

November 21, 2008

NOTICE OF COMPLAINT

CONFIDENTIAL
TO BE OPENED BY ADDRESSEE ONLY

MEMORANDUM

TO: John Doe (“Respondent”)

FROM: Kim D. Kirkland
Director, Office of Equal Opportunity

SUBJECT: Notice of Complaint Made Pursuant to the IUPUI Sexual Harassment Policy

The Office of Equal Opportunity (the “Office”) has received a complaint from Jane Deer alleging that you engaged in conduct that, if true, may violate the IUPUI Policy on sexual harassment, herein referred to as the “Policy”. A copy of the Policy is enclosed for your ease of reference.

Upon receipt of such complaint, the University is required to conduct an investigation in order to determine whether the Policy has been violated.

THE ALLEGATIONS

The complaint filed with the Office contains the following allegations that are alleged to have occurred at the places and times noted below:

#1. During the period from September 20, 2008 – December 20, 2002, John Doe subjected Jane Deer to unwelcome sexual comments as they worked together in the Sanders Dining Hall. Specifically, Ms. Deer alleges that you kept asking her when Damien (another employee) and Ms. Deer were going to do it and get it over with and when they were getting married. She also stated that you asked her and Damien if they had had a “quickie”.

#2. During the period from September 20, 2008 – December 20, 2008, John Doe subjected another female employee to unwelcome sexual comments as they worked together in the Sanders Dining Hall. Specifically, Ms. Deer alleges that this employee told her that she was suffering from a chest cold and had commented to you that she couldn’t get rid of it. Whereupon you remarked: “if I were in your chest you couldn’t get rid of me either”.

Enclosed herewith is a copy of the complaint received by this Office. It is our practice that complaints be processed confidentially, to the fullest extent practicable and consistent with the University's need to investigate and take corrective action. Accordingly, you are requested not to share the complaint with any other person during or after this investigation, except as you may determine necessary to obtain legal advice.

We expect that you will cooperate with this investigation and not retaliate in any form against an individual you know or may suspect has filed a complaint against you or who may offer statements against your position. If inappropriate behaviors are found to impair/impede the investigatory process, immediate interim action (removal, reassignment, administrative leave, suspension, etc.) will be administered. Therefore, do not attempt to contact any such individual during the investigation regarding a matter related to the investigation.

STANDARDS

It is a violation of the University Policy to engage in conduct that constitutes sexual harassment. The enclosed Policy describes the types of conduct that would constitute a violation of our standards of conduct in this regard.

The allegations will be "sustained" if it is found that the important facts contained in an allegation are more likely true than not and that those facts violate one or more of these standards. In that event, appropriate remedial measures will be taken by the "Decisional Authority" Dr. Uday Sukhatme, Executive Vice Chancellor/Dean of Faculties.

If, on the other hand, the important facts in an allegation are not determined to be true, or if it is determined that the standards have not been violated, the allegation is "not sustained". In either of these latter events, disciplinary action would not be taken under the Policy. Even if that is the case, however, our investigation may lead to the initiation of remedial management action as a matter of management's prerogative and responsibility to improve organizational efficiencies and effectiveness.

INVESTIGATION AND DECISION

The complaint will be handled by an Investigator of the Office. The Investigator will examine the factual allegations of the complaint and prepare a Report of Investigation. The "Decisional Authority" is the person who will review our Report of Investigation and who will ultimately communicate whether the Policy has been violated and, if so, what remedial measures are appropriate under the circumstances.

Any aggrieved party may request reconsideration of the Decisional Authority's decision only once based on: 1) newly discovered evidence that was previously unknown and that could affect the outcome; or 2) an irregularity in the process that affected the finding of a material fact or that could have otherwise affected the outcome. Such a request must be in writing (hard copy) and addressed to the Office of Equal Opportunity within ten (10) calendar days upon issuance of the findings from the investigation. The Decisional Authority will have ten (10) calendar days to respond to a request for reconsideration.

The decision of Dr. Sukhatme may be appealed to the Chancellor of the University (Dr. Charles R. Bantz) by any aggrieved party, if the appeal is timely received by the Office of the Chancellor within **ten (10)** calendar days after that party's receipt of the Decisional Authority's determination. The decision of the Chancellor is the final administrative decision of the University and will be subject to no further appeal.

If you do not appeal the decision to the Chancellor within the **ten (10)** day time period, the determination of the Decisional Authority will automatically become the final decision of the University.

YOUR RIGHTS

You are presumed innocent of the allegations unless and until there is a final administrative finding of culpability or an admission by you that the allegations made are true.

As the Respondent or “subject” of the complaint, you have the right to be informed of the complaint and to submit a written response to the allegations. That written response may be as long as you deem appropriate, but should contain only those relevant statements and materials that you reasonably believe support your view of the important facts. In your written response you are urged to submit the names (with accompanying contact addresses, including email addresses, and telephone numbers) of individuals who may have direct and relevant information about the specific allegations. Such information should relate to the witness’ personal experience or observation and should tend to establish either the truth or falsity of the allegations.

In addition to addressing the important facts contained in the allegations, you may also provide a written analysis of whether, in your opinion, the facts support a finding that you have violated the standards contained in the Policy.

Finally, you will also be afforded the opportunity to verbally present your position to the Office during a personal interview. It is suggested, however, that your written response, if any, to the allegations be submitted to us at least two workdays prior to the scheduled interview.

It is your decision whether to seek the advice and assistance of your own legal counsel to help prepare your position during the investigation. The University will not reimburse you for legal fees or the cost associated with retaining the services of a personal attorney. In addition, it would be inappropriate for University counsel to represent you personally during the investigation, and you should not ask University counsel to do so or to provide you with personal legal advice.

If you elect to have your personal counsel present during your interview, you may do so; however, your counsel will not be permitted to answer questions for you, to make statements on your behalf, or to delay or interrupt the interview. If your counsel elects not to observe these conditions, he/she will be excused from the remaining portions of the interview. Finally, if your counsel is present at the interview, it is likely that University Counsel will also be present.

The Decisional Authority will notify you of the decision and what, if any, disciplinary or remedial measures may be imposed or implemented.

RIGHTS OF THE COMPLAINANT AND POTENTIAL WITNESSES

The University is committed to protecting individuals who come forward to complain of conduct that may violate the Policy. Members of the University community who believe that they have been subjected to sexual harassment in violation of the Policy are urged to come forward and file a complaint. It is a clear violation of our Policy to reprimand, retaliate, or discriminate against any person, in any way, for initiating an inquiry or complaint, or for cooperating with this investigation. Such retaliation constitutes independent grounds for disciplinary action regardless of the merits of the underlying claim of discrimination. Failure to abide by these requirements will result in disciplinary action.

The University will act impartially and consider any and all relevant information that you can supply to help ensure that we reach a sound conclusion.

After the Decisional Authority makes a decision, the complainant will also be notified of that decision. The complainant will be informed of the disciplinary and/or remedial measures, if any, planned or taken, but only to the extent necessary to demonstrate that the allegations have been appropriately addressed.

YOUR INTERVIEW

In order to assure that we reach a sound conclusion, it is requested that you schedule a time that you can be interviewed with regard to these allegations. If you require assistance to be released from your work time, please contact the Investigator at 4-2306.

If you do not consent to an interview, the complaint will be resolved without the benefit of your full participation in the process.

You are, once again, reminded that if you elect to submit additional written materials, those documents should be submitted not later than two workdays prior to the scheduled time of your interview.

ADDITIONAL QUESTIONS

It is strongly suggested that you read the enclosed Policy in its entirety before you respond to the allegations. If you have any questions regarding the interpretation of the Policy, or the process for conducting this investigation, please forward them an Investigator in the Office at (317) 274-2306.

Thank you in advance for your cooperation in this matter.