



**Offices of the
Inspector General**

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Inspector General

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July 22, 2021

Caroline Downey
Interim Commissioner and General Counsel
New York State Division of Human Rights
One Fordham Plaza, Fourth Floor
Bronx, New York 10458

Re: NYS IG 0459-016-2020

Dear Interim Commissioner and General Counsel Downey:

On February 13, 2020, the New York State Division of Human Rights (DHR) referred a complaint to the Offices of the New York State Inspector General from [REDACTED]. [REDACTED] alleged misconduct by then DHR Investigator [REDACTED], who was assigned to investigate a discrimination complaint filed by [REDACTED] against The City University of New York (CUNY). Specifically, [REDACTED] alleged: (1) [REDACTED] behavior was highly inappropriate while she conducted the investigation of his claim; (2) [REDACTED] posted tweets on her personal Twitter account that were anti-religious; and (3) DHR mishandled his discrimination complaint.

The Inspector General found that DHR investigated both [REDACTED] initial complaint against CUNY and his subsequent complaint against [REDACTED]. During the Inspector General's investigation, gaps in DHR's background checks of temporary employees, which included [REDACTED] were identified. The Inspector General therefore recommends that DHR evaluate the appropriateness of background checks for certain temporary employees. The Inspector General also recommends that DHR consider revisions to its Code of Conduct to strengthen its social media and computer use policies.

[REDACTED] Complaints

On October 9, 2019, [REDACTED] filed his first complaint with DHR, alleging religious discrimination by CUNY. This case was assigned to [REDACTED] to investigate.

On February 13, 2020, [REDACTED] filed a second complaint with DHR, alleging that [REDACTED] during the course of her investigation of his complaint against

CUNY, made inappropriate comments to him in a telephonic interview on January 17, 2020. Although [REDACTED] did not describe [REDACTED] purportedly inappropriate comments, he claimed that [REDACTED] “apologized” for her actions, saying, “I probably shouldn’t say this because we’re supposed to be neutral.” [REDACTED] also alleged that [REDACTED] posted tweets on her personal Twitter account that were anti-religious. [REDACTED] provided examples including, “Lets see the jesus freaks work this one” (Oct. 14, 2009); “The thought of god in country makes me want to projectile vomit . . .” (August 17, 2011); and, “When God speaks to you, it means you’re delusional, schizophrenic, or running for President. Or all three.” (October 13, 2011).

DHR’s Investigations of [REDACTED] Complaints

[REDACTED] first complaint, against CUNY, was filed with DHR on October 9, 2019. Pursuant to DHR procedure, an investigator must complete his or her investigation of a new complaint within 145 days (here, March 2, 2020) of assignment so that it may be reviewed by a supervisor. Procedure further requires that investigations be finalized within 180 days (here, April 6, 2020) of filing a complaint.

Before either date was reached, on February 13, 2020, pursuant to New York State Human Rights [REDACTED] section 297(9), [REDACTED] requested in writing that DHR dismiss his pending complaint against CUNY so that he could pursue other remedies, namely, transferring his complaint to the U.S. Equal Employment Opportunity Commission. As a result, DHR dismissed [REDACTED] complaint against CUNY, thereby annulling his election of an administrative remedy.

[REDACTED] second complaint, against [REDACTED] was filed with DHR on February 13, 2020. On that same date, DHR Regional Director [REDACTED] discussed the matter with [REDACTED] DHR also reviewed [REDACTED] open cases (approximately 65) and found one other case in which a complainant alleged that [REDACTED] improperly investigated his claims. Specifically, this complainant alleged that [REDACTED] failed to advise him of the date on which his case had been transferred between DHR regional offices and failed to grant him an extension to submit a rebuttal after having received earlier extensions.

Although [REDACTED] temporary employment contract was set to end on March 31, 2020, DHR terminated [REDACTED] on or around February 15, 2020. [REDACTED] stated that she was not advised by DHR of the reason for her termination.

The Inspector General’s Investigation and Findings

During the investigation of the instant complaint, the Inspector General identified a gap in DHR’s background checks of certain temporary employees. Because [REDACTED] was hired by DHR through a temporary agency, her background check was less thorough than background checks conducted for New York State employees appointed as investigators in similar job positions at other executive agencies. Had [REDACTED] been subjected to a more thorough

background check, her social media posts could have been reviewed prior to her hiring.

With respect to [REDACTED] Twitter posts, guidance issued by the New York State Office of Information Technology Services (ITS) for personal use of social media advises that staff should be “sensitive to the fact that information posted on social media sites clearly reflects on the individual and may also reflect on the individual’s professional life. Consequently, staff should use discretion when posting information on these sites and be conscious of the potential perceptions of and responses to the information.”¹

In response to the Inspector General’s findings, DHR advised it is taking corrective action. In December 2020, DHR held mandatory training for all employees at which relevant policies were discussed. In addition, at this training, DHR distributed ITS’s Acceptable Use of Information Technology Resources policy, which contains guidelines for personal use of social media.

Given that DHR’s investigation of [REDACTED] handling of [REDACTED] complaint against CUNY found no issues, my recommendations solely address DHR’s social media and computer policies and its background checks for certain temporary employees. I recommend that DHR evaluate the appropriateness and extent of background checks for certain temporary employees, which could include a review of personal social media postings. I further recommend that DHR consider revising its Code of Conduct to strengthen its social media and computer use policies and provide training on these policies to all employees at the time of hire and periodically thereafter.

Please advise me of the action taken by your agency in response to these recommendations within 45 days of the date of this letter. If you require further information, please contact Deputy Inspector General Jessica Silver at 212.635.3150.

Sincerely,

[REDACTED]

Letizia Tagliafierro
Inspector General