

Case Number 2021.033
Investigation Summary
Department of Commerce and Insurance

I. Initiation of Investigation

On September 15, 2020, the Department of Human Resources (DOHR), Equal Employment Opportunity (EEO) Division, received notice of a report of sexual harassment within the Department of Commerce and Insurance (TDCI). Because the complaint involved allegations against TDCI's Commissioner, DOHR's Office of General Counsel conducted an investigation into the complaint in accordance with the State's Workplace Discrimination and Harassment (WDH) Policy, DOHR Policy 12-008. Director of EEO Melanie Koewler served as the Investigator.

II. Summary of Complaint

The report alleges TDCI's Commissioner ("Accused") subjected a TDCI employee ("Employee") to sexual harassment - including unwelcomed sexual advances and touching - while at a work-related conference in Florida.

III. Summary of Findings

After a thorough investigation, which involved interviewing the reporter, relevant witnesses, and the accused employee, as well as review of relevant documentation, Investigator found insufficient evidence to substantiate the allegation that Accused subjected Employee to sexual harassment while at a conference in February 2020. However, Investigator found sufficient evidence to find one of the witnesses ("Witness") failed to report possible sexual harassment under the WDH Policy.

Employee reported during the conference, Accused rested his hand on her rear end while at a bar. Accused did not recall this occurring. Employee further alleged Accused invited her into his hotel room multiple times despite her denying his request on several occasions, and kissed her on three occasions while outside his hotel room. Accused did not recall this occurring, and denied any inappropriate conduct on his part during the conference. No other TDCI employees participated in the conference and no other witnesses otherwise reported observing or experiencing inappropriate behavior from Accused.

Witness said Employee informed him about an alleged incident with Accused wherein he made her uncomfortable by wanting to come into her hotel room after dinner. This occurred in January or February 2020. He acknowledged he did not report what she told him to anyone else, because he did not have firsthand knowledge of the incident and made it clear to Employee that she needed to report the conduct. Regardless of his reasons for not reporting, Witness is in a supervisory role within TDCI. The WDH Policy states, "Supervisory personnel who receive a complaint alleging workplace discrimination or harassment or learn by any means of conduct that may violate this policy must

immediately report any such event to the department's human resources director, EEO officer or to the person designated by the agency to receive the information." Witness' failure to report the incident involving Employee and Accused constitutes a violation of the WDH Policy. Although other employees were also informed of the alleged conduct, these employees are not in supervisory positions within TDCI and are therefore not mandatory reporters under the WDH Policy.

IV. Closure of Investigation

Investigator referred this matter to the Governor's Office for review and appropriate handling on September 23, 2020.