant. You stated that Jackson wanted a "more submissive" employee whom he felt more comfortable with, and that he was uncomfortable with you in part due to loyalty to Haynes.

Additionally, you alleged that Denise Fisher, 1244 Senior Human Resources Analyst with DPH, inaccurately reported to Jackson that you were driving recklessly on the freeway and tried to run Fisher off the road, and Jackson told you that you could be terminated for that conduct. You refuted Fisher's allegations, and stated that Fisher is Jackson's girlfriend and Haynes' cousin.

II. INVESTIGATIVE STANDARDS AND ANALYSIS

A. Harassment

To warrant further investigation, a harassment complaint must sufficiently allege 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 are a member of a protected category based on your race. You alleged that Tan and Haynes subjected you to unwelcome verbal conduct based on your race when Tan made a presumptive comment that you were friends with a group of African Americans due to your race, and Haynes used a racial slur to refer to you. I understand the inappropriateness of Tan and Haynes' alleged comments, and that it was upsetting for you to be subjected to them in the workplace. Tan and Haynes' comments, if true, violated the City's EEO Policy and Respect Policy, and DPH took appropriate action to address the conduct. As the matter has been addressed, no further investigation is necessary and your complaint is being administratively closed.

B. Retaliation

To warrant further investigation, a retaliation complaint must sufficiently allege all of the following: (1) you engaged in a protected activity; (2) you suffered an adverse employment action; and (3) there is a causal link between the protected activity and the adverse employment action. Employees engage in protected activities when they oppose conduct that they reasonably and in good faith believe to be discriminatory, or when they file a charge, testify, assist, or participate in an investigation of discrimination.

You alleged that Haynes threatened and harassed you because you reported that Jackson failed to report your complaint about Haynes, as described in Section I.A.(1)-(4). However, you did not engage in a protected activity when you filed a failure to report complaint against Jackson because you did not provide any information to support that you made a complaint of discrimination. Rather, based on the information you provided, your complaint about Haynes was a workplace violence complaint based on interpersonal issues, which is outside of the City's EEO jurisdiction. Therefore, no further investigation is necessary and your complaint is being administratively closed.

C. Non-EEO Allegations

1. Workplace Violence Complaints Against Haynes

You alleged that Haynes harassed you when he threatened you, cursed at you, and spread rumors about you. However, these allegations do not fall within the City's EEO jurisdiction because you did not allege that Haynes engaged in the conduct due to your membership in a protected category or participation in a protected activity, such as filing as an EEO complaint. Rather, you stated that Haynes was envious of your professional success and believed that Grimes would protect him.

Nevertheless, we acknowledge the inappropriateness of Haynes' alleged conduct and understand it was upsetting for you to be subjected to this conduct in the workplace. Haynes' conduct, if true, violated the City's Respect Policy, and DPH is investigating and will take appropriate action to address your workplace violence complaints against Haynes, as well as whether your workplace violence complaints were appropriately reported to DPH Labor Relations. As this matter has been addressed, no further investigation is necessary, and your complaint is being closed.

2. Jackson Gave you a Low PPAR Score and Fisher Inaccurately Reported a Complaint Against You

You alleged that Jackson unfairly gave you a low PPAR and that Fisher inaccurately reported that you were driving recklessly on the freeway and that you tried to run her off the road. However, these allegations do not fall within the City's EEO jurisdiction because you did not allege that they engaged in that conduct due to your membership in a protected category or participation in a protected activity, such as filing as an EEO complaint. Rather, you stated that Jackson gave you a low score so that he would have a reason not to hire you for the promotional

position, and the reason that he did not want you was because he wanted a more "submissive" employee. You stated that Jackson was uncomfortable with you in part due to loyalty to Haynes. You further alleged that Fisher made the allegation against you due to her relationships with Haynes and Jackson. Therefore, no further investigation is necessary, and your complaint is being closed.

III. DETERMINATION OF THE HUMAN RESOURCES DIRECTOR

Based on the information you provided, it is my determination that your complaint, EEO File No. 3332, will not be investigated further and is administratively closed. The determination of the Human Resources Director 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 also file a complaint of employment discrimination with the California Department of Fair Employment and Housing or the United States Equal Employment Opportunity Commission. Contact these agencies directly for filing instructions and deadlines.

We appreciate that you reported your concerns so that they may be reviewed and addressed. 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,



Micki Callahan
Human Resources Director

c: Grant Colfax, MD, Director, DPH
Michael Brown, Human Resources Director, DPH
Rhonda Simmons, Director, Diversity & Inclusion, DPH
Hallie Albert, EEO Programs Manager, DPH
Linda C. Simon, Director, EEO and Leave Programs, DHR

EXHIBIT D

March 13, 2020 Appeal by Mars and Submitted Documents



CIVIL SERVICE COMMISSION
City and County of San Francisco
 25 Van Ness Avenue, Suite 720
 San Francisco, California 94102-6033
 Executive Officer
 (415) 252-3247

CSC Register No.
 0081-20-6

To: X M. Callahan

CC: M. Tugbergh
 J. Buick
 L. Simon
 M. Brown
 M. Valdez

APPEAL TO THE CIVIL SERVICE COMMISSION

INSTRUCTIONS:

Submit an original copy of this form to the Executive Officer of the Civil Service Commission at the address above **within the designated number of days** following the postmarked mailing date or email date (whichever is applicable) of the Department of Human Resources' or Municipal Transportation Agency's notification to the appellant. The appellant's/authorized representative's original signature is required. **(E-mail is not accepted.)** It is recommended that you include all relevant information and documentation in support of your appeal.

TYPE OF APPEAL: (Check One)

- Examination Matters (by close of business on 5th working day)
- Employee Compensation Matters (by close of business on 7th working day) - Limited application
- Personal Service Contracts (Posting Period)
- Other Matters (i.e., Human Resources Director/Executive Officer Action) (30 Calendar days)
- Future Employability Recommendations (See Notice to Employee)

Full Name of Appellant		Work Address		Work Telephone	
Dennis B. Mars		375 Laguna Honda Blvd		(415) 759-4624	
Job Code	Title	Department			
2736 Porter		EVS			
Residence Address		City	State	Zip	Home Telephone
[Redacted]		[Redacted]	[Redacted]	[Redacted]	[Redacted]
Full Name of Authorized Representative (if any)			Telephone Number of Representative (including Area Code)		

NOTE: If this is deemed to be a timely and appealable matter, the department will submit a staff report to the Civil Service Commission to request that it be scheduled for hearing. You will be notified approximately one week in advance of the hearing date, at which time you will be able to pick up a copy of the department's staff report at the Commission's offices. If you would instead prefer Commission staff to email you a copy of the meeting notice and staff report, please provide your email address below.

Email: [Redacted]

COMPLETE THE BASIS OF THIS APPEAL ON THE REVERSE SIDE. (Use additional page(s) if necessary)

Does the basis of this appeal include new information not previously presented in the appeal to the Human Resources Director? If so, please specify.	Check One: Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
---	---

Original Signature of Appellant or Authorized Representative:  Date: 03-13-2020

2020 MAR 13 PM 2:15
 EXECUTIVE OFFICER
 CIVIL SERVICE COMMISSION
 SAN FRANCISCO

State the basis of this appeal in detail. For more information about appeal rights and deadlines, please review the Civil Service Rules located on the Civil Service Commission’s website at www.sfgov.org/CivilService.

I do not agree with the decisions that was made by the City and County of San Francisco EEO Department. There was no further investigation or a solution for the behavior of Willie Haynes. I don’t believe the violation was properly addressed. The behavior is continuing. Basically, they are violating their own policy, not adhering to the policy and not enforcing the policy when it comes to someone who is a part of the management team or someone who they have favor with. An example is: In the attached document dated February 14, 2020 section II. Investigation Standard and Analysis

A. Harassment – it states occasional, isolated or trivial conduct does not give rise to a harassment claim. However, the Employee Handbook City and County of San Francisco, DPH Policy as well as the Civil Service Commissioner’s Rule all state otherwise. My main purpose is the workplace violence is being taken lightly. The failure to respond and report is being overlooked and the fact that the formal complaint to Ron Weigl, Director of HR who forwarded to Hallie Albert to investigate the discrimination and Rhonda Simmons to look into harassment and the other charges which never got acknowledged nor neither party responded nor followed through. I do not desire to address the Maggie Tan incident any longer. I’m not fully going into a lot of details concerning the overall appeal due to time and restraints and I have not sought out legal help. However, this is beginning to become time consuming and I hope I will not need any legal assistance.

City and County of San Francisco
Micki Callahan
Human Resources Director



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

CONFIDENTIAL

February 14, 2020

Dennis Mars

Via U.S. Mail

RE: Complaint of Discrimination, EEO File No. 3332

Dear Dennis Mars:

The San Francisco Charter, Section 10.103 and Civil Service Rule 103 provide that the Human Resources Director shall review and resolve 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 determination regarding your complaint, EEO File No. 3332.

On November 5, 2019, you came to the Department of Human Resources, Equal Employment Opportunity Division (DHR EEO) and spoke to Jan Kawano, EEO Programs Specialist. You reported that Willie Haynes (African American), 2736 Porter, harassed you based on your race (African American), retaliated against you, and verbally threatened you. On November 7, 2019, DHR EEO received a "Department Report of Employment Discrimination Complaint" from Hallie Albert, EEO Programs Manager with the Department of Public Health, EEO Division (DPH EEO). Albert reported that you alleged that Maggie Tan (Asian), 2604 Food Service Worker, and Haynes harassed you based on your race.

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 the alleged conduct, if true, violated the City's EEO Policy and Respect Policy, and DPH took appropriate action to address the alleged conduct. As this matter has been addressed, your complaint is deemed resolved and will be administratively closed. Please be advised that, should you experience any new instances of inappropriate conduct, contact Albert at (628) 206-4158.

I. BACKGROUND AND ALLEGATIONS

You are employed as a 2736 Porter with the Environmental Health Services Department at Laguna Honda Hospital (LHH).

A. Harassment Allegations

You alleged that, from early 2018 to October 2019, Haynes harassed you as follows:

- (1) In early 2018, you greeted Haynes, and Haynes told you, "It ain't my fucking Friday. Don't say shit to me before I fuck you up. Say something." You stated that you reported Haynes' comment that day to George Falley, 2740 Porter Supervisor, who told you that Haynes acted similarly with Falley, and Chauncey Jackson, Director of Environmental Services. You stated that Jackson told you, "Why don't you let it blow over?" and did not resolve the conflict since he and Haynes are friends.
- (2) From 2018 to July 2019, about every other day, Haynes swore at and threatened you. You alleged that when you greeted Haynes, he sometimes told you, "Don't say shit to me."
- (3) Haynes spread rumors that you were lazy, better than everyone, and that he did not like you.
- (4) From August to October 17, 2019, Haynes' conduct stopped. You alleged that, on October 17, 2019, you saw Jackson and Haynes talking after a meeting about your grievance against Jackson. You alleged that, the next day, Haynes told you, "What the fuck you looking at, you punk ass ni***? You got something to say to me?" You told Kawano that Haynes gave you a "violent" and "unstable" look, that you felt fearful and physically unsafe, and you told Albert that Haynes was trying to intimidate you. You believed that Haynes said that because Jackson told Haynes that Haynes' name came up during the meeting, they are friends, and Haynes believes that John Grimes, Chief Operations Officer, will protect him.

You stated that DPH HR did not take your complaint seriously, and that on October 18, 2019, you reported Haynes' conduct to Olga Daza, 2740 Porter Supervisor, Falley, the Sheriff's Department, and unsuccessfully tried to meet with Louise Houston, Labor Relations Manager with DPH, without an appointment.

When asked why Haynes engaged in this conduct towards you, you also stated, "[Haynes] doesn't want you to rise above him. Makes sense, [Falley] was a superstar and he wants to fight [Falley]. I'm doing all kinds of workshops, I joined the union where [Haynes] was VP, I'm doing well. He's envious of my success in my position." Kawano informed you that workplace violence complaints are outside of the City's EEO jurisdiction, and instructed you to continue to work with DPH HR on these matters.

You alleged that, on October 9, 2019, a woman sat with you in the cafeteria and asked you why you were not "sitting with your friends" while pointing at a group of African American employees, and said she had never seen you before. You believe that her name is Maggie and that she works in Food Service. DPH EEO confirmed that the only employee in LHH Food Service named "Maggie" is Tan.

B. Retaliation Allegations

You alleged that Haynes' conduct was "hostile retaliation" for reporting Haynes for inappropriate conduct or for participating in "conflict resolution" with you. You also alleged that Haynes' conduct was retaliation for your complaint to DPH HR about Jackson's alleged failure to report your previous harassment and workplace violence complaint about Haynes.

C. Non-EEO Allegations

You alleged that Jackson unfairly gave you a score of [REDACTED] on your Performance Plan and Appraisal Report (PPAR). You stated that Jackson gave you that score due to your absences, but that you only had 12 absences and were allowed 13. You stated that other co-workers (unnamed) had more absences than you.

When asked why Jackson gave you that score, you stated that Jackson knew that you were a Rank 2 on the Eligible List for a 2738 Porter Assistant Supervisor position, and wanted to hire another applicant. You stated that Jackson wanted a "more submissive" employee whom he felt more comfortable with, and that he was uncomfortable with you in part due to loyalty to Haynes.

Additionally, you alleged that Denise Fisher, 1244 Senior Human Resources Analyst with DPH, inaccurately reported to Jackson that you were driving recklessly on the freeway and tried to run Fisher off the road, and Jackson told you that you could be terminated for that conduct. You refuted Fisher's allegations, and stated that Fisher is Jackson's girlfriend and Haynes' cousin.

II. INVESTIGATIVE STANDARDS AND ANALYSIS

A. Harassment

To warrant further investigation, a harassment complaint must sufficiently allege 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 are a member of a protected category based on your race. You alleged that Tan and Haynes subjected you to unwelcome verbal conduct based on your race when Tan made a presumptive comment that you were friends with a group of African Americans due to your race, and Haynes used a racial slur to refer to you. I understand the inappropriateness of Tan and Haynes' alleged comments, and that it was upsetting for you to be subjected to them in the workplace. Tan and Haynes' comments, if true, violated the City's EEO Policy and Respect Policy, and DPH took appropriate action to address the conduct. As the matter has been addressed, no further investigation is necessary and your complaint is being administratively closed.

B. Retaliation

To warrant further investigation, a retaliation complaint must sufficiently allege all of the following: (1) you engaged in a protected activity; (2) you suffered an adverse employment action; and (3) there is a causal link between the protected activity and the adverse employment action. Employees engage in protected activities when they oppose conduct that they reasonably and in good faith believe to be discriminatory, or when they file a charge, testify, assist, or participate in an investigation of discrimination.

You alleged that Haynes threatened and harassed you because you reported that Jackson failed to report your complaint about Haynes, as described in Section I.A.(1)-(4). However, you did not engage in a protected activity when you filed a failure to report complaint against Jackson because you did not provide any information to support that you made a complaint of discrimination. Rather, based on the information you provided, your complaint about Haynes was a workplace violence complaint based on interpersonal issues, which is outside of the City's EEO jurisdiction. Therefore, no further investigation is necessary and your complaint is being administratively closed.

C. Non-EEO Allegations

1. Workplace Violence Complaints Against Haynes

You alleged that Haynes harassed you when he threatened you, cursed at you, and spread rumors about you. However, these allegations do not fall within the City's EEO jurisdiction because you did not allege that Haynes engaged in the conduct due to your membership in a protected category or participation in a protected activity, such as filing as an EEO complaint. Rather, you stated that Haynes was envious of your professional success and believed that Grimes would protect him.

Nevertheless, we acknowledge the inappropriateness of Haynes' alleged conduct and understand it was upsetting for you to be subjected to this conduct in the workplace. Haynes' conduct, if true, violated the City's Respect Policy, and DPH is investigating and will take appropriate action to address your workplace violence complaints against Haynes, as well as whether your workplace violence complaints were appropriately reported to DPH Labor Relations. As this matter has been addressed, no further investigation is necessary, and your complaint is being closed.

2. Jackson Gave you a Low PPAR Score and Fisher Inaccurately Reported a Complaint Against You

You alleged that Jackson unfairly gave you a low PPAR and that Fisher inaccurately reported that you were driving recklessly on the freeway and that you tried to run her off the road. However, these allegations do not fall within the City's EEO jurisdiction because you did not allege that they engaged in that conduct due to your membership in a protected category or participation in a protected activity, such as filing as an EEO complaint. Rather, you stated that Jackson gave you a low score so that he would have a reason not to hire you for the promotional

position, and the reason that he did not want you was because he wanted a more "submissive" employee. You stated that Jackson was uncomfortable with you in part due to loyalty to Haynes. You further alleged that Fisher made the allegation against you due to her relationships with Haynes and Jackson. Therefore, no further investigation is necessary, and your complaint is being closed.

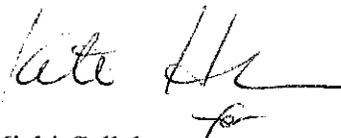
III. DETERMINATION OF THE HUMAN RESOURCES DIRECTOR

Based on the information you provided, it is my determination that your complaint, EEO File No. 3332, will not be investigated further and is administratively closed. The determination of the Human Resources Director 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 also file a complaint of employment discrimination with the California Department of Fair Employment and Housing or the United States Equal Employment Opportunity Commission. Contact these agencies directly for filing instructions and deadlines.

We appreciate that you reported your concerns so that they may be reviewed and addressed. 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,



Micki Callahan
Human Resources Director

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

City and County of San Francisco
Micki Callahan
Human Resources Director



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RECEIPT OF DISCRIMINATION COMPLAINT

February 28, 2020

Dennis Mars
[REDACTED]

Via U.S. Mail & E-Mail
[REDACTED]

RE: Complaint of Discrimination

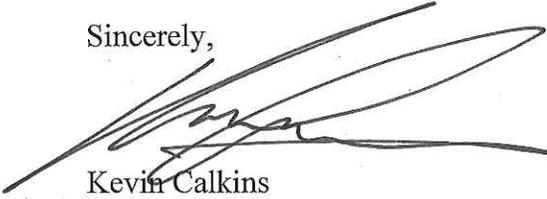
Dear Dennis Mars:

The Department of Human Resources, Equal Employment Opportunity Division (DHR EEO) has received your complaint of discrimination against the Department of Public Health (DPH). The City and County of San Francisco (City) takes seriously all allegations of discrimination, harassment, and retaliation. In accordance with the San Francisco Charter, Section 10.103 and Civil Service Commission Rule 103, your correspondence has been reported to the Human Resources Director.

I have been assigned to review your complaint to determine if the issues and bases are timely and within the jurisdiction of the City's EEO complaint process. I will contact you in the next **five (5) business days** to schedule an intake interview. You may also contact me at (415) 557-4839 or kevin.calkins@sfgov.org.

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

Sincerely,


Kevin Calkins
EEO Programs Specialist
Department of Human Resources

March 7, 2020

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

Re: Complaint of Discrimination-Appeal

I am appealing a decision that was made on behalf of the City and County of San Francisco, Department of Human Resources, Equal Employment Opportunity Division a letter dated February 14, 2020 regarding, complaint of discrimination, EEO File No. 3332. I feel that no real remedy has taken place. The behavior has not stopped. I feel that EEO and the DPH Human Resources could have resolved these matters more thoroughly. I am concerned about various inaccurate comments listed throughout the letter. It appears the statements that was passed onto the DPH Human Resources was either incorrect statements or the report was mis-read.

One example is in the memo dated February 14, 2020 it states, "that Albert reported that you alleged that Maggie Tan (Asian), 2604 Food Service Worker, and Haynes harassed you based on your race". The only conversation I had with Hallie Albert was the comment made to me by Maggie Tan. Haynes conduct was based on unstable behavior and harassment.

Please, I would like to be very clear throughout the attached memo dated February 14, 2020 it states I spoke to Albert about various incidents, we never spoke about anything other than the report I made about the comments made by Maggie Tan. I don't know where the Department of Human Resources got their information from. However, it appears they are attempting to do away with serious violations in order to cover their bases. Listed are a few violations the City & County of San Francisco are not adhering to:

City and County of San Francisco Employee Handbook,

Pg. 2 policy on Equal Employment of Opportunity – That employees are selected and promoted based on merit and without discrimination; and not passed over for filing complaints

Pg. 3 policy of Prohibiting Harassment,

Pg. 4 Responsibility for Responding to and Reporting Discrimination, Retaliation and Harassment,

Pg. 44, Policy Prohibiting Employee Violence in the Workplace,

pg. 44 Reporting and Responding to workplace violence.

Rule 103

Civil Service Commission

103.1.6 – Prohibition of Unlawful Workplace Harassment-

103.1.8 – Prohibition of Retaliation

Department of Public Health
Prohibition of Violence in the Workplace (HUR17)

1. Purpose of Policy

The Department of Public Health (DPH) is committed to maintaining a safe and secure work environment for all staff, patients and visitors. The purpose of this policy is to inform employees that violence in DPH's workplace is prohibited, and to provide assistance for employees who have been subject to a verbal or physical threat and/or violent behavior.

2. Policy

It is the policy of the City and County of San Francisco (CCSF) and DPH that the workplace should be free of violence, threats of violence, intimidation and other disruptive behaviors. DPH will not tolerate any act or threat of violence by or against employees in the workplace.

Employees are required to treat co-workers, patients, and members of the public with courtesy and respect. Employees are prohibited from bringing weapons to the workplace, except where required by the CCSF in the performance of the employee's official duties. Weapons include, but are not limited to, firearms, knives and as defined in California Penal Code Sec. 12020.

Failure to comply with this policy may result in employee discipline, up to and including termination as well as criminal prosecution.

3. Definitions

a. "Workplace" refers to all DPH worksites and surrounding parking areas, or other areas where DPH employees perform duties in the scope of their employment.

b. "Violence" includes any conduct, verbal or physical, which causes another to reasonably fear for his or her own personal safety and that of his or her family, friends, associates or property.

Workplace violence may occur due to a random act by an individual with no relationship to the Department, among current or former employees, or by someone receiving healthcare services. It includes acts and threats of violence in DPH's workplace by or towards:

- A DPH employee
- A DPH patient or client
- A CCSF employee
- A contract employee, intern or volunteer
- A member of the public or visitor

4. Procedures

a. Reporting

Employees have the responsibility to report any threats or acts of violence to their respective supervisors. If there is a threat of immediate danger, employees should call Emergency Response **9-1-1** or the on-site Sheriff's Department.

When notified by a health care provider of a threat against an employee (“Tarasoff Warning”), the department head, personnel official or designee shall notify the affected employee as soon as possible.

b. Investigation

Supervisors and managers have the responsibility to investigate any reported incidents of threats or acts of violence in the workplace and to take appropriate action. They are also responsible for documenting and reporting all observed or reported incidents of workplace violence.

c. Corrective Action

Appropriate action may include one or more of the following depending on the nature of the threat or act of violence:

- Consulting with appropriate resources (DPH Management staff, Human Resources, OSH, the City’s Employee Assistance Program (EAP), the Sheriff’s Department) to assess the risk and identify violence prevention strategies;
- Filing a police report and/or referring the matter to the City Attorney to determine if a restraining order is appropriate;
- Approving any appropriate request for employee leave, placing an employee on administrative leave in accordance with Charter Section 8.341 or suspension in accordance with Charter Section 8.342, following consultation with DPH Human Resources;
- Requesting approval of the City’s Human Resources Director for a fitness for duty examination, following consultation with DPH Human Resources;

Admonishing employee(s) that such behavior is unacceptable and will not be tolerated;

- Imposing disciplinary action up to and including dismissal or termination;
- Referring the employee to the City’s EAP or to a health care/medical provider;
- Referring any employee who is a target or threat of violence to the City’s EAP or to a health care/medical provider;
- Providing a Critical Incident Stress Debriefing session in the workplace via the City’s EAP;
- Other measures may be taken as appropriate under the circumstances.

5. References

- Health Commission Resolution No. 1-96 (*May be obtained by requesting from the Health Commission Secretary at 554.2666.*)
- Civil Service Commission Policy on Prohibiting Violence in the Workplace, 1995
- CCSF Employee Handbook
- See also SFGH Policy No. 22.04, Violence in the Workplace: Zero Tolerance; LHH Policy No. 76-07, Violence in the Workplace: Zero Tolerance.

I. **Background and Allegations**

A. **Under Harassment Allegations**

1. It states Haynes acted similarly with Falley and Chauncey Jackson, Director of Environmental Services. *I never stated that Chauncey Jackson endured this behavior from Haynes.*

2.

3.

4. It states I told Albert that Haynes was trying to intimidate me. I never spoke to Albert about Haynes. The only communication that Albert and I had was regarding the Tan (Maggie) discussion. She never responded to the email complaint that was forwarded to her from Ron Weigelt nor attempted to do an investigation. It also stated Kawano informed me that the workplace violence complaints are outside of the City's EEO jurisdiction and instructed me to continue to work with DPH Human Resources on these matters. So, my concern is if it is out of their jurisdiction why are they entertaining any of it. As far as working with DPH they have not done anything but taken a statement and interrogating me. In the meantime, Willie Haynes behavior still displays intimidating looks and they previously stated that the matter has been dealt with. However, I have no confidence in the system in place. I know the City and County of San Francisco have their own way of dealing with it but doing conflict resolution with both employees could have been dealt with within the department at lower level.

B. **Retaliation Allegations**

C. **Non-EEO Allegations**

II. **Investigative Standards and Analysis**

A. **Harassment**

B. **Retaliation**

C. **Non-EEO Allegations**

1. Workplace Violence Complaints Against Haynes

2. Jackson Gave you a Low PPAR Score and Fisher Inaccurately Reported a Complaint Against You

III. **Determination of the Human Resources Director**

If the Department of Human Resources would have investigated the formal complaint that was sent to Ron Weigelt, DPH Human Resource Director on September 30, 2019 at 10:03am. Which he forwarded on Thursday, October 3, 2019 to Hallie Albert, DPH, EEO Programs Manager for my claims of Discrimination and Rhonda Simmons, DPH, Diversity & Inclusion, to follow up on the remaining allegations. As to date March 2020 I have not received any response from either Departments concerning the September 30, 2019 complaint (*see attached*). There has not been

any communication from Hallie Albert, DPH, EEO Programs Manager or Rhonda Simmons, DPH, Diversity & Inclusion.

However, if either Department would have begun to investigate these serious formal complaints. Perhaps the incident that occurred 2 weeks later October 18, 2019, the workplace violence and threats towards me could have been prevented. The serious concerns are the failure of the follow through by the City and County Directors, Human Resources and all the Department Heads that are in place to see through the policy and procedures that are not being adhere to when it comes to Management being involved. The Departments are violating their own policies. If the initiative measures were taken when the first complaint was made in 2018 regarding the harassment of Willie Haynes to Chauncey Jackson, Director of EVS (*see attached*). This could have been prevented. Below are responses to a few items that are inaccurate statements made from the February 14, 2019 memo (*see attached*).

What I am saying in short in this appeal that the City and County of San Francisco is in violation of violating their own policy with failure to protect the members from workplace violence harassment, discrimination, retaliation, un-welcoming threats and weapons

In conclusion it is understood that the San Francisco Chapter Section 10.103 and Civil Service Role 103 that the Human Resources shall review and resolve complaints of Employment Discrimination. It saddens many employees that the Charter defines discrimination as a violation of Civil Rights on account of Race, Religion, Disability, Sex, Age or other protected category. However, there are many facets of employment discrimination title VII of the Civil Rights Acts of 1964 makes it unlawful to discriminate in hiring, promoting, excluding potential employees during recruitment. Workplace Discrimination occurs when an individual is adversary discriminated against due to any number of factors, unwelcoming behavior by a co-worker Manager Supervisor harassment is a form of discrimination. I am being harassed and discriminated against do to the fact that I have filed complaints, filed grievances, PERB Charges and an EEO Complaint. I'm a SEIU Shop Steward and much of the harassment begin when I became a Shop Steward. I begin filing complaints to protect myself; little did I know that going to the Human Resources Department was not the way to go unfortunately. Furthermore, as I submit this appeal there is more issues that need to be addressed but at this time, I am going to submit what I have as this is becoming very time consuming. I am working on my own without any legal help yet. Other documentations will follow if necessary. I hope that with the attachments and this appeal that this will be enough to confirm that there is a problem that needs to be addressed seriously. As I stated before that I am a SEIU 1021 Shop Steward and I am aware of at least 5 other workplace violence issues that is not getting the appropriate attention Laguna Honda Hospital.

RE: Formal Complaint Against Chauncey Jackson

Weigelt, Ron (DPH) <ron.weigelt@sfdph.org>

Thu 10/3/2019 9:40 AM

To: Mars, Dennis (DPH) <dennis.mars@sfdph.org>**Cc:** theresa.rutherford@seiu1021.org <theresa.rutherford@seiu1021.org>; Jason Klumb <Jason.Klumb@seiu1021.org>; Albert, Hallie (DPH) <Hallie.Albert@sfdph.org>; Simmons, Rhonda (DPH) <rhonda.simmons@sfdph.org>

1 attachments (4 MB)

C.Jackson Complaint - D Mars.pdf;

By way of this email I am providing a copy of your complaint to Hallie Albert to follow up on your claims of discrimination and Rhonda Simmons to follow up on your other allegations.

Ronald Weigelt, DPH HR Director, (415)554-2592

Senior Professional Human Resources Certification, MPA

This email is official communication intended for specific recipient's. If the email was misdirected to you, delete the email and contact the sender.

"The only way to undo racism is to consistently identify and describe it—and then dismantle it," professor Ibram X. Kendi

**From:** Mars, Dennis (DPH) <dennis.mars@sfdph.org>**Sent:** Monday, September 30, 2019 10:03 AM**To:** Weigelt, Ron (DPH) <ron.weigelt@sfdph.org>**Cc:** theresa.rutherford@seiu1021.org; Jason Klumb <Jason.Klumb@seiu1021.org>**Subject:** Re: Formal Complaint Against Chauncey Jackson

Hi Ron,

You have been copied on an email in hopes that you have been following the email chain beginning September 19th. It appears since the complaint with the Denise Fisher case, Chauncey Jackson, DPH Director has been exhibiting a pattern of various forms of retaliation and harassment. I realize in your last email to me you stated you would advise the supervisor, who was the manager who is now the Director, Chauncey Jackson that he should disregard the content of the email and not use it in anyway in current or future evaluations. His conduct became so toxic I filed a formal complaint concerning his behavior with Human Resources. I did not want to involve you at the initial level because of the chain of command. Once I submitted the complaint the response and tone, I received lead me to believe that nothing was going to come out of the complaint but lead to further retaliation and harassment. Instead I decided to withdraw the complaint and allow the union to set up a conflict resolution meeting in hopes of resolving the concerns at the lowest level.

Chauncey refused to attend the meeting and the harassment over a period of time increased. I have been threatened by a coworker within our department, harassed by a supervisor with over supervision and called into meetings and denied union representation. I reported being threatened to Chauncey and he stated that this is outside the scope of my work with you and I should take it up with the union (see attached).

However, when there is a concern related towards me, Chauncey takes the initiative and follows through to some form of disciplinary action. Since becoming a shop steward and helping members with cases I am enduring much more harassment and retaliation. Such as the current case that you have been copied on. Please take some time and read the emails and attachments and consider looking into the violations that have been done.

Chauncey has a lot of influence with others throughout different departments and he is currently causing division throughout the hospital using different people in various departments to engage in harassment and retaliation such as this Friday, September 27th. He requested to meet with me concerning a statement I allegedly said in a meeting that my supervisor has an accent. Instead of Chauncey approaching me and inquiring with me. He insisted on setting up a meeting and escalating it to an investigatory interview. However, Chauncey did not attend the meeting and sent Mike Foreman, HR Analyst. Mike Foreman stated during the meeting that he was asked by Chauncey to come and conduct the investigatory interview and that he did not know much about what was going on, and he was helping because Chauncey was not available. Yet, when Mike needed additional information he would go across the hall and communicate with Chauncey. Also it was brought to our attention during our correspondence with HR in are attempts to investigate and do fact finding surrounding a memo dated September 6th that Chauncey wrote. You were removed off the email and Chauncey was added in the email chain and we were investigating the memo that he wrote.

So, I am hoping to get this resolved at this level. I am asking if you will take the time to follow through and investigate these matters.

Please consider this a formal complaint against Chauncey Jackson for,

- Harassment
- Retaliation
- Defamation of character
- Denial Weingarten Rights
- Not following through with the responsibility for responding to and reporting discrimination, retaliation, harassment
- Withholding necessary and relevant information concerning an investigation
- Discrimination on account of union activity

February 23, 2019

Subject: Complaint about Employee Violence in the Workplace/Harassment/Responsibility for Reporting

Dear Ms. Louise Houston:

As a Laguna Honda leader I am very disappointed to have to report a couple of incidents that has occurred in the workplace here at Laguna Honda. I truly wanted to keep this within my department among my peers, but my Manager/Director refuses to follow through and resolve the incidents.

Incident: I

In early 2018 my fellow co-worker made threats of violence which caused me to fear for my own personal safety. I mentioned it to my supervisor, and they stated it was done to them as well as other employees. At this point I knew I should not take this lightly and report it to my manager with the hopes of them documenting and investigating the situation to bring both parties together to mediate the incident.

Once I met with the manager, he expressed to me, "let's try and let it blow over, let it work itself out and give it some time". After walking lightly around my fellow co-worker for approximately 3 to 4 months while the manager was on vacation, having other co-workers telling me he is speaking negatively about me and watching his interactions with me. I decided it is time to talk to the manager again and take this a bit more seriously. In July 2018 the manager told me he spoke with Karen Joubert and there was no further communication to me about this matter.

At this point my fellow co-worker is aware I have brought the matter to management's attention. I then begin to be subjected to a more hostile environment with mean looks and disgruntle behavior any time I was present.

On November 14, 2018 I wrote a letter of concern to the Manager/Director asking for a meeting. He stated in an email, "your relationship with him is outside the scope of your work with me. Please take that issue up with your SEIU-1021 representatives. In closing this will be my last email regarding this issue".

Incident: II

I was scheduled to do a shift bidding in December 2018; my scheduled time was at 11:00am. After finishing my bidding Chauncey stated that Olga Daza wanted to speak to me. Once I found out what the meeting was about, I requested union representation and was denied by Olga and Chauncey.

At this point I felt defenseless and unprotected. So, to remain in compliance and not be accused of insubordination I remained in the meeting against my own will and had to endure abusive behavior. During the meeting I added no input because I did not want anything to be taken out of context. After the meeting I requested a second meeting with Chauncey, Olga and union representation so I would be assured that my rights would be protected, and my voice could be heard respectfully.

I reached out to Valoria Russell SEIU-1021 President at Laguna Honda. She Proceeded to follow through with actions of concerns and requested two meetings with Chauncey Jackson on December 17,2018 in regard to Willie Haynes for a conflict resolution work place violence and Olga Daza for harassment. Chauncey also refused the request made by Valoria Russell.

In an email dated December 19th Chauncey denied knowing of any ongoing issues with myself and Willie Haynes and stated that a second meeting with Olga Daza was not necessary.

According to our policy and procedures employee handbook, Equal Employment Opportunity, page (4), Responsibility for Responding to and Reporting Discrimination, Retaliation, and Harassment. As an employee I am obligated to report any such behavior. Also, our handbook acknowledges, Safety on the Job, page (44) Work Place Violence Prohibited, Policy Prohibiting Employee Violence in the Workplace.

In conclusion, I would like to be heard in both cases and a conflict resolution meeting setup with Human Resources and union representation.

Attached are a few emails in regard to this matter.

Your assistance with this matter would be greatly appreciated.

Dennis Mars

November 14, 2018

Dear Chauncey,

I would like to express how uncomfortable I felt in the meeting that we had on November 6th. It feels like you are going to start paying special attention to me because I am a Shop Steward. I became a Shop Steward to help my fellow co-workers and it concerns me that you would question my ability to do the right thing meaning representing my fellow co-workers. You stated "how could I represent someone with an attendance problem if I have one"

In the meeting you said that this was not a discipline, coaching or counseling, but the meeting felt like a "warning". You mention my sick time among other things. It seems to me that you are looking for a reason to discipline me. That bothers me. As I mentioned to you in the meeting, I did nothing to Ms. Fisher. I feel like this whole situation is going on in retaliation for the misunderstanding between myself and Willie Haynes. This concerns me because I brought this to the supervisors and to management several times and nothing was done. ✖

I understand that you and Willie have a long-standing relationship. However, you are our Director and we are counting on you to keep the peace and create a healthy and safe environment.

Therefore, I would like to meet with Willie, yourself and the Union to resolve this situation. I should not have to work in an environment where I have to be fearful or be constantly looking over my shoulder.

I also would like to meet with yourself and the Union (I will let you know who from the Union I will bring). I want to clear the air, so we can all work in a collaborative environment and work toward moving forward with our work relationship.

In conclusion, I feel that if we address these concerns in a safe setting and bring all parties together. We should be able to work in the direction of having the ability to work in a healthy and safe environment.

Can we address these concerns as soon as possible? If you can provide some available dates and times this will help us put something in place.

Response

Jackson, Chauncey (DPH)

Fri 12/7/2018 4:13 PM

To: Mars, Dennis (DPH) <dennis.mars@sfdph.org>

Good Afternoon Dennis,

I'm writing to thank you for your response dated December 3rd. It's unfortunate that we continue to have different recollections of that conversation that I wrote in my original email. As I stated earlier, the meeting wasn't to make you feel worried about your job. At this point I don't feel a need to continue this discussion any further because I don't think it will move the conversation forward. As far as the issue regarding your fellow SEIU 1021 member, your relationship with him is outside the scope of your work with me. Please take that issue up with your SEIU 1021 representatives. In closing this will be my last email regarding this issue. Thank you

Chauncey Jackson
Director of Environmental Services
Laguna Honda Hospital And Rehabilitation Center
375 Laguna Honda Blvd
San Francisco, Ca 94116
Office: (415)759-3056 Work Cell(415)806-2519
Fax: (415)759-3037

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From: Russell-Benson, Valoria (DPH) <valoria.russell-benson@sfdph.org>
Sent: Monday, December 17, 2018 12:06 PM
To: Mars, Dennis (DPH); theresa.rutherford@seiu1021.org
Subject: Conflict resolutions

Hello Chauncey,

I am contacting you in regards to two separate concerns from Dennis Mar. These matters are within EVS, and as you are the Director of the EVS Department, and have been aware of these ongoing issues, We find it necessary to schedule two meetings, one with you and Wille Haynes, and a second with you and Olga Daza, to work through and reach resolutions. I am available Thurs 12/20, after 12pm. Please respond at your earliest convenience to let me know your availability.

Thank you

Valoria Russell-Benson

[Get Outlook for iOS](#)

Fwd: Conflict resolutions

From: Mars, Dennis (DPH) (dennis.mars@sfdph.org)

To: [REDACTED]

Date: Saturday, February 23, 2019, 7:23 PM PST

Get Outlook for Android

From: Jackson, Chauncey (DPH)

Sent: Wednesday, December 19, 2018 11:54:34 AM

To: Russell-Benson, Valoria (DPH)

Cc: Mars, Dennis (DPH); gustavo.corral@seiu1021.org; theresa.rutherford@seiu1021.org

Subject: Re: Conflict resolutions

Good Morning Valoria,

Thank you for contacting me. I have already communicated with Mr. Mars that I will not meet with himself Mr. Haynes and the Union. I do not know of any ongoing issues between the two. A couple of LMC meetings ago, Mr. Haynes introduced Dennis at the LMC and they even greeted each other. In regards to Olga Daza, she has met with him recently in regards to work expectations. A second meeting is not necessary as there is no conflict between the two. Thank you for reaching out and Happy Holidays to you.

Chauncey Jackson

Director of Environmental Services

Laguna Honda Hospital And Rehabilitation Center

375 Laguna Honda Blvd

San Francisco, Ca 94116

Office: (415)759-3056 Work Cell(415)806-2519

Fax: (415)759-3037

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From: Russell-Benson, Valoria (DPH)

Sent: Monday, December 17, 2018 1:34:08 PM

To: Jackson, Chauncey (DPH)

Cc: Mars, Dennis (DPH); gustavo.corral@seiu1021.org; theresa.rutherford@seiu1021.org

Subject: Fwd: Conflict resolutions

Get Outlook for iOS

Conflict Resolution

RV Russell-Benson, Valoria (DPH)
Today, 9:48 AM
Jackson, Chauncey (DPH); Mars, Dennis (DPH); +3 more

Reply all |

Hello Chauncey,

Thank you for responding. It is not our determination on how our membership feel. I commend Mr. Mars and Mr. Haynes for remaining civil in the presence of others, but clearly the members in question, have some unresolved issues, otherwise I would not have been contacted.

It is in the best interest of all of our members and LHH in entirety, to feel they work in a safe, friendly and stress free environment. It is the Unions desire to maintain these rights. Also to address any and all issues at the lowest possible level, and to mend and sustain all working relationships.

It is my understanding that you stated in your email, you no longer wish to assist in resolving these ongoing matters that occurred in your department, which I have been informed, was reported to you months ago.

It saddens me to know that you have taken such and unconcerned stance in the health and well-being of the members in your department. All the Men and women that operate as public servants under your direction, deserves better.

My hope is to contact someone with a positive outlook, and who will be objective and addressing these issues. Because the goal is to ensure that LHH is the best residence for our patients and work environment for the employees in the City.

We fail when we allow anger, division and misunderstanding to go unchallenged. I will move these matters to the next level of command.

Sincerely

Valoria Russell-Benson



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From: Mars, Dennis (DPH)
Sent: Friday, March 15, 2019 7:11:21 PM
To: Brown, RonaldScott (DPH)
Subject: Re: Skelly Conference meeting

Okay thanks got it. Also, per our phone discussion earlier this week. I wanted to thank you for attempting to investigate my formal complaints against Olga Daza for harassment, Willie Haynes with employment violence in the work place and Chauncey Jackson in the responsibility for responding to and reporting discrimination, retaliation and harassment. Due to the severity of the discipline that could possibly take place. I wanted to extend the opportunity to resolve it at the lowest level once again. I appreciate you clarifying that we could still move forward if this process is not effective.

Thank you,
Dennis Mars

From: Brown, RonaldScott (DPH)
Sent: Friday, March 15, 2019 2:55 PM
To: Mars, Dennis (DPH)
Cc: Kelly, Shana (DPH)
Subject: Re: Skelly Conference meeting

Hi Dennis:

Sorry about the delay here is the contact information:

Don Jeffries [REDACTED] his email is the standard city format.

Thanks,
R. Scott Brown

Sept 30th
continue

feel that this is a form of harassment, retaliation and for me being a shop steward. This conduct must be addressed and clarified.

I am sending you the attachments just in case they have been misplaced

Thanks

Dennis Mars
Environmental Service Aide

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From: Brown, RonaldScott (DPH) <scott.brown@sfdph.org>

Sent: Monday, March 18, 2019 8:38 AM

To: Mars, Dennis (DPH) <dennis.mars@sfdph.org>

Subject: Re: Skelly Conference meeting

Good morning Dennis:

Your welcome for the help and as to the other issues it was my pleasure to be a part of the conference call last week. As I said then the information you provided me will be held while you work with your Union brothers and sisters on the various issues we discussed. Good luck with the process, I know that people of good intent can disagree and still come to respect each other if they sit down together.

Sincerely,

R. Scott Brown

Senior Human Resources Analyst-Labor Relations

Laguna Honda Hospital

375 Laguna Honda Blvd. Room B-107

San Francisco, CA 94116

Direct Line: (415) 759-2359

Fwd: Skelly Conference meeting

Mars, Dennis (DPH) <dennis.mars@sfdph.org>

Fri 10/18/2019 11:19 AM

To: Forman, Michael (DPH) <michael.forman@sfdph.org>**Cc:** Morales, Marshall (DPH) <marshall.morales@sfdph.org>; Sakita, Gary (DPH) <gary.sakita@sfdph.org>;
theresa.rutherford@seiu1021.org <theresa.rutherford@seiu1021.org>

📎 1 attachments (4 MB)

C.Jackson Complaint - D Mars.pdf;

Get Outlook for Android**From:** Mars, Dennis (DPH) <dennis.mars@sfdph.org>**Sent:** Monday, September 30, 2019 10:02:07 AM**To:** Brown, RonaldScott (DPH) <scott.brown@sfdph.org>**Subject:** Re: Skelly Conference meeting

Hi Scott,

Concerning our last discussion regarding the information you are holding. I would like to re-instate the complaint that was previously submitted. There was an attempt to resolve the concerns at the lowest level. However, Chauncey Jackson refused to attend the conflict resolution that was provided to work through our issues. Approximately 3 weeks later I approached Chauncey and asked could I have 5 minutes of his time, he agreed, and I asked him why he did not address the threat that Willie Haynes made towards me. He stated he does not have to unless his boss tells him he has to. Since then there has been a consistent pattern of harassment and attempts of retaliation towards me. Currently Willie Haynes and I do not interact towards each other. It is disappointing and that is a relation that is lost, and I am okay with not addressing that issue. The conflict resolution that took place with Olga Daza, she stated at that time she could not commit to moving forward. However, I forgave her and committed to working with her without any reservations. We presently are respecting each other on the floor while we are working.

My concern and complaint that I would like to move forward with is, Chauncey stated he does not have to adhere to the policy in the employee handbook, pg. 4, "Responsibility for Responding to and Reporting Discrimination, Retaliation, and Harassment. He states that this does not fall under the scope of his work (see attached). As the Director of our department this does fall under the scope of his work.

He refuses to address the concerns that I brought to his attention. Yet any complaint that someone brings to him in regard to myself he is quick to bring me into a meeting, deny me Union Representation and moves forward with any form of disciplinary action. He is not willing to resolve at the lowest level but moving straight into a disciplinary act. I personally

Back to PS
2-4

000046

EXHIBIT E

March 30, 2020 DPH Labor Relations Investigative Report



CCSF
London N. Breed
Mayor

San Francisco Department of Public Health

Dr. Grant Colfax
Director of Health

**Human Resource Services
Labor Relations Division**
(415) 759-3388

**CONFIDENTIAL
Investigative Report
March 30, 2020**

Subject: Willie Haynes – 2736 Porter

Department/Unit: Laguna Honda Hospital Environmental Services

SUMMARY OF COMPLAINT

On October 18, 2019, the Department of Public Health (“the Department”) was notified by Class 2736 – Porter Dennis Mars (“Mr. Mars”) that fellow Class 2736 – Porter employee Willie Haynes (“Mr. Haynes”) threatened him and made an inappropriate comment outside the Environmental Services (“EVS”) offices of Laguna Honda Hospital (“LHH”) Mr. Mars subsequently reported the incident to an EVS supervisor and the Sheriff’s Office. The matter was also referred to DPH’s Equal Employment Opportunity Program (“EEO”) and Labor Relations.

Allegations:

- 1) Violation of the Department’s Employee Handbook *Policy Prohibiting Employee Violence in the Workplace*
- 2) Violation of the Department’s Compliance Program *Code of Conduct*

BACKGROUND

Mr. Haynes started his career with the City and County of San Francisco (“CCSF”) on September 08, 2001, as a Class 2736 – Porter and was promoted to a Permanent Civil Service (“PCS”) employee on January 01, 2002, in the same position. Mr. Haynes reports to Olga Daza, a Class 2740 – Porter Supervisor I. His essential job duties include but are not limited to the following “maintaining four (4) areas of the Administrative Building on the Second (2nd) Floor and eight (8) restrooms and staff offices.”

A review of Mr. Haynes’ personnel file showed that he has no history of disciplinary actions within the last 3 years and his *Performance Plan and Appraisal Report* for the fiscal year 2018-2019 showed that he received a rating of [REDACTED]

INVESTIGATORY INTERVIEWS

Dennis Mars, 2736 – Porter
[REDACTED]

Willie Haynes, 2736 – Porter

Dennis Mars (“Mr. Mars”)

Mr. Mars was interviewed on December 03, 2019, by Ging Louie (“Mr. Louie”), a former Senior Human Resources Analyst, at LHH where he currently works as a Class 2736 Porter. He became a PCS employee on October 11, 2016. During his interview with Mr. Louie, Mr. Mars stated that on October 18, 2019, around 7:00 AM, Mr. Haynes allegedly made a threatening and highly inappropriate statement to him as he and the other porters were gathered outside of the EVS Office preparing to begin their rounds.

Mr. Mars alleged that Mr. Haynes said to him “What the f--k you looking at, you punk-ass n---r? You want to do something? I’ll f--k you up.” Mr. Mars and Mr. Haynes have had a contentious relationship “going back to 101 Grove, I used to deliver blankets to LHH. Willie would be on the docks receiving the blankets and would be cordial and we used to get along.”

According to Mr. Louie’s interview notes, there were some previous incidents between the two before the alleged statements made by Mr. Haynes to Mr. Mars, but the details of those previous incidents were not provided. After the alleged comments, Mr. Mars immediately went to [REDACTED] to report the incident and then to the Sheriff’s department to file a report before going home for the day.

[REDACTED]

[REDACTED] was interviewed on December 17, 2019, by Mr. Louie, and has been working at LHH since [REDACTED] [REDACTED] previously worked as a [REDACTED] [REDACTED] where [REDACTED] resigned with satisfactory service. [REDACTED] acts as an [REDACTED] for the EVS department at LHH. According to Mr. Louie’s interview notes, [REDACTED] didn’t witness the incident between Mr. Haynes and Mr. Mars but did state, “since October of 2019, there was an incident between them that was keeping them apart. They don’t talk anymore.”

[REDACTED]

[REDACTED] was interviewed on December 17, 2019, by Mr. Louie, at LHH where [REDACTED] works as a [REDACTED]. According to Mr. Louie’s interview notes, [REDACTED] stated that Mr. Mars came to [REDACTED] on the morning of October 18, 2019 and was having “small talk with Mr. Mars when he suddenly told [REDACTED] that he wanted to report something.”

They both went into the EVS office to discuss and Mr. Mars said that he “felt threatened” and that his “nerves were bad.” Mr. Mars told [REDACTED] that Mr. Haynes said an inappropriate comment towards him and that he didn’t feel comfortable being there. [REDACTED] didn’t recall Mr. Mars saying anything about Mr. Haynes saying that he would “f—k you up” but [REDACTED] did review the alleged statements with Mr. Mars approximately three (3) times before [REDACTED] elected to go home to make sure that [REDACTED] got it correctly.

██████████ described Mr. Haynes as a “happy go lucky and easy-going guy” and stated that Mr. Mars “feels entitled and gets jealous when he doesn’t get what he wants” and that he will “fight you for it.” ██████████ went on to state that he believes “nothing happened” and that if “something was said, [it] was blown out of proportion and probably nothing happened at all.”

Willie Haynes (“Mr. Haynes”)

Mr. Haynes was originally interviewed on December 18, 2019, by Mr. Louie. Michael Forman, a Class 1241 Human Resources Analyst, conducted a follow-up interview with Mr. Haynes on March 19, 2020.

During that interview, Mr. Haynes stated that he has “avoided Mr. Mars for the last few years.” Mr. Haynes said that on October 18, 2019, he only “passed Dennis up” and that he “didn’t even speak with him.” He further stated that he and Mr. Mars used to be “real cool” and “talk a lot when Dennis used to deliver blankets to LHH on the loading docks.”

According to Mr. Haynes, their relationship went sour after Mr. Mars started working at LHH because he used to “get on my nerves all the time.” Mr. Haynes said that when Mr. Mars became a shop steward, he “introduced Dennis to the entire LMC panel and helped him out.” After Mr. Mars became a shop steward, he started talking to Mr. Haynes a lot more and “nitpicking at his job” and that aggravated Mr. Haynes because it was “constant.” One day on the north loading dock at LHH, Mr. Haynes approached Mr. Mars after he had “been getting on his nerves again” and told him to “please leave me alone.” Ever since then, they “haven’t talked at all, not even business-related talk.”

When asked if he told Mr. Mars “What the f--k you looking at, you punk-ass n---r? You want to do something? I’ll f--k you up,” Mr. Haynes said, “No, that’s not true at all, none of it is true.” Mr. Haynes stated that he “doesn’t speak to him” but he did want it known that if it was required, he would be able to “work well with Dennis if it was needed. I just don’t prefer to deal with him.”

DOCUMENT REVIEW

The following documents were reviewed:

- Department of Public Health’s Compliance Program *Code of Conduct*
- CCSF, Department of Human Resources Employee Handbook, *DPH’s Policy Prohibiting Employee Violence in the Workplace* (rev. January 2012)

ANALYSIS / DISCUSSION

Allegation 1: Violation of DPH’s Employee Handbook Policy Prohibiting Employee Violence in the Workplace

The DPH Handbook outlines its Policy Prohibiting Employee Violence in the workplace and it states, “*violence includes any conduct, verbal or physical, which causes another to reasonably*

fear for his or her own personal safety...”. The alleged threat from Mr. Haynes towards Mr. Mars, if true, is not acceptable in any context. However, this investigator was not able to substantiate any part of the alleged threat that was made.

Both Mr. Haynes and Mr. Mars were interviewed for this investigation and there appears to be two (2) different stories. It should be noted that when [REDACTED] spoke with Mr. Mars, [REDACTED] went over the alleged statements made by Mr. Haynes approximately three (3) times and [REDACTED] didn't recall Mr. Mars saying anything about Mr. Haynes allegedly saying, "I'll f--k you up!" Furthermore, when Mr. Mars turned in his written statement to Chauncey Jackson, Director of Environmental Services at LHH, he never mentioned the part of his alleged complaint where Mr. Haynes allegedly said, "I'll f--k you up." This provides inconsistent stories from the accuser and therefore makes Mr. Mars not credible.

Also, due to the lack of any witness(es), there is no way to prove if the allegation of violating DPH's Employee Handbook Policy Prohibiting Employee Violence in the Workplace ever occurred.

Mr. Haynes' violation of the DPH Employee Handbook Policy Prohibiting Employee Violence in the Workplace cannot be substantiated.

Allegation 2: Violation of the Department; Code of Conduct, Compliance Program

Under 4.3 of the Code of Conduct, it states, "*DPH is committed to maintaining an environment that is free of unlawful harassment and intimidation... Harassment includes any behavior or conduct that unreasonably interferes with an individual's work performance or creates an intimidating, hostile or offensive work environment... Examples include jokes, insults, threats and inappropriate comments...*".

Mr. Haynes denied making the alleged threat and inappropriate comments towards Mr. Mars and based on there being no witnesses of the alleged conduct, no evidence to support either story and the inconsistent stories provided by Mr. Mars, I am unable to substantiate that Mr. Haynes' violated of the Department's Code of Conduct.

FACTUAL FINDINGS

Based on the investigation, this investigator finds:

- Mr. Haynes did not violate the City's Policy on *Prohibiting Workplace Violence*
- Mr. Haynes did not violate the Department's Compliance Program's *Code of Conduct*

Mike Forman – Labor Relations HR Analyst, DPH

Date

EXHIBIT F

May 1, 2020 CSC Notice of Receipt of Appeal, and
May 1, 2020 CSC Acknowledgement Letter



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: May 1, 2020
REGISTER NO.: 0081-20-6
APPELLANT: DENNIS B. MARS

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 Dennis B. Mars appealing the Human Resources Director's decision to administratively close his discrimination complaint, EEO File No. 3332 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 Dennis B. Mars' 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 July 23, 2020** so that it may be heard by the Civil Service Commission at its meeting tentatively scheduled on August 3, 2020. If you will be unable to transmit the staff report by the July 23rd deadline, or if required departmental representatives will not be available to attend the August 3rd 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: Dennis B. Mars
May 1, 2020
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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



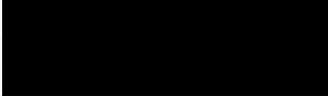
CIVIL SERVICE COMMISSION CITY AND COUNTY OF SAN FRANCISCO

LONDON N. BREED
MAYOR

Sent via U.S. Mail and Email

May 1, 2020

Dennis B. Mars



ELIZABETH SALVESON
PRESIDENT

KATE FAVETTI
VICE PRESIDENT

DOUGLAS S. CHAN
COMMISSIONER

F. X. CROWLEY
COMMISSIONER

JACQUELINE P. MINOR
COMMISSIONER

Subject: **Register No. 0081-20-6: Appealing the Human Resources Director's Decision to Administratively Close his Discrimination Complaint, EEO File No. 3332 Without Further Investigation.**

Dear Dennis B. Mars:

This is in response to your appeal to the Civil Service Commission on March 13, 2020 appealing the Human Resources Director's decision to administratively close your discrimination complaint, EEO File No. 3332 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

SANDRA ENG
ACTING EXECUTIVE OFFICER