



**COPY**

**MEMORANDUM**

TO: City of Odessa Mayor and City Council  
FROM: Bonita J. Hall, Director of Human Resources  
Kara McQuatters, Human Resources Generalist  
DATE: July 24, 2017  
RE: Grievance/Complaint

Background

On or about July 12, 2017 Human Resources received a grievance from [redacted] alleges she has been discriminated against by her supervisor, City Attorney Larry Long and that his actions have created a hostile work environment. She also alleges that she has been singled out from the other support staff, bullied, unjustly accused of excessive absences and that her privacy has been violated. [redacted] visited Human Resources several weeks prior for the aforementioned issues and returned with the grievance. Because Larry Long is a City Council appointee, the grievance was turned over to Council Appointee, City Manager Richard Morton, who in turn, notified the Council and the Council Personnel Committee. The Committee convened and directed me to conduct the investigation as I would any other employee investigations. The following employees were interviewed as part of the investigation process:

Larry Long, City Attorney

Although several of the employees interviewed were nervous and afraid, we believe their responses were truthful and straightforward. *(There were a couple of interviews where we believe the respondents were not completely forthcoming because they were afraid or trying to protect but there is no way to prove it at this point, but their credibility is suspect.)*

Applicable laws, policies, etc.

The applicable policies, procedures, laws, etc. include the following:

- City of Odessa Policies and Procedures section 6.101(L) Disturbance, is exemplified but not limited to (3) Intimidation....
- City of Odessa Policies and Procedures section 6.101(N) Disregard of public trust is any conduct which on becoming public knowledge could impair the public's confidence or trust in City government taking into consideration the nature of the conduct, whether committed during or after working hours and the duties of the employee.
- City of Odessa Policies and Procedures section 6.101(R) Discrimination. Discrimination or harassment based on race, sex, religion, national origin, physical disability, or age will subject the perpetrator to disciplinary action, including discharge.
- The EEOC defines hostile environment harassment as follows:  
Harassment is a form of employment discrimination that violates Title VII of the Civil Rights Act of 1964, the Age Discrimination in Employment Act of 1967, (ADEA), and the Americans with Disabilities Act of 1990, (ADA). Workplace sexual harassment is unwelcome conduct of a sexual nature that unreasonably interferes with the performance of a person's job or creates an intimidating, hostile, offensive or abusive work environment. (Sexual harassment can range from persistent offensive sexual jokes to inappropriate touching to posting offensive material on a bulletin board.)
- Anti-discrimination laws also prohibit harassment against individuals as retaliation for filing a discrimination charge, testifying, or participating in any way in an investigation, proceeding, or lawsuit under these laws; or opposing employment practices that they reasonably believe discriminate against individuals, in violation of these laws.

Facts

- Everyone said there is no hard and fast rule regarding asking for time off. Most get verbal approval from Larry. \_\_\_\_\_ appears to be the only one who has real difficulty getting approval, verbal or otherwise, sometimes having to resort to "following him around" in order to get a response.
- When it comes to getting time off, there are two camps, those able to get approval reasonably quickly and those who are not. Of those who are not, \_\_\_\_\_ is the only non-exempt employee and the others simply notify Larry that they will be out of the office.
- \_\_\_\_\_ complained to two people \_\_\_\_\_ about her difficulty getting requesting time approved and to one person \_\_\_\_\_ about her harassment allegation.
- This is the third official complaint against Larry Long. The first case occurred in 2007 and alleged sexual harassment. It was determined Larry violated the City's illegal harassment policy and was disciplined. The second case occurred in 2009 and alleged favoritism based on an alleged "relationship" between Larry and a subordinate. It was determined that no policies were violated but recommended more clearly identified work schedules and

reporting lines of authority be created. It does not appear these recommendations were completed.

- Larry refers to people by names other than the ones they have been given. "Bunny Rabbit", "Honey" and "Snake" are a few. Several people indicated their dislike of the practice and one said he made it clear that it was offensive and unwelcomed. This behavior has carried over from the earlier complaints.
- There was an incident two years ago concerning taking the day off, Larry telling no, and subsequently taking the day off. There are differing reasons for the mix-up but, was disciplined for the unauthorized leave.
- Two employees stated Larry touched hair. This behavior has carried over from the first case.
- Two employees reported Larry sitting too close to. This behavior is a carry-over from the first case.
- There appears to be no departmental process for handling Family Medical Leave (FML) requests. Questions about FML are referred to either or Human Resources.
- Larry Long currently directly supervises approximately 10-12 employees.

#### Findings

- Regarding time-off requests, has been treated differently than others in the office. While it was determined it was more difficult for to get authorization for time off requests, it did not appear compensatory time was unusually high. We were unable to determine if time was taken without being entered on the timesheets.
- Regarding sexual harassment allegation, on its own this case borders on sexual harassment. However, when taken in conjunction with earlier allegations, where much of the same behavior was exhibited, where Larry Long was disciplined and warned not to continue said behavior, it is believed that sexual harassment exists in the current case by the compounding nature of the past complaints.
- Regarding the allegation of hostile work environment,
  - there is inappropriate behavior, (staring, touching hair, sitting too close);
  - there is the lack of timely responses to leave requests, where sometimes had to "follow" Larry around in order to get answers;
  - there is having a meeting with to discuss her absences in front of other administrative staff;
  - there is the establishment of a practice that currently only applies to

With the aforementioned items, we believe a hostile and intimidating environment exists.

#### Recommendations

- If Larry Long is to remain in the employment of the Odessa City Council, greater discipline than the previous 30-day suspension should be meted out.
- If Larry Long is to remain in the employment of the Odessa City Council, stronger measures need to be in place to ensure this does not happen again. Larry Long's ability to exert influence over female staff should be limited.

- The supervision of the support staff should be given to either an Office Manager or one of the
- Mandatory Anti-Harassment/Discrimination training for the employees in the department must occur. (Live)
- Counseling for Larry Long and additional training regarding his behavior toward his subordinates must occur.
- Additional training would be a good idea for all of the supervisory staff.

Conclusion

We are in an untenable position with this case. Larry Long is an intelligent employee who has worked tirelessly for the City of Odessa. Anyone who has worked in the last twenty years understands that the behavior exhibited by Larry Long is unacceptable regardless of how "friendly" you want to be with your subordinates. Larry has worked for the City over 30 years in the City Attorney's office and wrote/approved many of the policies currently in place including the City's illegal harassment policy. That policy is in place for many reasons, two of which include to protect the City and to protect the employees. Larry can no more claim ignorance of the policy and what constitutes improper behavior than the City can for the notion that he may repeat some of the behavior that got him suspended ten (10) years ago. Gone is the possible defense that the City had no idea Larry would behave in such a manner. We have a responsibility to the employees to create a safe, respectful and professional environment. We also have a responsibility to the citizens not to put the City into a position that would tarnish its reputation or open it up to liability. Regardless of the action the City Council takes, the City is still susceptible to a lawsuit based on the current incident. Whatever Council decides, those potential risks need to be kept at the forefront.

Xc: City Managers Office  
Legal  
File