



Northern Illinois University
*Division of Outreach,
Engagement, and Regional
Development*

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To: Eric Dannenmeir
Dean
College of Law [REDACTED]

From: Dr. Anne Kaplan [REDACTED]
Vice President
Outreach, Engagement & Regional Development

Date: June 9, 2017

RE: Appeal of Finding of Sexual Harassment, dated April 14, 2017

The following are the results of the appeal to me in the above referenced matter:

On April 28, 2017, Appellant Dean Eric Dannenmeir appealed the April 14, 2017 finding of sexual harassment for the Title IX Investigation of the Complaint of Sexual Harassment that was filed against him, dated February 15, 2017.

The April 14, 2017 Official Report of Findings stated that "After careful review of the evidence presented, University policy and applicable federal and state laws, there was enough evidence to render it more likely than not that [Dean] Dannenmeir sexually harassed [the Complainants] by using comments and language of a sexual nature in the workplace." After careful review of the materials submitted to me during this appeal, I concur with the findings of the investigator. During the course of the appeal, Dean Dannenmeir was provided the opportunity to supplement his appeal with any additional information he believed needed to be reviewed and considered. This led to a small postponement of the timeline in processing this appeal.

Dean Dannenmeir realizes in retrospect that his collaborative approach to the work of the [REDACTED] led to "uncertain professional barriers" and relationships with the Complainants "which became too familiar." He "viewed [the Complainants] as colleagues and friends, and not as subordinates." This approach to the dean's supervisory role appears throughout his interviews and indicates a lack of understanding of both the responsibilities of a senior executive and the potential conflict between the natural desire to maintain office friendships and the necessary exercise of executive responsibility in a way that treats (and is perceived to be treating) all players fairly and equally.

Dean Dannenmeir asserts that "the hundreds of text messages" he provided the investigators were "not reviewed or considered...." I find that the text messages were indeed reviewed but were deemed by the investigator to be "friendly banter" which the Complainants believed to be necessary to "get work done." The Complainants' communications are described by the investigator (accurately, in my opinion) as "not sexually explicit or charged." The investigator also concluded that the Complainants' responses to their supervisor's comments were not indicative of approval of the behavior which prompted them. It should be noted that those responses were also not indicative of disapproval. For the most part, a

review of the record indicates that the Complainants' expressions of discomfort with the Dean's communications occurred in retrospect and only after they decided to file a grievance and [REDACTED]

Most of the conversations described in the findings are recollected similarly from a content perspective by both the Complainants and by Dean Dannenmeir. The interpretation of those conversations differs significantly. It is difficult to choose sides here without having heard the conversations or watched the parties' interactions, but it seems clear from the Dean's reported comments throughout the period of the investigation that he was far too informal in his communication with colleagues and particularly with subordinates, and that he undermined his authority by his desire to minimize professional barriers and be seen as a friend. We can agree that some of the conversations between the Dean and the Complainants were sexual in nature, but we cannot agree on all of them since Dean Dannenmeir's interpretation and the Complainants' interpretation vary greatly. Judgments regarding whether these comments/incidents were severe and pervasive require an additional judgement regarding whose interpretation of the comments should prevail and whether there was any indication, prior to the Complainants' [REDACTED], that the comments affected or would affect the Complainants' employment and wellbeing.

The significant power differential between the dean and the Complainants, the Complainants' desire to prove themselves to be up to the tasks assigned them, their probable need for references in the future, and their fear of repercussions are all viewed by the investigator as contributing to and justifying the absence (except on two early occasions) of explicit expressions of concern or protests on the part of the Complainants about the nature of the dean's conversations and conduct. That the concerns expressed by the Complainants on those two documented occasions did put an end to a conversation which made the protesting Complainant uncomfortable might also suggest that the Complainants could in fact influence the nature and content of their conversations with the Dean when they chose to do so. That the University's Title IX Policy, Procedures and associated training opportunities have not convinced potential victims of hostile work environments that they can and should express their discomfort early and often is a lesson to be learned from this investigation and one which should be emphasized in future training sessions.

The issue here is not whether Dean Dannenmeir's comments were sexual, overly intrusive and inappropriate – many were – but whether he knew or had reason to know that they were unwelcome. The Complainants, at least in retrospect, claim to have been made uncomfortable by Dean Dannenmeir's communication style and his attempts to be more of a friend than a supervisor. Their decision [REDACTED] does suggest that their discomfort was real. Dean Dannenmeir, on the other hand, believes he had no reason to suspect that discomfort, and he can point to texts and emails expressing the Complainants' enthusiasm for the work of the office, their admiration for his leadership, and their pleasure in being part of the team. It is possible that both perspectives are accurate, and that both the Dean and the Complainants behaved in ways which made them vulnerable to the results which transpired. That said, it is the Dean who is the senior party in this situation, and the Dean who represents or should represent the values of the University. On that basis, and in spite of my belief that the Complainants had no reason to doubt their ability to assert their views or pursue their professional goals while working with Dean Dannenmeir, I have to concur with the findings of the investigation.

Cc: Lisa Freeman, Executive Vice President & Provost
Title IX Office, c/o Laura Alexander



Northern Illinois University

Affirmative Action and Equity Compliance

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Sent via Electronic Mail Attachment

CONFIDENTIAL MEMORANDUM

To: Eric Dannenmaier, Dean
College of Law
[REDACTED]

From: Michelle Johnson, Title IX Investigator [REDACTED]
Affirmative Action and Equity Compliance
mjohnson1@niu.edu

Date: April 14, 2017

Re: *Official Report of Findings for the Affirmative Action Investigation of the Report of Gender Discrimination, dated February 17, 2017.*

INTRODUCTION

This memorandum represents the Official Report of the Findings related to the Affirmative Action Investigation ("Investigation") that was conducted by Affirmative Action and Equity Compliance ("AAEC") for a report of gender discrimination in the Constitutional Law class that arose during the course of the investigation involving [REDACTED]

ISSUE PRESENTED

A comprehensive and thorough investigation was conducted. The issue that formed the basis of this investigation was as follows:

Whether there is sufficient evidence to render it more likely than not that you engaged in gender discrimination during Constitutional Law class by treating female students differently than their male counterparts.

CONCLUSION

After a careful review of the evidence presented, University policy and applicable federal and state laws, there is insufficient evidence to conclude that you treated female students differently than their similarly situated male counterparts on the basis of gender during Constitutional Law.

DISCUSSION

Gender discrimination is defined as differences in academic decisions that are based upon the sex/gender of the student and/or involve a comparison of one gender to another that results in differential treatment.

As evidence of gender discrimination, the report that we received alleged that you only "cold called" female students and, as a result, male students did not feel the need to prepare for class and/or were not subjected to the "cold call" pressure. In short, the allegation suggests male students were treated more favorably in this regard because they were not required to be as prepared as their female counterparts. This report also alleged that the different treatment appeared to be on the basis of gender. Lastly, the report alleged that you stated during class, "Ladies, sometimes size matters" which was interpreted as being inclusive of sexual connotations as in reference to the size of a male penis (while that specific terminology was not used and/or alleged).

As a result of the investigation, there was not enough information to conclude that you treated students differently on the basis of gender in the Constitutional Law class. While you admitted to stating "size matters" you denied such involved sexual connotation, but rather was related to the size of a vehicle truck. You also denied using the term "ladies" to preface the comment. You suggested that there had only been four (4) classes at the time of the complaint and thus, you did not have enough time to call on all students (which occurred via the use of a seating chart). Based upon the investigation, including a review of the report and lack of witness testimony to corroborate otherwise, there was not enough information to conclude your comment "size matters" and/or the "cold calling" of female students only, was indicative of discrimination on the basis of gender.

Based upon the evidence presented during the course of the Investigation, there is insufficient evidence to conclude that you treated female students differently than their similarly situated male counterparts on the basis of gender in your classroom.

This matter is considered closed and resolved. No further investigation will be conducted by AAEC into this matter unless facts and/or evidence warrant a subsequent review and/or investigation. The results of the Investigation may be appealed by submitting a written request of appeal to Dr. Anne Kaplan, Vice President of Outreach, Engagement and Regional Development. The appeal must be submitted within ten (10) workdays after the date of your receipt of this written Report regarding the Investigation, and must contain the specific reason for the appeal and/or facts that were not available at the time of the investigation.

NO RETALIATION

Please also be advised that it is a violation of the University's *Non-Discrimination/Harassment Policy and Procedures*, as well as federal and state laws, to retaliate against any individual who, in good faith, files a complaint alleging that sex discrimination has occurred, or because he or she has opposed that which he or she reasonably and in good faith believes to be sex discrimination in higher education, or because he or she has made a charge, filed a complaint, testified, assisted, or participated in any way in an investigation, proceeding, or hearing concerning sex discrimination. Should you experience what you believe to be retaliation as defined above, please contact Affirmative Action and Equity Compliance (AAEC) immediately.

Thank you for your patience and assistance with this matter. Should you have any further questions, please do not hesitate to contact me directly at (815) 753-6042 or mjohnson1@niu.edu.

cc: Sarah Adamski, Associate Director of Investigations, Affirmative Action and Equity Compliance
Affirmative Action File



Northern Illinois University

Affirmative Action and Equity Compliance

CONFIDENTIAL MEMORANDUM

Sent Via E-mail Attachment

To:

[REDACTED]
[REDACTED]
[REDACTED]

Affirmative Action and Equity Compliance
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From: Sarah Adamski, Associate Director of Investigations
Affirmative Action and Equity Compliance
sadamski1@niu.edu

Date: April 14, 2017

Re: *Official Report of Findings for the Affirmative Action Investigation of the Complaint of Sexual Harassment that you filed against Eric Dannenmaier, dated February 15, 2017*

INTRODUCTION

This memorandum represents the Official Report of the Findings related to the Affirmative Action Investigation ("Investigation") that was conducted by Affirmative Action and Equity Compliance ("AAEC") for the Affirmative Action Complaint of sexual harassment that you filed against Eric Dannenmaier, Dean, College of Law ("Dannenmaier"), dated February 15, 2017.

ISSUE PRESENTED

A comprehensive and thorough investigation was conducted. The issue that formed the basis of this investigation is as follows:

Whether there is sufficient evidence to render it more likely than not that Dannenmaier sexually harassed you by using comments and language of a sexual nature in the workplace.

CONCLUSION

After a careful review of the evidence presented, University policy and applicable federal and state laws, there was enough evidence to render it more likely than not that Dannenmaier sexually harassed you by using comments and language of a sexual nature in the workplace.

DISCUSSION

On February 15, 2017, you filed a Complaint of sexual harassment against Dannenmaier. The Complaint alleged that Dannenmaier engaged in comments and language of a sexual nature in the workplace that was sufficiently severe and pervasive enough to create a hostile work environment. In order for the comments and language to constitute a form of sexual harassment, the comments and/or conduct must be (1) unwelcomed, (2) conduct of a sexual nature, that is (3) severe and/or pervasive enough to have the purpose or effect of interfering with work performance or creating an intimidating, hostile, or offensive work environment. The reasonable person standard is the test used to determine whether or not a reasonable person in the same and/or similar circumstances would find the comments and/or conduct to be of a sexual nature and severe and/or pervasive enough to interfere with work performance and/or to create an intimidating, hostile or offensive work environment.

On February 22, 2017 and March 9, 2017, Dannenmaier was provided an opportunity to respond to these allegations during an interview with myself, Sarah Adamski, Associate Director of Investigations, and Michelle Johnson, Title IX Investigator. On February 15, 2017 and March 10, 2017, you were also interviewed related to the allegations contained with your Complaint. After all interviews, parties were provided a copy of the summary of the interview, which allowed for verification the summary for

completeness and accuracy. All parties added information into these documents to ensure such. You and Dannenmaier also provided additional information on April 11, 2017, in response to an email that was sent on April 7, 2017, requesting specific information. After Dannenmaier's first interview, he also provided documentation of various conversations with you and a cover memorandum, which provided more information about the allegations. All pieces of documentary evidence were incorporated into the Investigation. Witness testimony from students, faculty and staff were also obtained during the Investigation. Similarly, all interviewees were provided a summary of their interview, which they also verified for completeness and accuracy. All verified summaries were incorporated into this Investigation.

Pursuant to a thorough investigation, which included your allegations, Dannenmaier's responses, a review of documentary evidence provided by both parties and witness testimony, there was enough information to conclude that Dannenmaier subjected you to sexual harassment while you were employed as a Strategic Initiatives Associate within the College of Law. Each element necessary to support a claim of sexual harassment will be discussed separately below.

(1) Conduct of a Sexual Nature

As a result of a careful and thorough review of the above information presented during my interview with you, Dannenmaier, witnesses and presented documentation (as described above), there was enough information to conclude that it is more probable than not that Dannenmaier made comments to you that were sexual in nature. Specifically, Dannenmaier's testimony included his failure to deny or recall the following:

- [REDACTED];
- Discussion pertaining to his [REDACTED]
- Asking you, "Is it just sex or are you in love, because if its love you shouldn't have to be apart" in regards to [REDACTED];
- Teasingly asking you if you "could have slept with someone else" or saying "she could do better;"
- On a car ride to [REDACTED] with you alone, discussing your relationship with [REDACTED], asking you who else you have had sex with and a dating [REDACTED]
- During a one-on-one trip to [REDACTED], eating dinner alone with you and ordering drinks for you which was independent of conference activities;
- Invited you to his home [REDACTED] to meet individuals in environmental law;
- Saying "You know, you and me, we'll find some project down the line" or "words to that effect," causing you to infer "you and me, down the line" to mean having a relationship with you;
- Repeatedly offering you a ride home after work;
- Repeatedly inviting you to his home mid-day to let his dogs out with him;
- Informing you that if your plans were to stay in the local area [REDACTED], then national and international connections would be less valuable; and
- Told you "clearly you are training again" wherein you inferred this to be in reference to your body.

The statements above illustrate Dannenmaier's admissions and those that he was not able to categorically "deny" as indicated by his repeated response that he "did not recall" making the alleged statements.

Additionally, there was also enough information gathered during the investigation to conclude that Dannenmaier has made similar remarks and connotations of a sexual nature to students, faculty and staff, thereby further corroborating your version of the events. These remarks, conduct and/or connotations included, but were not limited to, comments of a sexual nature Dannenmaier made [REDACTED] during his Constitutional Law I class ([REDACTED]) and comments regarding a [REDACTED]

colleague's appearance during faculty meetings [REDACTED]. Numerous witnesses also testified that Dannenmaier commented about "dating" a female candidate for hire and hugged a female professor without her approval and/or request. Moreover, witnesses testified that Dannenmaier referred to [REDACTED] a "[REDACTED] buddy." Dannenmaier denies making this statement, yet witness testimony concludes otherwise.

Moreover, during the Investigation, Dannenmaier provided information that contradicted earlier testimony on several occasions. For example, initially, in regards to a different allegation contained within another Investigation, Dannenmaier suggested that a dinner on August 19, 2016 with [REDACTED] [REDACTED] at his home involved general conversation only and did not involve sex. However, later, during the investigation, Dannenmaier stated that the conversation included a "number of topics, including sex." Despite my clear request to explain whether or not Dannenmaier engaged in conversations of a sexual nature on the day in question, he initially denied such conversations occurred and only later admitted that he engaged in sexual conversations with [REDACTED]. The allegations presented with [REDACTED] Complaint are also similar in nature to those presented in yours.

You, on the other hand, provided consistent testimony during the course of the Investigation. Your testimony was consistent with the testimonies provided by faculty, staff and students and there is no cause to believe that such testimonies were altered and/or scripted to provide for corroboration as these witnesses were largely unaware of the existence of your Complaint and allegations contained therein. Without prompting or disclosing details of the Complaint, faculty and staff voluntarily provided information about Dannenmaier's interactions with you, which corroborated your testimony. Your testimony as deemed credible, coupled with Dannenmaier's inconsistent/incomplete testimony, lack of clear denial, admission that he engaged in conduct of a sexual nature as well as corroborating witness testimony, there was enough information to conclude that Dannenmaier engaged in conduct of a sexual nature with you during the tenure of your employment.

(2) Unwelcomed

You assert that despite your protest to Dannenmaier's questioning on or about September 1, 2016, while in the car to Rockford, the acquiescence and lack of objection was the result of your desire to avoid conflict due to the supervisory relationship and power differential between Dannenmaier, as Dean of the College of Law, and you, his subordinate [REDACTED]. In contrast, Dannenmaier asserts that you engaged in a mutual and sociable friendship with him that indicated informality and banter was accepted and welcomed. This was evidenced in the numerous pages of text messages between you and Dannenmaier, indicating a mutual and friendly relationship. Dannenmaier also asserts that the Admissions Office operated in a "collaborative and participatory style" and he made it clear that he wanted you to work "with" him, not "for" him. Dannenmaier also asserts that your personality as a "strong [REDACTED]" would have caused you to say something to him and/or take advantage of resources on campus to address the alleged behavior at the time of their occurrence. Dannenmaier also questions whether the Complaint was filed in good faith [REDACTED]
[REDACTED]
[REDACTED]

After consideration of the testimonies, the evidence renders it more likely than not that Dannenmaier's conduct was unwelcomed by you. First, the fact that your outright protest to sexual commentary only occurred on one (1) occasion, an occurrence which he denies, does not bar a determination of unwelcomeness. This lack of protest may be the result of a fear of repercussion, which is reasonable to conclude in the matter at hand due to the supervisory relationship and power differential that existed between you and Dannenmaier, which reasonably caused you to be compliant and acquiesce to his behavior.

[REDACTED], were offered and ultimately accepted the position with Dannenmaier, Dean of the College of Law, due to your [REDACTED]

[REDACTED] As illustrated, you relied on Dannenmaier to gain experience and knowledge [REDACTED]

Moreover, the close working space between you and Dannenmaier ([REDACTED]) and his significant position of authority and power over you reasonably concludes that you did not feel comfortable protesting against the sexual comments for fear of retribution from him directly, the potential risk of jeopardizing your ability to be successful in the position and increased speculation by the faculty of your performance. Additionally, you felt isolated from faculty and staff based upon his comments of you being his "ally;" telling you that the faculty, especially the female faculty, did not trust you [REDACTED] that he is "always" defending you to faculty and staff; and requesting you to send emails through him, despite his assertion that such was to receive a more prompt response. It is reasonable that this isolation caused you to acquiesce to Dannenmaier's conduct to complete day-to-day tasks for gainful employment and [REDACTED]. Lastly, it is reasonable to conclude that your reliance upon Dannenmaier, as Dean of the College of Law and [REDACTED]

Additionally, as stated by you, informal and friendly communications with Dannenmaier was a way to get work done and had been established by him very early in the working relationship. [REDACTED] [REDACTED], it is reasonable to conclude that you would not protest against this relationship and would believe that, as Dean of the College of Law, he would be experienced with the set of formal, ethical, and lawful workplace boundaries that should be established. The informal workplace environment often resulted in after-hours work and late night phone calls that were friendly and mutual between you and Dannenmaier. Especially given the amount of time that you and Dannenmaier spent with one another, a level of informality was established and occurred, to no objection by you. Therefore, it is reasonable that you engaged in friendly banter with him, despite your unwelcomeness to his sexual commentary and language. However, welcomeness to friendly conduct does not equate to welcomeness to sexual conduct. You did not reciprocate the unprompted or unsolicited sexual comments or language by asking him reciprocal questions or comments of a sexual nature. You did not initiate sexually explicit or charged commentary or language with Dannenmaier that would have indicated that such type of behavior was welcomed. Moreover, Dannenmaier continued to engage in the complained of comments and language after he was explicitly informed by you, [REDACTED], on September 1, 2016 that the conduct that was sexual in nature made you feel uncomfortable, thereby making any further comments unwelcome in nature and actionable under sexual harassment laws, policies and procedures.

(3) Severe and Pervasive Enough to Create a Hostile Work Environment

Lastly, there was enough information to conclude that Dannenmaier's unwelcomed conduct of a sexual nature was severe and pervasive enough to create a hostile working environment for you. During your tenure, it became clear [REDACTED] You questioned Dannenmaier about the work you were performing and reaffirmed your initial desire to [REDACTED]. You declined, despite that being your main area of focus and the reason why you initially accepted the position. [REDACTED]

[REDACTED]

You also moved her physical office location to [REDACTED] to be closer to [REDACTED]. You and [REDACTED] would interrupt meetings that each other were in with Dannenmaier to ensure they do not run long or past 4:30 p.m., which is close of business. You stopped [REDACTED] and uncomfortable. According to a staff member, you would attempt to avoid one-on-one extraneous interactions with Dannenmaier and [REDACTED]. You have avoided social gatherings and extraneous events with him. Dannenmaier's conduct [REDACTED]

[REDACTED]. This is also an objectively reasonable response to the environment that you were in, especially due to the relationship between Dannenmaier and you ([REDACTED]) and position of power that he held as the Dean of the College of Law, [REDACTED].

Pursuant to this Investigation, there is enough information to conclude that Dannenmaier has violated the University's *Non-Discrimination/Harassment Policy and Procedures* prohibiting sexual harassment. Recommendations that address this specific conclusion have been referred to the appropriate Department head for review and consideration.

This matter is now considered closed and resolved. No further investigation will be conducted by AAEC into this matter unless facts and/or evidence warrant a subsequent review and/or investigation. The results of the Investigation may be appealed by either party by submitting a written request of appeal to Dr. Anne Kaplan, Vice President of Outreach, Engagement and Regional Development. The appeal must be submitted within ten (10) workdays after the date of your receipt of this written Report regarding the Investigation, and must contain the specific reason for the appeal and/or facts that were not available at the time of the investigation.

NO RETALIATION

Please be advised that it is a violation of the University's *Non-Discrimination/Harassment Policy*, as well as federal and state laws, to retaliate against any individual who, in good faith, files a complaint alleging that discrimination or harassment has occurred, or because he or she has opposed that which he or she reasonably and in good faith believes to be discrimination or harassment in higher education, or because he or she has made a charge, filed a complaint, testified, assisted, or participated in any way in an investigation, proceeding, or hearing concerning discrimination or harassment. Should you experience what you believe to be retaliation as defined above, please contact Affirmative Action and Equity Compliance (AAEC) immediately.

Thank you for your patience and assistance with this matter. Should you have any further questions, please do not hesitate to contact me directly at (815) 753-5560 or sadamskil@niu.edu.

cc: Michelle Johnson, Title IX Investigator, Affirmative Action and Equity Compliance
Affirmative Action File

CONFIDENTIAL MEMORANDUM

Sent Via E-mail Attachment



Northern Illinois University

Affirmative Action and Equity Compliance

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To: Eric Dannenmaier, Dean
College of Law
[REDACTED]

From: Sarah Adamski, Associate Director of Investigations
Affirmative Action and Equity Compliance
sadamski1@niu.edu

Date: April 14, 2017

Re: *Official Report of Findings for the Affirmative Action Investigation of the Complaint of Sexual Harassment that [REDACTED] filed against you, dated February 15, 2017*

INTRODUCTION

This memorandum represents the Official Report of the Findings related to the Affirmative Action Investigation ("Investigation") that was conducted by Affirmative Action and Equity Compliance ("AAEC") for the Affirmative Action Complaint of sexual harassment that [REDACTED] filed against you, dated February 15, 2017.

ISSUE PRESENTED

A comprehensive and thorough investigation was conducted. The issue that formed the basis of this investigation is as follows:

Whether there is sufficient evidence to render it more likely than not that you sexually harassed [REDACTED] by using comments and language of a sexual nature in the workplace.

CONCLUSION

After a careful review of the evidence presented, University policy and applicable federal and state laws, there was enough evidence to render it more likely than not that you sexually harassed [REDACTED] by using comments and language of a sexual nature in the workplace.

DISCUSSION

On February 15, 2017, [REDACTED] filed a Complaint of sexual harassment against you. The Complaint alleged that you engaged in comments and language of a sexual nature in the workplace that was sufficiently severe and pervasive enough to create a hostile work environment. In order for the comments and language to constitute a form of sexual harassment, the comments and/or conduct must be (1) unwelcomed, (2) conduct of a sexual nature, that is (3) severe and/or pervasive enough to have the purpose or effect of interfering with work performance or creating an intimidating, hostile, or offensive work environment. The reasonable person standard is the test used to determine whether or not a reasonable person in the same and/or similar circumstances would find the comments and/or conduct to be of a sexual nature and severe and/or pervasive enough to interfere with work performance and/or to create an intimidating, hostile or offensive work environment.

On February 22, 2017 and March 9, 2017, you were provided an opportunity to respond to these allegations during an interview with myself, Sarah Adamski, Associate Director of Investigations, and Michelle Johnson, Title IX Investigator. After both interviews, you were provided a copy of the summary of the interview, which allowed for you to verify the summary for completeness and accuracy. You added information into these documents to ensure such. You also provided additional information on April 11,

2017, in response to an email that was sent to you on April 7, 2017, requesting specific information. After your first interview, you also provided documentation of various conversations with [REDACTED] and a cover memorandum, which provided more information about the allegations. All pieces of documentary evidence were incorporated into the Investigation. Witness testimony from students, faculty and staff were also obtained during the Investigation. Similarly, all interviewees were provided a summary of their interview, which they also verified for completeness and accuracy. All verified summaries were incorporated into this Investigation.

Pursuant to a thorough investigation, which included your responses, a review of documentary evidence provided by both parties and witness testimony, there was enough information to conclude that you subjected [REDACTED] to sexual harassment while she was employed [REDACTED] within the College of Law. Each element necessary to support a claim of sexual harassment will be discussed separately below.

(1) Conduct of a Sexual Nature

As a result of a careful and thorough review of the above information presented during my interview with you, [REDACTED] witnesses and presented documentation (as described above), there was enough information to conclude that it is more probable than not that you made comments to [REDACTED] that were sexual in nature. Specifically, your testimony included your failure to deny or recall the following:

- [REDACTED] "clearly made the wrong choice" in reference to this [REDACTED] dating her and not [REDACTED]
- Discussion pertaining to your relationship [REDACTED]
- Asking [REDACTED] "Is it just sex or are you in love, because if its love you shouldn't have to be apart" in regards to [REDACTED];
- Teasingly asking [REDACTED] "if she could have slept with someone else" or saying "she could do better;"
- On a car ride to [REDACTED] with [REDACTED] alone, discussing her relationship with [REDACTED], asking [REDACTED] who else she has had sex with and a dating [REDACTED]
- During a one-on-one [REDACTED] eating dinner alone with [REDACTED] and ordering drinks for her which was independent of conference activities;
- Invited [REDACTED] to your home in [REDACTED] to meet individuals [REDACTED]
- Saying "You know, you and me, we'll find some project down the line" or "words to that effect," causing [REDACTED] to infer "you and me, down the line" to mean having a relationship with her;
- Repeatedly offering [REDACTED] a ride home after work;
- Inviting [REDACTED] to your home mid-day to let your dogs out with you;
- Informing [REDACTED] that if her plans were to stay in the local area [REDACTED], then national and international connections would be less valuable; and
- Told [REDACTED] "clearly you are training again" wherein [REDACTED] inferred this to be in reference to her body.

The statements above illustrate your admissions and those that you were not able to categorically "deny" as indicated by your repeated response that "you did not recall" making the alleged statements.

Additionally, there was also enough information gathered during the investigation to conclude that you have made similar remarks and connotations of a sexual nature to students, faculty and staff, thereby further corroborating [REDACTED] version of the events. These remarks, conduct and/or connotations included, but were not limited to, comments of a sexual nature you made [REDACTED] during your Constitutional Law class [REDACTED] comments regarding [REDACTED] appearance

during faculty meetings (" [REDACTED]). Numerous witnesses also testified that you commented about "dating" a female candidate for hire and hugged a female professor without her approval and/or request. Moreover, witnesses testified that you referred to [REDACTED] as a [REDACTED] buddy." You deny making this statement, yet witness testimony concludes otherwise.

Moreover, during the Investigation, you provided information that contradicted earlier testimony on several occasions. For example, initially, in regards to a different allegation contained within another Investigation, you suggested that the dinner on August 19, 2016 with [REDACTED] [REDACTED], at your home involved general conversation only and did not involve sex. However, later, during the investigation, you stated that the conversation included a "number of topics, including sex." Despite my clear request to explain whether or not you engaged in conversations of a sexual nature on the day in question, you initially denied such conversations occurred and only later admitted that you engaged in sexual conversations with [REDACTED]. The allegations presented with [REDACTED] Complaint are also similar in nature to those presented in [REDACTED].

[REDACTED] on the other hand, provided consistent testimony during the course of the Investigation. Her testimony was consistent with the testimonies provided by faculty, staff and students and there is no cause to believe that such testimonies were altered and/or scripted to provide for corroboration as these witnesses were largely unaware of the existence of [REDACTED] Complaint and allegations contained therein. Without prompting or disclosing details of the Complaint, faculty and staff voluntarily provided information about your interactions with [REDACTED] which corroborated her testimony. [REDACTED] testimony as deemed credible, coupled with your inconsistent/incomplete testimony, lack of clear denial, admission that you engaged in conduct of a sexual nature as well as corroborating witness testimony, there was enough information to conclude that you engaged in conduct of a sexual nature with [REDACTED] during the tenure of her employment.

(2) Unwelcomed

[REDACTED] asserts that despite her protest to your questioning on or about September 1, 2016, while in the car to [REDACTED], the acquiescence and lack of objection was the result of her desire to avoid conflict due to the supervisory relationship and power differential between you, as Dean of the College of Law, and her, your subordinate and [REDACTED]. In contrast, you assert that [REDACTED] engaged in a mutual and sociable friendship with you that indicated informality and banter was accepted and welcomed. This was evidenced in the numerous pages of text messages between you and [REDACTED] indicating a mutual and friendly relationship. You also assert that the Admissions Office operated in a "collaborative and participatory style" and you made it clear that you wanted [REDACTED] to work "with" you, not "for" you. You also asserted that [REDACTED] personality as a "strong [REDACTED]" would have caused her to say something to you and/or take advantage of resources on campus to address the alleged behavior at the time of their occurrence. You also question whether the Complaint was filed in good faith as [REDACTED] may have felt [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

After consideration of the testimonies, the evidence renders it more likely than not that your conduct was unwelcomed by [REDACTED]. First, the fact that [REDACTED] outright protest only occurred on one (1) occasion, an occurrence which you deny, does not bar a determination of unwelcomeness. This lack of protest may be the result of a fear of repercussion, which is reasonable to conclude in the matter at hand due to the supervisory relationship and power differential that existed between you and [REDACTED] which caused her to be compliant and acquiesce to your behavior. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Moreover, the close working space between you and [REDACTED] and your significant position of authority and power over her reasonably concludes that [REDACTED] did not feel comfortable protesting against the sexual comments for fear of retribution from you directly, the potential risk of jeopardizing her ability to be successful in the position and increased speculation by the faculty of her performance. Additionally, [REDACTED] felt isolated from faculty and staff based upon your comments of her being your "ally;" telling her that the faculty, especially the female faculty, did not trust her or her ability to do the job; and that you are "always" defending them to faculty and staff. It is reasonable that this isolation caused [REDACTED] to acquiesce to your conduct to complete day-to-day tasks for gainful employment and help build her environmental law contacts. Lastly it is reasonable to conclude that [REDACTED] reliance upon you, as Dean of the College of Law and expert in the field of environmental law, for a favorable reference for future employment and assistance in obtaining the next step in her career, could reasonably serve as a reason for why she was not comfortable protesting against your conduct of a sexual nature at that time.

Additionally, as stated by [REDACTED] informal and friendly communications with you was a way to get work done and had been established by you very early in the working relationship. [REDACTED] it is reasonable to conclude that [REDACTED] would not protest against this relationship and would believe that, as Dean of the College of Law, you would be experienced with the set of formal, ethical, and lawful workplace boundaries that should be established. The informal workplace environment often resulted in after-hours work and late night phone calls that were friendly and mutual between you and [REDACTED]. Especially given the amount of time that you and [REDACTED] spent with one another, a level of informality was established and occurred, to no objection by [REDACTED]. Therefore, it is reasonable that [REDACTED] engaged in friendly banter with you, despite her unwelcomeness to your sexual commentary and language. However, welcomeness to friendly conduct does not equate to welcomeness to sexual conduct. [REDACTED] did not reciprocate the unprompted or unsolicited sexual comments or language by asking you reciprocal questions or comments of a sexual nature. [REDACTED] did not initiate sexually explicit or charged commentary or language with you that would have indicated that such type of behavior was welcomed. Moreover, you continued to engage in the complained of comments and language after you were explicitly informed by [REDACTED] your subordinate, on September 1, 2016 that the conduct that was sexual in nature made her feel uncomfortable, thereby making any further comments unwelcome in nature and actionable under sexual harassment laws, policies and procedures.

(3) Severe and Pervasive Enough to Create a Hostile Work Environment

Lastly, there was enough information to conclude that your unwelcomed conduct of a sexual nature was severe and pervasive enough to create a hostile working environment for [REDACTED]. During [REDACTED] tenure, it became clear that [REDACTED] questioned you about the work she was performing and reaffirmed her initial desire [REDACTED]. You offered for her to come in during nights and weekends to work on environmental projects. [REDACTED] declined, despite that being her main area of focus and the reason why she initially accepted the position. As a result, [REDACTED] lost the ability to learn from you about [REDACTED]

██████████ because of her level of discomfort and not wanting to be with you during nights and weekends, even though she worked such hours when she was initially hired.

██████████ She and ██████████ would interrupt meetings that each other were in with you to ensure they do not run long or past 4:30 p.m., which is close of business. ██████████ stopped wearing pencil skirts to work and felt "creeped out" and uncomfortable. According to a staff member, ██████████ would attempt to avoid one-on-one extraneous interactions with you and would not make her presence openly known when she would go to your suite for hot water, which was the only suite with hot water. ██████████ has avoided social gatherings and extraneous events with you. Your conduct resulted in ██████████ deciding ██████████. She also planned to have ██████████ to be the same as ██████████ because she does not want to be alone with you. This is also an objectively reasonable response to the environment that ██████████ was in, especially due to the relationship between you and ██████████ (supervisor-subordinate and mentor-mentee) and position of power that you held as the Dean of the College of Law, an institution that ██████████ was ██████████.

Pursuant to this Investigation, there is enough information to conclude that you have violated the University's *Non-Discrimination/Harassment Policy and Procedures* prohibiting sexual harassment. Recommendations that address this specific conclusion have been referred to the appropriate Department head for review and consideration.

Recommendations that address this specific conclusion have been referred to the appropriate Department head for review and consideration.

This matter is now considered closed and resolved. No further investigation will be conducted by AAEC into this matter unless facts and/or evidence warrant a subsequent review and/or investigation. The results of the Investigation may be appealed by either party by submitting a written request of appeal to Dr. Anne Kaplan, Vice President of Outreach, Engagement and Regional Development. The appeal must be submitted within ten (10) workdays after the date of your receipt of this written Report regarding the Investigation, and must contain the specific reason for the appeal and/or facts that were not available at the time of the investigation.

NO RETALIATION

Please be advised that it is a violation of the University's *Non-Discrimination/Harassment Policy*, as well as federal and state laws, to retaliate against any individual who, in good faith, files a complaint alleging that discrimination or harassment has occurred, or because he or she has opposed that which he or she reasonably and in good faith believes to be discrimination or harassment in higher education, or because he or she has made a charge, filed a complaint, testified, assisted, or participated in any way in an investigation, proceeding, or hearing concerning discrimination or harassment. Should you experience what you believe to be retaliation as defined above, please contact Affirmative Action and Equity Compliance (AAEC) immediately.

Thank you for your patience and assistance with this matter. Should you have any further questions, please do not hesitate to contact me directly at (815) 753-5560 or sadamskil@niu.edu.

cc: Michelle Johnson, Title IX Investigator, Affirmative Action and Equity Compliance
Affirmative Action File

CONFIDENTIAL MEMORANDUM

Sent Via E-mail Attachment



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Affirmative Action and Equity Compliance

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To: Eric Dannenmaier, Dean
College of Law
[REDACTED]

From: Sarah Adamski, Associate Director of Investigations
Affirmative Action and Equity Compliance
sadamskil@niu.edu

Date: April 14, 2017

Re: *Official Report of Findings for the Affirmative Action Investigation of the Complaint of Sexual Harassment that [REDACTED] filed against you, dated February 15, 2017*

INTRODUCTION

This memorandum represents the Official Report of the Findings related to the Affirmative Action Investigation ("Investigation") that was conducted by Affirmative Action and Equity Compliance ("AAEC") for the Affirmative Action Complaint of sexual harassment that [REDACTED] filed against you, dated February 15, 2017.

ISSUE PRESENTED

A comprehensive and thorough investigation was conducted. The issue that formed the basis of this investigation is as follows:

Whether there is sufficient evidence to render it more likely than not that you sexually harassed [REDACTED] by using comments and language of a sexual nature in the workplace.

CONCLUSION

After a careful review of the evidence presented, University policy and applicable federal and state laws, there was enough evidence to render it more likely than not that you sexually harassed [REDACTED] by using comments and language of a sexual nature in the workplace.

DISCUSSION

On February 15, 2017, [REDACTED] filed a Complaint of sexual harassment against you. The Complaint alleged that you engaged in comments and language of a sexual nature in the workplace that was sufficiently severe and pervasive enough to create a hostile work environment. In order for the comments and language to constitute a form of sexual harassment, the comments and/or conduct must be (1) unwelcomed, (2) conduct of a sexual nature, that is (3) severe and/or pervasive enough to have the purpose or effect of interfering with work performance or creating an intimidating, hostile, or offensive work environment. The reasonable person standard is the test used to determine whether or not a reasonable person in the same and/or similar circumstances would find the comments and/or conduct to be of a sexual nature and severe and/or pervasive enough to interfere with work performance and/or to create an intimidating, hostile or offensive work environment.

On February 22, 2017 and March 9, 2017, you were provided an opportunity to respond to these allegations during an interview with myself, Sarah Adamski, Associate Director of Investigations, and Michelle Johnson, Title IX Investigator. After both interviews, you were provided a copy of the summary of the interview, which allowed for you to verify the summary for completeness and accuracy. You added

information into these documents to ensure such. You also provided additional information on April 11, 2017, in response to an email that was sent to you on April 7, 2017, requesting specific information. After your first interview, you also provided documentation of various conversations with [REDACTED] and a cover memorandum, which provided more information about the allegations. All pieces of documentary evidence were incorporated into the Investigation. Witness testimony from students, faculty and staff were also obtained during the Investigation. Similarly, all interviewees were provided a summary of their interview, which they also verified for completeness and accuracy. All verified summaries were incorporated into this Investigation.

Pursuant to a thorough investigation, which included your responses, a review of documentary evidence provided by both parties and witness testimony, there was enough information to conclude that you subjected [REDACTED] to sexual harassment while [REDACTED]. Each element necessary to support a claim of sexual harassment will be discussed separately below.

(1) Conduct of a Sexual Nature

As a result of a careful and thorough review of the above information presented during my interview with you, [REDACTED] witnesses and presented documentation (as described above), there was enough information to conclude that it is more probable than not that you made comments to [REDACTED] that were sexual in nature. Specifically, your testimony included your failure to deny or recall the following:

- Asked specific questions regarding [REDACTED] dating life;
- Made generalizations about women giving more than men sexually;
- Asked [REDACTED] if she engaged in [REDACTED];
- Held conversations regarding the nature of romantic and sexual relationships [REDACTED] engaged in while attending a [REDACTED];
- Made inappropriate references regarding whether or not [REDACTED] was "good with his hands;"
- Called [REDACTED] at 9:00 p.m. to discuss a program and invited her to your home to spend the night;
- During dinner on or about August 19, 2016, you asked [REDACTED] a "number of things" that included:
 - Conversations about sexual activity;
 - Telling her that you were "good with [your] mouth" in a sexually suggestive manner;
 - Asking [REDACTED] if she believed [REDACTED] (in reference to swallowing male semen);
 - Suggesting girls told you that male "semen" tasted different [REDACTED];
 - Asking how often [REDACTED] had sex generally;
 - Whether the sex that [REDACTED] had was casual or not;
 - Inquired about when was the first and last time [REDACTED] engaged in sexual activity;
 - Inquired whether the sexual activity [REDACTED] engaged in was good or not because [REDACTED] deserved to be treated well sexually; and
 - Asking [REDACTED] if she touches herself sexually and what she thinks about when she does.
- Discussed with [REDACTED] relationship with [REDACTED];
- Exclaiming "I love you as a friend" to [REDACTED];
- Told [REDACTED] "another time, another place" on two (2) occasions, with an inference that a sexual relationship could exist post-employment;
- References to programs that you and [REDACTED] developed as being "babies"

The statements above illustrate your admissions and those that you were not able to categorically "deny" as indicated by your repeated response that "you did not recall" making the alleged statements.

Additionally, there was also enough information gathered during the investigation to conclude that you have made similar remarks and connotations of a sexual nature to students, faculty and staff, thereby further corroborating [REDACTED] version of the events. These remarks, conduct and/or connotations included, but were not limited to, comments of a sexual nature you made [REDACTED] during your Constitutional Law class [REDACTED]) and comments regarding [REDACTED] appearance during faculty meetings [REDACTED]), an allegation that you deny making despite multiple testimonies saying otherwise. Numerous witnesses also testified that you commented about "dating" a female candidate for hire and hugging a female professor without her approval and/or request.

Moreover, during the Investigation, you provided information that contradicted earlier testimony on several occasions. For example, initially, you suggested that the dinner on August 19, 2016 with [REDACTED] at your home involved general conversation only and did not involve sex. However, later during the Investigation, you stated that the conversation included a "number of topics, including sex." Despite my clear request to explain whether or not you engaged in conversations of a sexual nature on the day in question, you initially denied such conversations occurred and only later admitted that you engaged in sexual conversations with [REDACTED]

[REDACTED] on the other hand, provided consistent testimony during the course of the Investigation. Her testimony was consistent with the testimonies provided by faculty, staff and students and there is no cause to believe that such testimonies were altered and/or scripted to provide for corroboration as these witnesses were largely unaware of the existence of [REDACTED] Complaint and allegations contained therein. Without prompting or disclosing details of the Complaint, faculty and staff voluntarily provided information about your interactions with [REDACTED] which corroborated her testimony. [REDACTED] testimony as deemed credible, coupled with your inconsistent/incomplete testimony, lack of clear denial, admission that you engaged in conduct of a sexual nature as well as corroborating witness testimony, there was enough information to conclude that you engaged in conduct of a sexual nature with [REDACTED] during the tenure of her employment.

(2) Unwelcomed

[REDACTED] asserts that despite her outright and contemporaneous protest to your conduct on at least two (2) occasions, the acquiescence and lack of objection was the result of her desire to avoid conflict due to the supervisory relationship and power differential between you, as Dean of the College of Law, and her, your subordinate [REDACTED]. In contrast, you assert that [REDACTED] engaged in a mutual and sociable friendship with you that indicated informality and banter was accepted and welcomed. This was evidenced in the numerous pages of text messages between you and [REDACTED] indicating a mutual and friendly relationship. You also assert that the [REDACTED] operated in a "collaborative and participatory style" and you made it clear that you wanted [REDACTED] to work "with" you, not "for" you. You also assert that [REDACTED] personality as a "strong [REDACTED]" would have caused her to say something to you and/or take advantage of resources on campus to address the alleged behavior at the time of their occurrence. You also question whether the Complaint was filed in good faith as [REDACTED]

After consideration of the testimonies, the evidence renders it more likely than not that your conduct was unwelcomed by [REDACTED]. First, the fact that [REDACTED] outright protests only occurred on two (2) occasions does not bar a determination of unwelcomeness. This lack of protest may be the result of a fear of repercussion, which is reasonable to conclude in the matter at hand due to the [REDACTED]

██████████. ██████████ felt isolated from faculty based upon your comments about being your “ally,” telling her that the faculty (especially the female faculty) ██████████ to faculty and staff, and requesting emails be sent through you, which you assert was to receive a more prompt response. Moreover, the close proximity of your working spaces ██████████) reasonably concludes that ██████████ did not feel comfortable protesting against the sexual comments for fear of retribution from you directly, the potential risk of jeopardizing her ability to be successful in the position and increased speculation by the faculty and staff that she ██████████. Moreover, it is reasonable to conclude that ██████████ reliance upon you, as Dean of the College of Law, for a favorable reference for future employment and assistance in obtaining the next step in her career, whether it was inside or outside the College, could reasonably serve as a reason why she was not comfortable protesting against your conduct of a sexual nature at that time.

Additionally, as stated by ██████████ informal and friendly communications with you was a way to get work done and had been established by you very early in the working relationship. ██████████, it is reasonable to conclude that ██████████ would not protest against this relationship and would believe that, as Dean of the College of Law, you would be experienced with the set of formal, ethical, and lawful workplace boundaries that should be established. The informal workplace environment often resulted in after-hours work and late night phone calls that were friendly and mutual between you and ██████████. Especially given the amount of time that you and ██████████ spent with one another, a level of informality was established and occurred, to no objection by ██████████. Therefore, it is reasonable that ██████████ engaged in friendly banter with you, despite her unwelcomeness to your sexual commentary and language. However, welcomeness to friendly conduct also does not equate to welcomeness to sexual conduct. ██████████ did not reciprocate the unprompted or unsolicited sexual comments or language by asking you reciprocal questions or comments of a sexual nature. ██████████ did not initiate sexually explicit or charged commentary or language with you that would have indicated that such type of behavior was welcomed. Moreover, you continued to engage in the complained of comments and language after you were explicitly informed by ██████████, on August 19, 2016, that the conduct that was sexual in nature made her feel uncomfortable, thereby making any further comments unwelcome in nature and actionable under sexual harassment laws, policies and procedures.

(3) Severe and Pervasive Enough to Create a Hostile Work Environment

Lastly, there was enough information to conclude that your unwelcomed conduct of a sexual nature was severe and pervasive enough to create a hostile working environment for ██████████. ██████████ was a direct result of the unwelcome conduct of a sexual nature that she was subjected to by you ██████████. ██████████” and attempted to avoid one-on-one interactions with you as much as possible in order to not be subjected to the conduct that she deemed to be unwelcomed. As noted by staff, ██████████ would attempt to avoid extraneous one-on-one interactions with you and would attempt to have meetings in your office, rather than the new office space which was located downstairs as she felt more “protected” in an area where more administrative personnel were located. This is also an objectively reasonable response to the environment that ██████████ was in, especially due to the relationship between you and ██████████ (supervisor-subordinate) and position of power that you held as the Dean of the College of Law, an institution that ██████████ ██████████.

Pursuant to this Investigation, there is enough information to conclude that Dannenmaier has violated the University’s *Non-Discrimination/Harassment Policy and Procedures* prohibiting sexual harassment. Recommendations that address this specific conclusion have been referred to the appropriate Department head for review and consideration.

This matter is now considered closed and resolved. No further investigation will be conducted by AAEC into this matter unless facts and/or evidence warrant a subsequent review and/or investigation. The results of the Investigation may be appealed by either party by submitting a written request of appeal to Dr. Anne Kaplan, Vice President of Outreach, Engagement and Regional Development. The appeal must be submitted within ten (10) workdays after the date of your receipt of this written Report regarding the Investigation, and must contain the specific reason for the appeal and/or facts that were not available at the time of the investigation.

NO RETALIATION

Please be advised that it is a violation of the University's *Non-Discrimination/Harassment Policy*, as well as federal and state laws, to retaliate against any individual who, in good faith, files a complaint alleging that discrimination or harassment has occurred, or because he or she has opposed that which he or she reasonably and in good faith believes to be discrimination or harassment in higher education, or because he or she has made a charge, filed a complaint, testified, assisted, or participated in any way in an investigation, proceeding, or hearing concerning discrimination or harassment. Should you experience what you believe to be retaliation as defined above, please contact Affirmative Action and Equity Compliance (AAEC) immediately.

Thank you for your patience and assistance with this matter. Should you have any further questions, please do not hesitate to contact me directly at (815) 753-5560 or sadamski1@niu.edu.

cc: Michelle Johnson, Title IX Investigator
Affirmative Action File

CONFIDENTIAL MEMORANDUM

Sent Via E-mail Attachment



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From: Sarah Adamski, Associate Director of Investigations
Affirmative Action and Equity Compliance
sadamski1@niu.edu

Date: April 14, 2017

Re: *Official Report of Findings for the Affirmative Action Investigation of the Complaints of Sexual Harassment that [REDACTED] filed against Eric Dannenmaier, dated February 15, 2017*

INTRODUCTION

This memorandum represents the Official Report of the Findings related to the Affirmative Action Investigation ("Investigation") that was conducted by Affirmative Action and Equity Compliance ("AAEC") for the Affirmative Action Complaints of sexual harassment that [REDACTED] filed against Eric Dannenmaier, Dean, College of Law ("Dannenmaier"), dated February 15, 2017.

ISSUES PRESENTED

A comprehensive and thorough investigation was conducted. The issues that formed the basis of this Investigation are as follows:

Whether there is sufficient evidence to render it more likely than not that Dannenmaier sexually harassed [REDACTED] by using comments and language of a sexual nature in the workplace.

Whether there is sufficient evidence to render it more likely than not that Dannenmaier sexually harassed [REDACTED] by using comments and language of a sexual nature in the workplace.

CONCLUSION

After a careful review of the evidence presented, University policy and applicable federal and state laws, there was enough evidence to render it more likely than not that Dannenmaier sexually harassed [REDACTED] by using comments and language of a sexual nature in the workplace.

DISCUSSION

On February 15, 2017, [REDACTED] separately filed a Complaint of sexual harassment against Dannenmaier. The Complaints alleged that Dannenmaier engaged in comments and language of a sexual nature in the workplace that was sufficiently severe and pervasive enough to create a hostile work environment. In order for the comments and language to constitute a form of sexual harassment, the comments and/or conduct must be (1) unwelcomed, (2) conduct of a sexual nature, that is (3) severe and/or pervasive enough to have the purpose or effect of interfering with work performance or creating an intimidating, hostile, or offensive work environment. The reasonable person standard is the test used to determine whether or not a reasonable person in the same and/or similar circumstances would find the comments and/or conduct to be of a sexual nature and severe and/or pervasive enough to interfere with work performance and/or to create an intimidating, hostile or offensive work environment.

On February 22, 2017 and March 9, 2017, Dannenmaier was provided an opportunity to respond to these allegations during an interview with myself, Sarah Adamski, Associate Director of Investigation, and Michelle Johnson, Title IX Investigator. After both interviews, Dannenmaier was provided a copy of the summary of the interview, which allowed for him to verify the summary for completeness and accuracy. Dannenmaier added information into these documents to ensure his testimony was complete and accurate. Dannenmaier also provided additional information on April 11, 2017, in response to an email that was sent to him on April 7, 2017 requesting specific information. After his first interview, Dannenmaier's also provided documentation of various conversations with [REDACTED] and a cover memorandum, which provided more information about the allegations. All of the documentary evidence was incorporated into the Investigation. Witness testimony from students, faculty and staff was also obtained during the Investigation. Similarly, all interviewees were provided a summary of their interview, which they also verified for completeness and accuracy. All verified summaries were incorporated into this Investigation.

Pursuant to a thorough investigation, which included Dannenmaier's responses, a review of documentary evidence provided by both parties and witness testimony, there was enough information to conclude that Dannenmaier subjected [REDACTED] to sexual harassment while they were employed in their respective positions within the College of Law. Each element necessary to support a claim of sexual harassment will be discussed separately below.

(1) Conduct of a Sexual Nature

As a result of careful and thorough review of the above information presented during my interview with Dannenmaier, [REDACTED] witnesses and presented documentation (as described above), there was enough information to conclude that it is more probable than not that Dannenmaier made comments to [REDACTED] that were sexual in nature. Specifically, Dannenmaier's testimony included his failure to deny or recall the following as it relates to [REDACTED]

- Asked specific questions regarding [REDACTED] dating life;
- Made generalizations about women giving more than men sexually (which were interpreted by [REDACTED] to include sexual overtone);
- Asked [REDACTED] if she engaged in sexual experimentation with females (which was interpreted by [REDACTED] to include sexual overtone);
- Held conversations regarding the nature of romantic and sexual relationships [REDACTED] engaged in while attending a [REDACTED];
- Made inappropriate references regarding whether or not [REDACTED] [REDACTED] was "good with his hands (indicating sexual overtones);
- Called [REDACTED] at 9:00 p.m. to discuss a program and invited her to his home to spend the night;
- During dinner on or about August 19, 2016, Dannenmaier asked [REDACTED] a "number of things" that included:
 - Conversations regarding sex;
 - Telling her that he was "good with [his] mouth;
 - Asking [REDACTED] if she believed [REDACTED] (in reference to swallowing male semen);
 - Suggesting girls told him that "semen" tasted different [REDACTED];
 - Asking how often [REDACTED] had sex;
 - Whether the sex [REDACTED] had was casual or not;
 - Inquired about when was the first and last time [REDACTED] engaged in sexual activity;
 - If the sexual activity [REDACTED] had was good or not because [REDACTED] deserved to be treated well sexually; and
 - Asking [REDACTED] if she touches herself sexually and what she thinks about when she does.
- Discussed [REDACTED] relationship with [REDACTED];

- Exclaiming "I love you as a friend" to [REDACTED]
- Told [REDACTED] "another time, another place" on two (2) occasions, with him inferring he intended to mean that a sexual relationship could exist post-employment;
- References to programs that you and [REDACTED] develop as being "babies"

Dannenmaier's testimony also included his failure to deny or recall the following as it relates to [REDACTED]

- [REDACTED]
- Discussions pertaining to Dannenmaier's relationship [REDACTED]
- Asking [REDACTED] "Is it just sex or are you in love, because if its love you shouldn't have to be apart" in regards to [REDACTED]
- Teasingly asking [REDACTED] "if she could have slept with someone else" or "she could do better;"
- On a car ride to [REDACTED] with [REDACTED] alone, discussing her relationship with [REDACTED] and inquiring who else she had sex and a dating [REDACTED]
- During a one-on-one trip [REDACTED], eating dinner alone with [REDACTED] and ordering drinks for her which were independent from conference activities;
- Inviting [REDACTED] to his home [REDACTED] to meet individuals in environmental law;
- "You know, you and me, we'll find some project down the line" or "words to that effect" inferring a reference to a relationship with her.
- Repeatedly offering [REDACTED] rides home after work;
- Repeatedly inviting [REDACTED] to his home mid-day to let his dogs out with him [REDACTED];
- Informing [REDACTED] that if her plans were to stay in the local area [REDACTED], then national and international connections would be less valuable; and
- Telling [REDACTED] "clearly you are training again" wherein [REDACTED] inferred this to be in reference to her body, fitness and muscle contours.

In my opinion, the statements above illustrate Dannenmaier's admissions and those that he was not able to categorically "deny" as indicated by his repeated response that "[he] did not recall" making alleged statements, allowing for an inference that the conduct occurred as alleged if additional information to corroborate [REDACTED] version of the events could be obtained.

There was also enough information gathered during the Investigation to conclude that Dannenmaier has made similar remarks and connotations of a sexual nature to students, faculty and staff, thereby corroborating [REDACTED] version of the events. These remarks, conduct and/or connotations included, but were not limited to, comments of a sexual nature he made [REDACTED] during his Constitutional Law class [REDACTED]

[REDACTED] comments regarding [REDACTED] appearance during faculty meetings (i.e., [REDACTED] and reference to [REDACTED] as a "[REDACTED] buddy."¹ Numerous witnesses also testified that Dannenmaier commented about "dating" a female candidate for hire and hugged a female professor without her approval and/or request.

Moreover, during the Investigation, Dannenmaier provided information that contradicted earlier testimony on several occasions. For example, initially, Dannenmaier suggested that the dinner on August 19, 2016 with [REDACTED] at his home involved general conversation only and did not involve sex. However, later,

¹ Dannenmaier denied making references to [REDACTED] appearance and calling [REDACTED] a "[REDACTED] buddy." However, numerous testimonies corroborate these allegations. Therefore, a conclusion has been rendered that such comments were made.

Dannenmaier stated that the conversation included a "number of topics, including sex." Despite my clear request to Dannenmaier to explain whether or not he engaged in conversations of a sexual nature on the day in question, he initially denied such conversations occurred and only later admitted that he engaged in sexual conversations with [REDACTED]

[REDACTED] on the other hand, presented as credible complainants throughout the Investigation and provided consistent testimony. Their testimony was consistent with the testimonies provided by faculty, staff and students and there is no cause to believe that such testimonies were altered and/or scripted to provide for corroboration as these witnesses were largely unaware of the existence [REDACTED] Complaint and allegations contained therein. Without prompting or disclosing details of either Complaint, faculty and staff voluntarily provided information about Dannenmaier's interactions with [REDACTED] which corroborated their testimony. As [REDACTED] were deemed as credible, Dannenmaier's responses, lack of denial, several admissions by him that he engaged in conduct of a sexual nature as well as corroborating witness testimony, there was enough information to conclude that Dannenmaier engaged in conduct of a sexual nature with [REDACTED] during the tenure of their employment. In short, there was enough information to conclude that the version of events as presented by both [REDACTED] was true and more credible than the version presented by Dannenmaier.

(2) Unwelcomed

[REDACTED] assert that despite their outright and contemporaneous protest to his conduct on few occasions ([REDACTED] protested on two (2) occasions and [REDACTED] protested on one (1) occasion), the acquiescence and lack of objection was the result of their desire to avoid conflict due to the supervisory relationship and power differential between Dannenmaier, as Dean of the College of Law, and them, as subordinates, and [REDACTED]. In contrast, Dannenmaier asserts that both individuals engaged in a mutual and sociable friendship with Dannenmaier that indicated informality and banter was accepted and welcomed. This was evidenced in the numerous pages of text messages between Dannenmaier, [REDACTED] indicating a mutual and friendly relationship. Dannenmaier also asserts that the [REDACTED] operated in a "collaborative and participatory style" and he made it clear that he wanted [REDACTED] to work "with" him, not "for" him. Dannenmaier also asserts that their personalities as a "strong [REDACTED]" would have caused them to say something to him and/or take advantage of resources on campus to address the alleged behavior at the time of their occurrence. Dannenmaier also questions whether the Complaint was filed in good faith as [REDACTED] may have felt [REDACTED]

After consideration of the testimonies, the evidence renders it more likely than not that Dannenmaier's conduct was unwelcomed by both [REDACTED]. First, the fact that their outright protests only occurred on a few occasions does not bar a determination of unwelcomeness. This lack of protest may be the result of a fear of repercussion, which is reasonable to conclude in the matter at hand. Regarding [REDACTED]

[REDACTED]

In light of this power differential and supervisory relationship that existed between Dannenmaier- [REDACTED] and Dannenmaier- [REDACTED] [REDACTED] felt isolated from faculty based upon Dannenmaier's comments about them being his "ally's," telling them that the faculty (especially the female faculty) did not trust them or their ability to do the job, that he is "always" defending them to faculty and staff, and requesting emails be sent through him (which he asserts was to receive a more prompt response). Moreover, the close proximity of their working spaces [REDACTED]

[REDACTED] could reasonably result in both individuals feeling uncomfortable about protesting against the sexual comments for fear of retribution from Dannenmaier directly, the potential risk of jeopardizing their ability to be successful in the position and increased speculation by the faculty and staff [REDACTED]. Moreover, it is reasonable to conclude that [REDACTED] reliance upon Dannenmaier, as Dean of the College of Law, for a favorable reference for future employment and assistance in obtaining the next step in their careers, whether it was inside or outside the College, served as a reason why they were not comfortable protesting against his conduct.

Additionally, as stated by [REDACTED], informal and friendly communications with Dannenmaier was a way to get work done and had been established by him very early in the working relationship. [REDACTED] [REDACTED], it is reasonable to conclude that [REDACTED] would not protest against this relationship and would believe that, as Dean of the College of Law, he would be experienced enough with the set of formal, ethical, and lawful workplace boundaries that should be established. The informal workplace environment often resulted in after-hours work and late night phone calls that were friendly and mutual between Dannenmaier, [REDACTED]. Especially given the amount of time that he, [REDACTED] [REDACTED] spent with one another, a level of informality was established and occurred, to no objection by either party. Therefore, it is reasonable that [REDACTED] engaged in friendly banter with him, despite their unwelcomeness to his sexual commentary and language. However, welcomeness to friendly conduct does not equate to welcomeness to sexual conduct. [REDACTED] [REDACTED] did not reciprocate the unprompted or unsolicited sexual comments or language by asking Dannenmaier reciprocal questions or comments of a sexual nature. They did not initiate sexually explicit or charged commentary or language with him that would have indicated that such type of behavior was welcomed. Moreover, Dannenmaier continued to engage in the complained of comments and language after he was explicitly informed [REDACTED], that his behavior and conduct made them feel uncomfortable, thereby making any further comments unwelcome in nature and actionable under sexual harassment laws, policies and procedures.

(3) Severe and Pervasive Enough to Create a Hostile Work Environment

Lastly, there was enough information to conclude that Dannenmaier's unwelcomed conduct of a sexual nature was severe and pervasive enough to create a hostile working environment for [REDACTED]

[REDACTED] was a direct result of the unwelcome conduct of a sexual nature that they were subjected to by Dannenmaier [REDACTED].

[REDACTED] attempted to avoid one-on-one interactions with Dannenmaier as much as possible in order to not be subjected to the conduct that she deemed to be unwelcomed. As noted by staff, [REDACTED] would attempt to avoid extraneous one-on-one interactions with him and would attempt to have

meetings in his office, rather than her new office space which was located downstairs in an effort to ensure all interactions occurred around administrative personnel as a sense of "protection" from repeated conduct by Dannenmaier.

[REDACTED]
[REDACTED]. In December, [REDACTED] questioned Dannenmaier about the work she was performing and reaffirmed her initial desire to work on [REDACTED]. Dannenmaier offered for her to come in during nights and weekends to work on [REDACTED]. [REDACTED] declined due to her level of discomfort with him, [REDACTED]

[REDACTED] further away from Dannenmaier to avoid further contact with him. [REDACTED] would interrupt meetings they were in with Dannenmaier to ensure they did not run long or past 4:30 p.m., (which is close of business), specifically to avoid being with Dannenmaier after hours. [REDACTED] and uncomfortable as a result of his sexual conduct. Also according to witness testimony, [REDACTED] would attempt to avoid one-on-one extraneous interactions with him [REDACTED]

[REDACTED] also avoided social gatherings and extraneous events with Dannenmaier as a result of his behavior.

Based upon the investigation in this regard, there was enough information to conclude that Dannenmaier conduct of a sexual nature was severe and/or pervasive enough to unreasonably interfere with the work environment by creating a hostile, offensive and/or intimidating workplace. Hence, there was enough information to conclude, as evidenced by the information gathered, that Dannenmaier violated university policy and procedures prohibiting sexual harassment in the workplace.

In closing, a list of specific recommendations that address this specific conclusion will be forthcoming under separate memorandum and will be consistent of findings and recommendations from similar cases. As this if a case of first impression whereby a department or division head at this level has been accused of and found responsible for the creation of a hostile work environment, specifically for the Complainants of a Complaint and more broadly, for the College as whole, additional review of previous cases to ensure consistency needs to occur. Upon completion of this review, and in addition to such, please be advised that it is recommended that corrective action as deemed warranted and necessary to address these findings and conclusions should promptly occur as indicated in the *Non-Discrimination/Harassment Policy and Complaint Procedures*.

This matter is now considered closed and resolved. No further investigation will be conducted by AAEC into this matter unless facts and/or evidence warrant a subsequent review and/or investigation. Both parties have been advised of their appeal rights and such appeal must be submitted within ten (10) workdays after the date of their receipt of this written Report regarding the Investigation, and must contain the specific reason for the appeal and/or facts that were not available at the time of the investigation.

NO RETALIATION

Please be advised that it is a violation of the University's *Non-Discrimination/Harassment Policy*, as well as federal and state laws, to retaliate against any individual who, in good faith, files a complaint alleging that discrimination or harassment has occurred, or because he or she has opposed that which he or she reasonably and in good faith believes to be discrimination or harassment in higher education, or because he or she has made a charge, filed a complaint, testified, assisted, or participated in any way in an investigation, proceeding, or hearing concerning discrimination or harassment. Should you experience what you believe

to be retaliation as defined above, please contact Affirmative Action and Equity Compliance (AAEC) immediately.

Thank you for your patience and assistance with this matter. Should you have any further questions, please do not hesitate to contact me directly at (815) 753-5560 or sadamski1@niu.edu.

cc: Michelle Johnson, Title IX Investigator, Affirmative Action and Equity Compliance
Affirmative Action File

CONFIDENTIAL MEMORANDUM

Sent Via E-mail Attachment



Northern Illinois University

Affirmative Action and Equity Compliance

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To:

[REDACTED]

From: Sarah Adamski, Associate Director of Investigations
Affirmative Action and Equity Compliance
sadamski1@niu.edu

Date: April 14, 2017

Re: *Official Report of Findings for the Affirmative Action Investigation of the Complaint of Sexual Harassment that you filed against Eric Dannenmaier, dated February 15, 2017*

INTRODUCTION

This memorandum represents the Official Report of the Findings related to the Affirmative Action Investigation ("Investigation") that was conducted by Affirmative Action and Equity Compliance ("AAEC") for the Affirmative Action Complaint of sexual harassment that you filed against Eric Dannenmaier, Dean, College of Law ("Dannenmaier"), dated February 15, 2017.

ISSUE PRESENTED

A comprehensive and thorough investigation was conducted. The issue that formed the basis of this investigation is as follows:

Whether there is sufficient evidence to render it more likely than not that Dannenmaier sexually harassed you by using comments and language of a sexual nature in the workplace.

CONCLUSION

After a careful review of the evidence presented, University policy and applicable federal and state laws, there was enough evidence to render it more likely than not that Dannenmaier sexually harassed you by using comments and language of a sexual nature in the workplace.

DISCUSSION

On February 15, 2017, you filed a Complaint of sexual harassment against Dannenmaier. The Complaint alleged that Dannenmaier engaged in comments and language of a sexual nature in the workplace that was sufficiently severe and pervasive enough to create a hostile work environment. In order for the comments and language to constitute a form of sexual harassment, the comments and/or conduct must be (1) unwelcomed, (2) conduct of a sexual nature, that is (3) severe and/or pervasive enough to have the purpose or effect of interfering with work performance or creating an intimidating, hostile, or offensive work environment. The reasonable person standard is the test used to determine whether or not a reasonable person in the same and/or similar circumstances would find the comments and/or conduct to be of a sexual nature and severe and/or pervasive enough to interfere with work performance and/or to create an intimidating, hostile or offensive work environment.

On February 22, 2017 and March 9, 2017, Dannenmaier was provided an opportunity to respond to these allegations during an interview with myself, Sarah Adamski, Associate Director of Investigations, and Michelle Johnson, Title IX Investigator. You were interviewed on February 15, 2017 and a follow-up interview was conducted on March 10, 2017. After all interviews, both parties were provided a copy of the

summary of the interview, which allowed for verification for completeness and accuracy. Both parties added information into these documents to ensure such. All parties provided additional information in response to emails requesting specific information. After Dannenmaier's first interview, Dannenmaier also provided documentation of various conversations with you and a cover memorandum, which provided more information about the allegations. All pieces of documentary evidence were incorporated into the Investigation. Witness testimony from students, faculty and staff were also obtained during the Investigation. Similarly, all interviewees were provided a summary of their interview, which they also verified for completeness and accuracy. All verified summaries were incorporated into this Investigation.

Pursuant to a thorough investigation, which included Dannenmaier's responses, a review of documentary evidence provided by both parties and witness testimony, there was enough information to conclude that Dannenmaier subjected you to sexual harassment while you were employed [REDACTED] within the College of Law. Each element necessary to support a claim of sexual harassment will be discussed separately below.

(1) Conduct of a Sexual Nature

As a result of a careful and thorough review of the above information presented during my interview with Dannenmaier, you, witnesses and presented documentation (as described above), there was enough information to conclude that it is more probable than not that Dannenmaier made comments to you that were sexual in nature. Specifically, Dannenmaier's testimony included his failure to deny or recall the following:

- Asked specific questions regarding your dating life;
- Made generalizations about women giving more than men sexually;
- Asked you if you engaged in [REDACTED];
- Held conversations regarding the nature of romantic and sexual relationships you engaged in while attending a [REDACTED];
- Made inappropriate references regarding whether or not [REDACTED] was "good with his hands;"
- Called you at 9:00 p.m. to discuss a program and invited you to his home to spend the night;
- During dinner on or about August 19, 2016, Dannenmaier asked you a "number of things" that included:
 - Conversations about sexual activity;
 - Telling you that he was "good with [his] mouth" in a sexually suggestive manner;
 - Asking you if you believed [REDACTED] (in reference to swallowing male semen);
 - Suggesting girls told him that male "semen" tasted different if [REDACTED];
 - Asking how often you had sex generally;
 - Whether the sex that you had was casual or not;
 - Inquired about when was the first and last time you engaged in sexual activity;
 - Inquired whether the sexual activity you engaged in was good or not because you deserved to be treated well sexually; and
 - Asking you if you touch yourself sexually and what you think about when you do.
- Discussed with you [REDACTED] relationship with [REDACTED];
- Exclaiming "I love you as a friend" to you;
- Told you "another time, another place" on two (2) occasions, with an inference that a sexual relationship could exist post-employment; and
- Reference programs that you and he developed as being "babies."

The statements above illustrate Dannenmaier's admissions and those that he was not able to categorically "deny" as indicated by his repeated response that he "did not recall" making the alleged statements.

Additionally, there was also enough information gathered during the investigation to conclude that Dannenmaier have made similar remarks and connotations of a sexual nature to students, faculty and staff, thereby further corroborating your version of the events. These remarks, conduct and/or connotations included, but were not limited to, comments of a sexual nature Dannenmaier made [REDACTED] during his Constitutional Law I class [REDACTED] and comments regarding your appearance during faculty meetings [REDACTED]), an allegation that Dannenmaier denies making despite multiple testimonies concluding otherwise. Numerous witnesses also testified that Dannenmaier commented about "dating" a female candidate for hire and hugging a female professor without her approval and/or request.

Moreover, during the Investigation, Dannenmaier provided information that contradicted earlier testimony on several occasions. For example, initially, Dannenmaier suggested that the dinner on August 19, 2016 with you at his home involved general conversation only and did not involve sex. However, later during the Investigation, Dannenmaier stated that the conversation included a "number of topics, including sex." Despite my clear request to explain whether or not Dannenmaier engaged in conversations of a sexual nature on the day in question, Dannenmaier initially denied such conversations occurred and only later admitted that he engaged in sexual conversations with you.

You, on the other hand, provided consistent testimony during the course of the Investigation. Your testimony was consistent with the testimonies provided by faculty, staff and students and there is no cause to believe that such testimonies were altered and/or scripted to provide for corroboration as these witnesses were largely unaware of the existence of your Complaint and allegations contained therein. Without prompting or disclosing details of the Complaint, faculty and staff voluntarily provided information about Dannenmaier's interactions with you, which corroborated your testimony. Your testimony as deemed credible, coupled with Dannenmaier's inconsistent/incomplete testimony, lack of clear denial, admission that he engaged in conduct of a sexual nature as well as corroborating witness testimony, there was enough information to conclude that Dannenmaier engaged in conduct of a sexual nature with you during the tenure of your employment.

(2) Unwelcomed

You assert that despite your outright and contemporaneous protest to Dannenmaier's conduct on at least two (2) occasions, the acquiescence and lack of objection was the result of your desire to avoid conflict due to the supervisory relationship and power differential between Dannenmaier, as Dean of the College of Law, and you, his subordinate and [REDACTED]. In contrast, Dannenmaier asserted that you engaged in a mutual and sociable friendship with him that indicated informality and banter was accepted and welcomed. This was evidenced in the numerous pages of text messages between Dannenmaier and you, indicating a mutual and friendly relationship. Dannenmaier also asserted that the [REDACTED] operated in a "collaborative and participatory style" and Dannenmaier made it clear that he wanted you to work "with" him, not "for" him. Dannenmaier also assert that your personality as a "strong [REDACTED]" would have caused you to say something to him and/or take advantage of resources on campus to address the alleged behavior at the time of their occurrence. Dannenmaier also questioned whether the Complaint was filed in good faith [REDACTED]

After consideration of the testimonies, the evidence renders it more likely than not that Dannenmaier's conduct was unwelcomed by you. First, the fact that your outright protests only occurred on two (2) occasions does not bar a determination of unwelcomeness. This lack of protest may be the result of a fear of repercussion, which is reasonable to conclude in the matter at hand due to the "obsolete"-ness and "chaos" of [REDACTED] that Dannenmaier described you worked in. You were new and unfamiliar to your role and relied on Dannenmaier as Dean of the College of Law and as your supervisor for support, direction, and advice to be successful in your role. You felt isolated from faculty based upon Dannenmaier's comments about you being his "ally," telling you that the faculty (especially the female faculty) did not trust you or your ability to do the job, that he was "always" defending you to faculty and staff, and requesting emails be sent through him, which Dannenmaier asserted was to receive a more prompt response. Moreover, the close proximity of Dannenmaier's working spaces [REDACTED] [REDACTED] reasonably concludes that you did not feel comfortable protesting against the sexual comments for fear of retribution from Dannenmaier directly, the potential risk of jeopardizing your ability to be successful in the position and increased speculation by the faculty and staff [REDACTED]. Moreover, it is reasonable to conclude that your reliance upon Dannenmaier, as Dean of the College of Law, for a favorable reference for future employment and assistance in obtaining the next step in your career, whether it was inside or outside the College, could reasonably serve as a reason why you were not comfortable protesting against Dannenmaier's conduct of a sexual nature at that time.

Additionally, as you stated, informal and friendly communications with Dannenmaier was a way to get work done and had been established by him very early in the working relationship. [REDACTED] [REDACTED] it is reasonable to conclude that you would not protest against this relationship and would believe that, as Dean of the College of Law, Dannenmaier would be experienced with the set of formal, ethical, and lawful workplace boundaries that should be established. The informal workplace environment often resulted in after-hours work and late night phone calls that were friendly and mutual between you and Dannenmaier. Especially given the amount of time that you and Dannenmaier spent with one another, a level of informality was established and occurred, to no objection by you. Therefore, it is reasonable that you engaged in friendly banter with Dannenmaier, despite your unwelcomeness to his sexual commentary and language. However, welcomeness to friendly conduct does not equate to welcomeness to sexual conduct. You did not reciprocate the unprompted or unsolicited sexual comments or language by asking Dannenmaier reciprocal questions or comments of a sexual nature. You did not initiate sexually explicit or charged commentary or language with Dannenmaier that would have indicated that such type of behavior was welcomed. Moreover, Dannenmaier continued to engage in the complained of comments and language after you explicitly informed him on August 19, 2016, that the conduct that was sexual in nature made you feel uncomfortable, thereby making any further comments unwelcome in nature and actionable under sexual harassment laws, policies and procedures.

(3) Severe and Pervasive Enough to Create a Hostile Work Environment

Lastly, there was enough information to conclude that Dannenmaier's unwelcomed conduct of a sexual nature was severe and pervasive enough to create a hostile working environment for you. [REDACTED]

[REDACTED] was a direct result of the unwelcome conduct of a sexual nature that you were subjected to by Dannenmaier [REDACTED]

[REDACTED] You described your work as "miserable" and attempted to avoid one-on-one interactions with Dannenmaier as much as possible in order to not be subjected to the conduct that you deemed to be unwelcomed. As noted by staff, you would attempt to avoid extraneous one-on-one interactions with Dannenmaier and would attempt to have meetings in his office, rather than [REDACTED]

[REDACTED] as you felt more "protected" in an area where more administrative personnel were located. This is also an objectively reasonable response to the environment that you were in, especially due to the relationship between Dannenmaier and you (supervisor-subordinate) and position

of power that Dannenmaier held as the Dean of the College of Law, an institution that [REDACTED]
[REDACTED]

Pursuant to this Investigation, there is enough information to conclude that Dannenmaier has violated the University's *Non-Discrimination/Harassment Policy and Procedures* prohibiting sexual harassment. Recommendations that address this specific conclusion have been referred to the appropriate Department head for review and consideration.

This matter is now considered closed and resolved. No further investigation will be conducted by AAEC into this matter unless facts and/or evidence warrant a subsequent review and/or investigation. The results of the Investigation may be appealed by either party by submitting a written request of appeal to Dr. Anne Kaplan, Vice President of Outreach, Engagement and Regional Development. The appeal must be submitted within ten (10) workdays after the date of your receipt of this written Report regarding the Investigation, and must contain the specific reason for the appeal and/or facts that were not available at the time of the investigation.

NO RETALIATION

Please be advised that it is a violation of the University's *Non-Discrimination/Harassment Policy*, as well as federal and state laws, to retaliate against any individual who, in good faith, files a complaint alleging that discrimination or harassment has occurred, or because he or she has opposed that which he or she reasonably and in good faith believes to be discrimination or harassment in higher education, or because he or she has made a charge, filed a complaint, testified, assisted, or participated in any way in an investigation, proceeding, or hearing concerning discrimination or harassment. Should you experience what you believe to be retaliation as defined above, please contact Affirmative Action and Equity Compliance (AAEC) immediately.

Thank you for your patience and assistance with this matter. Should you have any further questions, please do not hesitate to contact me directly at (815) 753-5560 or sadamski1@niu.edu.

cc: Michelle Johnson, Title IX Investigator
Affirmative Action File

Sent via Electronic Mail Attachment

CONFIDENTIAL MEMORANDUM



Northern Illinois University

Affirmative Action and Equity Compliance

To: [REDACTED] Student

[REDACTED]

From: Michelle Johnson, Title IX Investigator [REDACTED]
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Date: April 14, 2017

Re: *Official Report of Findings for the Affirmative Action Investigation of the Complaint of Sexual Harassment and Stalking that you filed against Eric Dannenmaier, dated February 19, 2017*

INTRODUCTION

This memorandum represents the Official Report of the Findings related to the Affirmative Action Investigation ("Investigation") that was conducted by Affirmative Action and Equity Compliance ("AAEC") for the complaint of sexual harassment and stalking that you filed against Eric Dannenmaier, Dean of the College of Law ("Dannenmaier"), dated February 19, 2017.

ISSUES PRESENTED

A comprehensive and thorough investigation was conducted. The issues that formed the basis of this Investigation are as follows:

Whether there is sufficient evidence to render it more likely than not that Eric Dannenmaier sexually harassed you [REDACTED], 2017.

Whether there is sufficient evidence to render it more likely than not that Eric Dannenmaier stalked you on or about [REDACTED], 2017.

CONCLUSION

After a careful review of the evidence presented, University policy and applicable federal and state laws, there is insufficient evidence to render it more likely than not that Dannenmaier stalked and/or sexually harassed you [REDACTED], 2017.

DISCUSSION

Title IX of the Education Amendments of 1972, 20 U.S.C. §1681 et. seq., provides in part:

No person in the United States shall, on the basis of sex, be excluded from participating in, be denied benefits of, or be subjected to discrimination under any education program or activity receiving federal financial assistance...

Northern Illinois University complies with Title IX by prohibiting sex discrimination in the form of sexual misconduct. Sexual misconduct includes acts of sexual harassment and stalking. The allegations made against Dannenmaier, stalking and sexual harassment, will be discussed separately below.

A. Sexual Harassment

Sexual harassment is defined as unwelcomed verbal or physical conduct of a sexual nature sufficiently severe and/or pervasive enough that it unreasonably limits and/or denies a person from participating in or benefiting from the University's educational programs, activities, and/or employment. It may be based upon a power differential or the creation of a hostile environment (reasonably severe conduct that is sufficiently pervasive to have the purpose or effect of unreasonably interfering with work performance, or creating an intimidating, hostile or offensive working environment).

According to your complaint, it was alleged that Dannenmaier engaged in unwelcomed conduct that was sufficiently severe and pervasive enough to cause a hostile environment for you. Specifically, you stated that Dannenmaier called on you to participate in the classroom discussion. [REDACTED]

[REDACTED] you allege that Dannenmaier stated [REDACTED]

The day after the comment, [REDACTED], you were in the library. Dannenmaier entered the library and approached you. He attempted to discuss with you how the comment [REDACTED]

[REDACTED] You attempted to leave the conversation with Dannenmaier, but he allegedly continued to talk to you. [REDACTED]

[REDACTED] You alleged that Dannenmaier followed you out of the library and continued to attempt to talk to you about it.

During the course of the investigation, you, Dannenmaier, and witnesses were interviewed. All individuals who provided testimony verified their statements for completeness and accuracy and such statements were incorporated into the investigation. Based upon the evidence gathered, it is more likely than not that Dannenmaier made the comment [REDACTED] [REDACTED] [REDACTED]

[REDACTED] This conclusion is based upon his admission to such comment. Moreover, the evidence concludes that he also attempted to speak to you multiple times in the College of Law Library the following day, [REDACTED]. This conclusion is also based upon his admission.

In order for the above conduct to constitute a form of sexual harassment, as defined by University policy, the conduct must be: (1) unwelcomed, (2) sexual in nature and (3) sufficiently severe and/or pervasive enough to create a hostile environment.

(1) Unwelcomed

The evidence renders it more likely than not that the classroom comment and library interaction was unwelcomed as there is no evidence supporting a conclusion that you requested and/or welcomed the comments. You volunteered information as it pertained to a classroom discussion about [REDACTED]. Your participation in the classroom discussion does not support the conclusion that you should have expected and/or reasonably anticipated that Dannenmaier [REDACTED]

Regarding the library incident, you did not request a meeting with Dannenmaier and were in the process of trying to [REDACTED]. [REDACTED]

[REDACTED]

(2) Sexual in nature

The evidence also supports the conclusion that the comment in the classroom was sexual in nature. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

The incident in the library can also be described as sexual in nature because it was a continuation of the classroom experience. But for the sexual comment, Dannenmaier would likely not have approached you in the library and you would not have reacted in the same manner as you did. Therefore, the interaction in the library was based upon a sexual comment made the day before.

(3) Severe and/or pervasive

Despite the necessary first and second elements in a claim of sexual harassment being satisfied, there is not enough information to determine by a preponderance of the evidence that Dannenmaier's conduct was severe and/or pervasive enough to create a hostile environment. This element is viewed from both the subjective and objective perspective. Subjectively, you stated that Dannenmaier's comment in the classroom [REDACTED]

[REDACTED]

[REDACTED]. Additionally, you stated that you do not want to see Dannenmaier again and want him to be removed as your professor and Dean. [REDACTED]

[REDACTED]

Notwithstanding the subjective component being satisfied, there was not enough information to conclude that Dannenmaier's conduct was severe and/or pervasive enough to unreasonably interfere with your academic environment. Dannenmaier's comment did not include sexually explicit terms and/or language that could be defined as "severe" as provided for by the law. Additionally, the comment was not accompanied by conduct of a physical nature that could be defined as severe in nature. Lastly, during the course of the conversation, only one (1) sexual comment was made that occurred on one (1) occasion; thus it can be defined as isolated in nature as it relates to you (despite evidence indicating he made other sexual connotations in the classroom).

Dannenmaier's attempt to talk to you in the library was the result of his concern over your well-being as he was concerned that you were not alright and wanted to ensure that you, as well as all students in his College, had no impediments to their success. Therefore, it was reasonable for him to attempt to have a conversation with you for this purpose in the library and follow-up with you, even though you indicated verbally and physically that such was not okay. As a result, there is not enough evidence to conclude that Dannenmaier's comment was severe and/or pervasive enough to unreasonably interfere with your academic environment.

Please be advised that this holding is not reflective of any additional investigatory result from any allegation relating to the overall academic environment as a result of Dannenmaier's comments and/or conduct in the class and only pertains to your complaint of sexual harassment.

Despite a lack of a finding of a Policy violation, the comment that Dannenmaier made was inappropriate as Dean of the College of Law and will be reviewed by the appropriate university officials in this regard.

B. Stalking

Stalking is defined as engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for their safety or suffer substantial emotional distress. Course of conduct means two or more acts, including, but not limited to, acts in which the stalker follows, monitors, or observes another person. Reasonable person means a reasonable person under similar circumstances and with similar identities to the victim. Substantial emotional distress means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling. The incident in the library on [REDACTED], as discussed above in detail, comprises the allegation of stalking.

Satisfying the definition of "course of conduct" requires proof of the engagement in two or more overt acts, such as following or monitoring. In this instance, it can be determined that Dannenmaier engaged in a course of conduct directed towards you because he approached you on two (2) occasions while in the library. Whether Dannenmaier had "lawful justification," a defense in a claim of stalking, is questionable since he was concerned about you, which was evidenced by the actual interaction with you and his follow-up conversation with the Deans, requesting for them to "look out" for you. Moreover, as Dean of the College that you attend, it was reasonable for Dannenmaier to address concerns he believed resulted from his behavior. Therefore, it is reasonable to conclude that Dannenmaier had a lawful justification for engaging in the actions that he did with you on [REDACTED] while in the library.

However, there was not enough information to support a conclusion that Dannenmaier's actions would cause a reasonable person to fear for their safety or suffer substantial emotional distress, a necessary element in a claim of stalking. [REDACTED]

While the conduct was unwelcomed and perhaps unwarranted in your opinion, there was not enough information to support a conclusion of stalking. However, as previously indicated above, Dannenmaier's conduct will be referred to the appropriate university officials for further review, follow-up and recommendations at their discretion.

This matter is considered closed and resolved. No further investigation will be conducted by AAEC into this matter unless facts and/or evidence warrant a subsequent review and/or investigation. The results of the Investigation may be appealed by either party submitting a written request of appeal to Dr. Anne Kaplan, Vice President for Outreach, Engagement and Regional Development. The appeal must be submitted within ten (10) workdays after the date of your receipt of this written Report regarding the Investigation, and must contain the specific reason for the appeal and/or facts that were not available at the time of the investigation.

NO RETALIATION

Please also be advised that it is a violation of the University's *Non-Discrimination/Harassment Policy and Procedures*, as well as federal and state laws, to retaliate against any individual who, in good faith, files a complaint alleging that sex discrimination has occurred, or because he or she has opposed that which he or she reasonably and in good faith believes to be sex discrimination in higher education, or because he or she has made a charge, filed a complaint, testified, assisted, or participated in any way in an investigation,

proceeding, or hearing concerning sex discrimination. Should you experience what you believe to be retaliation as defined above, please contact Affirmative Action and Equity Compliance (AAEC) immediately.

Thank you for your patience and assistance with this matter. Should you have any further questions, please do not hesitate to contact me directly at (815) 753-6042 or mjohnson1@niu.edu.

cc: Sarah Adamski, Associate Director of Investigations, Affirmative Action and Equity Compliance
Affirmative Action File

Sent via Electronic Mail Attachment

CONFIDENTIAL MEMORANDUM



Northern Illinois University

Affirmative Action and Equity Compliance

To: Eric Dannenmaier, Dean
College of Law
[REDACTED]

From: Michelle Johnson, Title IX Investigator [REDACTED]
Affirmative Action and Equity Compliance
mjohnson1@niu.edu

Date: April 14, 2017

Re: Official Report of Findings for the Affirmative Action Investigation of the Complaint of Sexual Harassment and Stalking that [REDACTED] filed against you, dated February 19, 2017

Affirmative Action and Equity Compliance
Lowden Hall 101
DeKalb, Illinois 60115-2828
815-753-1118
Fax 815-753-1001
aaec@niu.edu
www.niu.edu/aaec

INTRODUCTION

This memorandum represents the Official Report of the Findings related to the Affirmative Action Investigation ("Investigation") that was conducted by Affirmative Action and Equity Compliance ("AAEC") for the complaint of sexual harassment and stalking that [REDACTED] Student ([REDACTED]) filed against you dated February 19, 2017.

ISSUES PRESENTED

A comprehensive and thorough investigation was conducted. The issues that formed the basis of this Investigation are as follows:

Whether there is sufficient evidence to render it more likely than not that you sexually harassed [REDACTED], 2017.

Whether there is sufficient evidence to render it more likely than not that you stalked [REDACTED] on or about [REDACTED], 2017.

CONCLUSION

After a careful review of the evidence presented, University policy and applicable federal and state laws, there is insufficient evidence to render it more likely than not that you stalked and/or sexually harassed [REDACTED], 2017.

DISCUSSION

Title IX of the Education Amendments of 1972, 20 U.S.C. §1681 et. seq., provides in part:

No person in the United States shall, on the basis of sex, be excluded from participating in, be denied benefits of, or be subjected to discrimination under any education program or activity receiving federal financial assistance...

Northern Illinois University complies with Title IX by prohibiting sex discrimination in the form of sexual misconduct. Sexual misconduct includes acts of sexual harassment and stalking. The allegations made against you, stalking and sexual harassment, will be discussed separately below.

A. Sexual Harassment

Sexual harassment is defined as unwelcomed verbal or physical conduct of a sexual nature sufficiently severe and/or pervasive enough that it unreasonably limits and/or denies a person from participating in or benefiting from the University's educational programs, activities, and/or employment. It may be based upon a power differential or the creation of a hostile environment (reasonably severe conduct that is sufficiently pervasive to have the purpose or effect of unreasonably interfering with work performance, or creating an intimidating, hostile or offensive working environment).

According to [REDACTED] complaint, it was alleged that you engaged in unwelcomed conduct that was sufficiently severe and pervasive enough to cause a hostile environment for [REDACTED]. Specifically, [REDACTED] stated that you called on her to participate in the classroom discussion. [REDACTED]

The day after the comment, [REDACTED] was in the library. You entered the library and approached her. You attempted to discuss with [REDACTED]

During the course of the investigation, you, [REDACTED] and witnesses were interviewed. All individuals who provided testimony verified their statements for completeness and accuracy and such statements were incorporated into the investigation. Based upon the evidence gathered, it is more likely than not that you made the comment that [REDACTED] had [REDACTED]

[REDACTED] This conclusion is based upon your admission to such comment. [REDACTED]

[REDACTED] This conclusion is also based upon your admission.

In order for the above conduct to constitute a form of sexual harassment, as defined by University policy, the conduct must be: (1) unwelcomed, (2) sexual in nature and (3) sufficiently severe and/or pervasive enough to create a hostile environment.

(1) Unwelcomed

The evidence renders it more likely than not that the classroom comment and library interaction was unwelcomed as there is no evidence supporting a conclusion that [REDACTED] requested and/or welcomed the comments. [REDACTED] volunteered information as it pertained to a classroom discussion about [REDACTED]. [REDACTED]

Regarding the library incident, [REDACTED] did not request a meeting with you and was in the process of trying to [REDACTED]. [REDACTED] verbally indicated to you that she did not want to speak to you about the matter, which was also evident through her body language. There is also no evidence

supporting the conclusion that [REDACTED] located yourself in the library knowing you were or would be there. In fact, [REDACTED] walked away from you more than once to attempt to end the interaction.

(2) Sexual in nature

The evidence also supports the conclusion that the comment in the classroom was sexual in nature. [REDACTED]

The incident in the library can also be described as sexual in nature because it was a continuation of the classroom experience. But for the sexual comment, you would likely not have approached [REDACTED] in the library and she would not have reacted in the same manner as she did. Therefore, the interaction in the library was based upon a sexual comment made the day before.

(3) Severe and/or pervasive

Despite the necessary first and second elements in a claim of sexual harassment being satisfied, there is not enough information to determine by a preponderance of the evidence that your conduct was severe and/or pervasive enough to create a hostile environment. This element is viewed from both the subjective and objective perspective. Subjectively, [REDACTED]

Additionally, [REDACTED] stated that she did not want to see you again and wanted you to be removed as her professor and Dean. [REDACTED]

Notwithstanding the subjective component being satisfied, there was not enough information to conclude that your conduct was severe and/or pervasive enough to unreasonably interfere with [REDACTED] academic environment. Your comment did not include sexually explicit terms and/or language that could be defined as "severe" as provided for by the law. Additionally, the comment was not accompanied by conduct of a physical nature that could be defined as severe in nature. Lastly, during the course of the conversation, only one (1) sexual comment was made that occurred on one (1) occasion; thus it can be defined as isolated in nature as it relates to [REDACTED] (despite evidence indicating you made other sexual connotations in the classroom).

You attempting to talk to [REDACTED] in the library was the result of your concern over her well-being as you were concerned that she were not alright and wanted to ensure that [REDACTED] as well as all students in your College, had no impediments to their success. Therefore, it was reasonable for you to attempt to have a conversation with [REDACTED] for this purpose in the library and follow-up with her, even though she indicated verbally and physically that such was not okay. As a result, there is not enough evidence to conclude that your comment was severe and/or pervasive enough to unreasonably interfere with [REDACTED] academic environment.

Please be advised that this holding is not reflective of any additional investigatory result from any allegation relating to the overall academic environment as a result of your comments and/or conduct in the class and only pertains to [REDACTED] complaint of sexual harassment.

Your Name *

[REDACTED]

Phone number

[REDACTED]

Email *

[REDACTED]

Victim/Claimant Information

Victim/Claimant's Name *

[REDACTED]

Phone number

[REDACTED]

Email

[REDACTED]

NIU directory look-up

Victim/Claimant's affiliation to NIU (check all that apply): *

- ☒ Student
☐ Staff
☐ Faculty
☐ Unknown
☐ Not affiliated
☐ Other: [REDACTED]

Offender/Respondent Information

(If unknown, type unknown)

Offender/Respondent's Name *

Eric Dannenmaier

Phone number

Email

Offender/Respondent's affiliation to NIU (check all that apply): *

☐ Student

☐ Staff

☒ Faculty

☐ Unknown

☐ Not affiliated

☒ Other: Dean of Law School

Note: If there is more than one offender please list additional offender information here: *

Incident Information

Police File (CFS) Number

Types of sexual misconduct experienced (check all that apply): *

☐ Sexual Harassment (quid pro quo) - sexual advance or request for sexual favors

☒ Sexual Harassment (hostile environment) - verbal or physical conduct of a sexual nature, of any kind and in any form, which interferes with the academic or employment experience because it has created an intimidating, hostile or offensive environment

☐ Sexual Violence - Sexual contact without consent

☐ Sexual Assault - Non-consensual intercourse or penetration

☒ Stalking - unwanted following, calling, or contact by any means by a person who has been told to stop that has caused substantial emotional distress or fear of safety

☐ Dating Violence - physical, emotional, psychological, and/or sexual violence, within a dating relationship

☐ Domestic Violence - physical abuse, harassment, intimidation of a dependent, interference with personal liberty or willful deprivation within a family or household member (including spouses)

☐ Sexual Exploitation - taking non-consensual or abusive sexual advantage of another

☐ Voyeurism - non-consensual viewing or recording any person engaging in sexual activity and/or their sexual organs.

☐ Other act(s) of sexual misconduct not described above

Approximate date of incident: *

[REDACTED]



Location(s) of incident (check all that apply): *

- ☒ On NIU campus
- ☐ Off NIU campus
- ☐ NIU residence hall
- ☐ NIU-affiliated sorority/fraternity
- ☐ NIU event/activity
- ☐ Not sure of location

☐ Other:

[REDACTED]

If the incident occurred off-campus, please provide the street name if known.

[REDACTED]

Description of incident: *

See file [REDACTED] Title IX summary final."

Upload additional documentation

Choose File No file chosen

[REDACTED] Title IX summary final.docx (14k)

Upload

Delete

Do you want the NIU Police to contact you and follow up on this matter? *

- ☐ Yes
- ☒ No

The following individuals have the authority to make a finding or to impose a sanction in a Title IX proceeding.

- Karen L. Baker, Associate Vice President and Title IX Coordinator, Affirmative Action and Equity Compliance
- Sarah Adamski, Associate Director of Investigations and Deputy Title IX Coordinator, Affirmative Action and Equity Compliance
- Michelle Johnson, Title IX Investigator, Affirmative Action and Equity Compliance
- Jeanne Meyer, Director, Student Conduct / Deputy Title IX Coordinator
- Brian Glick, Associate Director, Student Conduct

If any of these individuals' participation in the Title IX process poses a conflict of interest, the Victim/Claimant and Offender/Respondent have the opportunity to request a substitution. The explanation for the request for substitution must be sent to TitleIX@niu.edu within 48 hours upon notice of complaint.

[REDACTED]

[REDACTED]



Section 1

Section 2

Section 3

Section 4

Section 5: Important Information

Section 6

Section 7

Section 8

Section 9

Section 10

Section 11

Section 12

* Please read the following information carefully. Check all that apply: *

☐ Yes

☐ No

☐ Yes

☐ No

☐ Yes

☐ No

Section 13: Response Information

Section 14

Section 15

Section 16

Section 17

Section 18