



U.S. Department
of Transportation
Federal Highway
Administration

1200 New Jersey Avenue, SE.

Washington, DC 20590

MAR 12 2018

In Reply Refer To: HCR-20
DOT# 2018-0050

(b) (6)

Subject: Dismissal of Complaint DOT# 2018-0050

Dear (b) (6)

This letter acknowledges that the Federal Highway Administration's (FHWA) Office of Civil Rights is in receipt of your complaint, which alleged violations of Title VI of the Civil Rights Act of 1964 (Title VI) and USDOT's implementation regulations at 49 C.F.R. Part 21 and/or 23 C.F.R. Part 200. To be accepted for investigation, a complaint must meet the jurisdictional requirements described in FHWA's Investigations Manual, which conforms to the U.S. Department of Justice's procedures and standards for investigating complaints of discrimination. First, the complaint must be in writing. Second, the complaint must describe an alleged discriminatory act that, if true, would violate FHWA's nondiscrimination regulations (i.e., an alleged discriminatory act based on race, color, national origin). Third, the complaint must be filed within 180 calendar days of the alleged discriminatory act. Finally, complaints must be filed against a recipient of financial assistance from the FHWA.

After careful consideration, the FHWA has concluded it will dismiss this complaint. Your complaint alleges the Mid Region Council of Governments discriminated against you during your employment with the organization on the basis of sex and national origin. These alleged actions regard employment issues and do not meet the jurisdictional requirements for a Title VI civil rights claim with the FHWA.

If you have any questions about this complaint, please contact Kevin Resler at 202-366-2925 or kevin.resler@dot.gov.

Sincerely,

Irene Rico
Associate Administrator for Civil Rights

cc: Don Martinez, Division Administrator, FHWA NM Division Office
Sonja Wilson, Assistant Division Administrator, FHWA NM Division Office
Lisa Neie, Civil Rights Specialist, FHWA NM Division Office
Nichole Mcwhorter, Title VI Program Team Leader, FHWA Office of Civil Rights
Kevin Resler, National Title VI Program Coordinator, FHWA Office of Civil Rights
Jim Esselman, Senior Attorney-Advisor, FHWA's Office of Chief Counsel
Yvette Rivera, Associate Director, Equal Employment Opportunity Programs Division,
Departmental Office of Civil Rights

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Jenna M
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External Discrimination Complaint Form

(Title VI/Nondiscrimination and ADA/Section 504 Complaints)

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Discrimination Because of:	<input type="checkbox"/> Race	<input type="checkbox"/> Color	<input checked="" type="checkbox"/> National Origin	<input checked="" type="checkbox"/> Sex	Date of Alleged Incident 10/13/2016
	<input type="checkbox"/> Age	<input type="checkbox"/> Disability	<input type="checkbox"/> Retaliation		

Explain As Briefly And Clearly As Possible What Happened And How You Were Discriminated Against. Indicate Who Was Involved. Be Sure To Include How Other Persons Were Treated Differently Than You. Also Attach Any Written Material Pertaining To Your Case.

Please see notations in the attached letter, and Attachment A (image with profanity).

(b) (6)	Date 10/8/2017
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Dear Federal Highway Administration (FHWA),

I am a current City of Albuquerque Transit Department employee. I wrote this letter during my personal time at home starting in early 2016. At the beginning of 2016, (b) (6)

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(b) (6) At MRCOG, my understanding is that the vast majority of my billable hours were on projects funded by the FHWA. I would like to tell you that the working environment at MRCOG during my tenure was unprofessional to the point that it caused me great anguish. Demeaning and hostile language was used toward me and I was maligned internally at the organization.

Early in my employment, it became clear that my subordinate relationship with my Manager would become hostile. Approximately one month into my tenure as a (b) (6) he referred to me as the "drainage system" of the organization, and a "scum-collecting gutter" in front of a packed room of MRCOG staffers at a going away lunch for another employee. I did not understand the humor and was humiliated in front of my co-workers. I wasn't sure how to react because I had never been bullied before in the workplace, so I just sat and smiled while others laughed. My direct supervisor later apologized to me for his statement, saying that she did not agree with the statements. But the good cop, bad cop routine would only get worse. It later became clear that my Supervisor would also become aggressive toward me at organization meetings and in one-on-one meetings. On one occasion, she did not formally invite me to a meeting, but asked me to join the meeting about halfway through. When I joined the meeting, she promptly asked me to conduct an Economic Impact analysis for the Albuquerque Rapid Transit (ART) project with a deadline of only a few days. When I asked for about a week to conduct research and analysis, she became visibly angry and started yelling at me "c'mon (b) (6) you can't just press a button?" I assured her that an analysis for such a large scale project requires in-depth research and vetting, and not just "pressing a button." Nonetheless, I persisted and wrote a strong economic impact analysis for the project. The economic impact analysis has been circulated internally at the City of Albuquerque. My supervisor later apologized for her behavior, citing frustration that another employee had submitted his resignation, and that she was going through a difficult divorce.

At the MRCOG offices, comments were made to me that involved the use of sexually explicit language. Specifically, my manager used the phrase "blow job" on at least one occasion. A meme that included an animated image of a sexually suggestive act was sent through email by MRCOG staffers. Profanity was regularly used, and my manager thought it would be funny to single me out by placing an image with the "F"-word on my keyboard. I told the human resources person that unprofessional behavior was rampant at the organization. I asked if there was a formal process to file a complaint, and she did not answer my question, but she assured me that she would talk to my manager. To my knowledge, nothing was ever done about the issues. In my career, I have never heard such filthy, demeaning, and aggressive language from a manager or a supervisor to subordinate employees. I believe the HR department at MRCOG failed me as an employee. While MRCOG relies on the City of Albuquerque to handle benefits and other HR issues, they shirk personal responsibility for handling employee complaints. Since the City of Albuquerque administrator made the final decision to hire me as an MRCOG employee, I should have

Attachment
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been given the right to contact the City of Albuquerque HR department to file a bullying and sexual harassment complaint. I also should have access to mediation with my Supervisor and Manager through the city since the MRCOG HR department blatantly ignored my verbal complaint, and may have passed along the information that I was complaining about my treatment to my Supervisor and Manager.

Another aspect of the unprofessional behavior was the use of disparaging language about local elected officials. During a conversation, a MRCOG staffer said "Dan Lewis is an idiot." I replied that I thought Councilor Lewis was doing a great job for City of Albuquerque District 5, which is where I have lived as a homeowner for nearly five years. I was discouraged that disparaging language was being used in reference to an Albuquerque City Councilor and a Metropolitan Transportation Board member inside a government agency that is expected to be politically neutral and respectful to its board members.

MRCOG managers and staffers had a general disdain for anyone who did not fully agree with a very specific set of political positions, and hostile management tactics were employed at the slightest sign that an employee may not agree with a specific analytical conclusion. This resulted in an environment of extreme groupthink. I became a scapegoat for management and staffers who were frustrated with the rise of Donald J. Trump as a presidential candidate. While creating a population projection for a local municipality, I mentioned to my Supervisor that I had gained a working knowledge of the Albuquerque real estate market. I have been to real estate school, I track real estate inventory, prices, and sales volume statistics, and I have completed real estate transactions in Albuquerque. After explaining to my Supervisor, she sarcastically called me "Donald Trump" in an antagonistic tone and dismissed my somewhat conservative population forecast as "too pessimistic." Most employees at MRCOG voiced support for Hillary Clinton, while none that I spoke with voiced support for Donald Trump or third-party candidates. I wish I could understand why my supervisor's anger about Donald Trump was directed at me, as she would routinely brood about how horrible he was. I have nothing to do with the current president, and connections made in my supervisor's mind were surely contrived. I did not support Donald Trump or Hillary Clinton in the presidential election. Still, my Manager and other staffers made a considerable effort to dissuade me from voting for anyone other than Hillary Clinton in the election. In an unwelcome conversation at the MRCOG offices, my manager explained to me that the fact that Bill Clinton got a "blow job" in the White House was inconsequential and not pertinent to the 2016 presidential race. The Bill Clinton scandal occurred when I was younger than 18 years of age, and I can honestly say that I have little knowledge of the specific sexual relationship between former President Clinton and anyone, and I had little interest in learning about these details second hand from my direct Manager. This was an unwelcome conversation. He later explained that it was too "risky" to support Gary Johnson because Trump might win.

Additionally, the Planning Manager routinely invited the staff out for drinks during business hours. These junkets were a major distraction from work duties, and did not achieve the team-building experience as expected. Those who did not attend the drinking sessions were ostracized. Finally, I was ruthlessly terminated about one month after my son was born, which shows how vindictive management is, and how they do not support their employees through sensitive family changes.

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The crux of my wrongful termination complaint is that I was terminated for not doing work I was never asked to do. Specifically, after the Travel Demand Modeler left, my Supervisor and Manager became very aggressive towards me. I believe they hoped that I would start taking on the responsibilities of a Travel Demand Modeler. But they never asked me to do travel demand modeling in-person or in writing. Nowhere in my job objectives for the (b) (6) position did it mention transit analysis or travel demand modeling. When I was hired, I was told that I would be running the REMI economic impact model, and conducting employment analysis. I was terminated without ever getting a performance review and I was not given a reason for my termination. I was not told that I had not completed any of the goals or objectives for my job as a (b) (6) nor were my duties changed in writing or verbally. Thus, I must assume that I successfully completed all of my goals and objectives as a (b) (6). My contention is that I was terminated for not completing the job duties of a Travel Demand Modeler, which was a job I was never offered, which means I never had the opportunity to accept it; that position was vacated by another person who moved to another state. That person, to the best of my knowledge, was born in a country other than the United States. He was given preferential treatment and access to specific software programs, including CUBE, TRAM, the land use model, travel demand models, and possibly other software programs. I was never given the opportunity to use any of these software programs, nor was I given the opportunity to pursue training to use them. Furthermore, I was not ever asked to run any of these programs, or given any specific travel demand modeling tasks. But shortly before I was fired, I was told by my supervisor that I was "not a programmer." Nowhere in my job description or on my resume was "programming" listed. My contention is that I was fired for not having a set of skills, even though I was not hired for those skills; I was never given the opportunity to prove I had those skills. My contention is that MRCOG management purposely suppressed my access to and training for these software programs. I was given far less opportunity than another person born in a foreign country. Furthermore, I never accepted a job as a Travel Demand Modeler with the Mid-Region Council of Governments, and it was never offered to me.

I endured white-collar bullying from my Supervisor. She routinely told me I was incapable of a task without actually giving me an assignment. For example, she said "you're not a real Economist," but didn't actually give me an economic analysis assignment. Still I persisted and successfully wrote multiple professional economic analysis papers. I have a letter of reference from one high-profile client at the University of New Mexico. I believe my opportunities were purposely suppressed in an effort to discredit my work because I had questions about some of the analytical conclusions in the Metropolitan Transportation Plan. If one were to audit the email correspondence between me, my supervisor, and my manager, one would not find a single trace of evidence that I was given an assignment I did not complete. In fact, one would find very few written assignments at all. Nearly all assignments were given vaguely in-person with very unclear instructions. It is my belief that I was purposely set up for failure. Instead I managed to succeed greatly given adverse, biased, and hostile management tactics.

My belief is that hostility has resulted in a high turnover rate in the MRCOG transportation planning section. In the long-term, MRCOG will not benefit from "cost-savings" when positions are left vacant due to a high turnover rate, and a seemingly constant stream of inexperienced recent college graduates fills its cubicles. Organizational knowledge is lost with departing employees, which negatively impacts the

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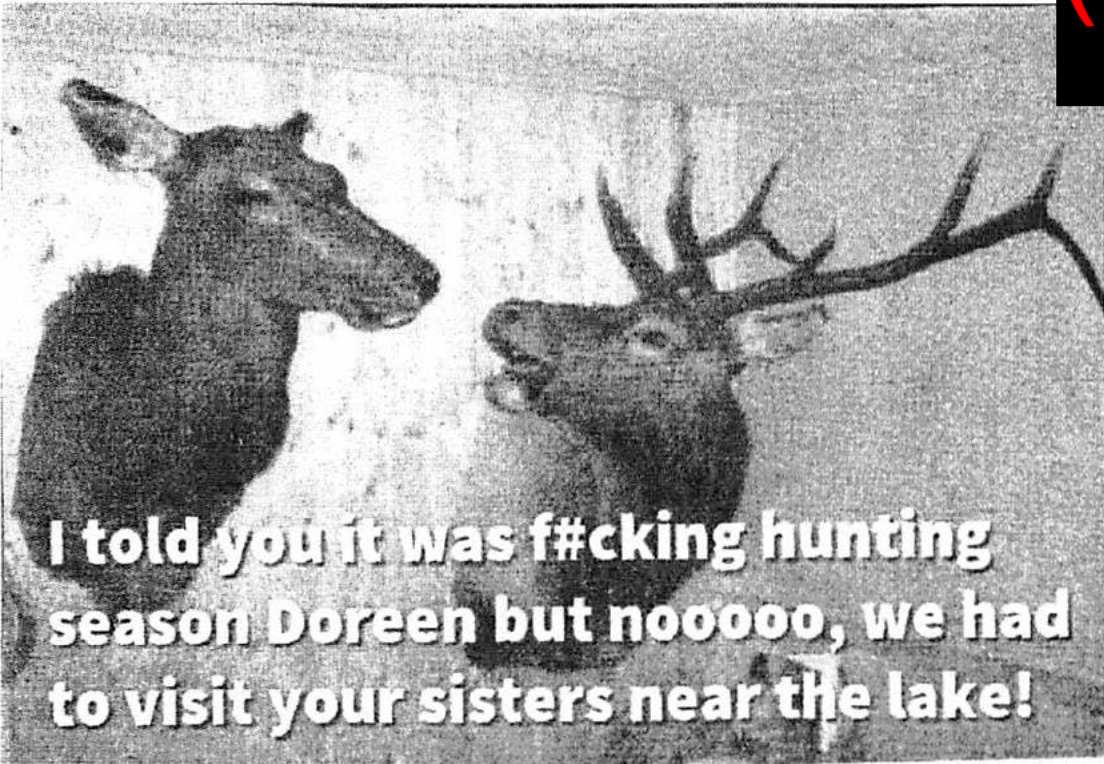
quality of analysis produced by MRCOG, and only serves management in steering employees into agreeing with political conclusions, without rigorous analysis. The hostile work environment incites fear and anxiety among staffers and results in low-quality subjective analysis, not high-quality objective analysis. My belief is that the best ideas are borne of a non-partisan political environment that is conducive to broad and diverse viewpoints that are based on rigorous and thoughtful analyses of economic and demographic data. A government agency that stakes its reputation on objectivity, and controls significant amounts of taxpayer dollars, must freely receive input from business owners, citizens, and the analysts it employs, to ultimately plan an efficient transportation system. Employees should not be afraid of losing their job if they come to a slightly different analytical conclusion than their management. Ultimately, if groupthink pervades an agency, which has significant political power, the citizens and businesses of the Mid-Region may not have a voice in planning their transportation system. If that agency makes ill-conceived policies, and short sighted plans, we may all have to live with an inefficient transportation system. I implore the MTB to add more structure in the oversight of MRCOG, and require it to abide by the same human resource management standards as the City of Albuquerque and the State of New Mexico. This should include abiding by a formal process for collecting verbal and written reports of bullying and sexual harassment. Also, I would like to request that future MRCOG employees be given the same access to mediation offered by the City of Albuquerque.

Sincerely,

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10/8/2017

(b) (6) 10/8/2017



Attachment A