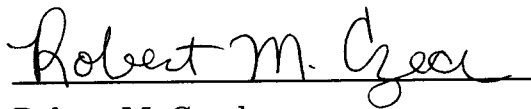




Re: Naresh Rajram

This is the final administrative determination in this matter. Any further review should be pursued in a judicial forum.

DECISION RENDERED BY THE  
CIVIL SERVICE COMMISSION ON  
NOVEMBER 5, 2015

A handwritten signature in cursive script that reads "Robert M. Czech". The signature is written in black ink and is positioned above a horizontal line.

Robert M. Czech  
Chairperson  
Civil Service Commission

Inquiries  
and  
Correspondence

Henry Maurer  
Director  
Division of Appeals and Regulatory Affairs  
Civil Service Commission  
Unit H  
P. O. Box 312  
Trenton, New Jersey 08625-0312

attachment



**State of New Jersey**  
OFFICE OF ADMINISTRATIVE LAW

**INITIAL DECISION**

OAL DKT. NO. CSV 00441-15

AGENCY DKT. NO. 2015-1669

**IN THE MATTER OF NARESH RAJRAM,  
MONTCLAIR STATE UNIVERSITY.**

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**Kevin E. Glory**, Esq., for appellant Naresh Rajram

**Beth N. Shore**, Deputy Attorney General, for respondent Montclair State University (John J. Hoffman, Acting Attorney General of New Jersey, attorney)

Record Closed: August 18, 2015

Decided: October 1, 2015

BEFORE **MICHAEL ANTONIEWICZ**, ALJ:

**STATEMENT OF THE CASE AND PROCEDURAL HISTORY**

The Montclair State University (MSU or University) terminated senior building maintenance worker, Naresh Rajram (Rajram or appellant), for unwelcome conduct towards a student in the general vicinity of her dormitory room and then having unwelcome contact with her thereafter. At issue is whether Rajram engaged in this conduct and, if he did, whether his actions constituted conduct unbecoming a public employee and/or neglect of duty in violation of N.J.A.C. 4A:2-2.3(a)(6).

On October 20, 2014, the MSU served upon Rajram an Amended Preliminary Notice of Disciplinary Action removing him at a date to be determined. After a departmental hearing, the MSU issued a Final Notice of Disciplinary Action on December 1, 2014, removing Rajram effective October 4, 2014. On December 3, 2014, Rajram requested a hearing and the Civil Service Commission transmitted the case, pursuant to N.J.S.A. 52:14B-1 to -15 and N.J.S.A. 52:14F-1 to -13, to the Office of Administrative Law (OAL), where it was filed on January 9, 2015. During a telephone conference on February 18, 2015, I granted Rajram's adjournment request of the hearing scheduled February 26, 2015, to allow him to seek legal counsel. The hearing was rescheduled and held on April 17, 2015. After receipt of the parties' post-hearing submissions, the record closed August 18, 2015.

### **FACTUAL DISCUSSION**

Aveni Patel (Patel) was a student at Rider University. She transferred to MSU and resided at Blanton Hall dormitory at that school. Patel was a junior student at MSU studying accounting. She had a roommate named Bina. Prior to living with Bina, she had a roommate named Lahna. Patel is twenty years old and worked as a cashier in her parents' liquor store while attending school.

Rajram had been a senior building maintenance worker at MSU for two years. His duties include vacuuming and general cleaning of school buildings at MSU.

#### **Aveni Patel**

Patel alleges that Rajram engaged in improper conversations with her. Rajram forcibly took her cell phone from her hands and put his cell phone number into her phone. Rajram then called his cell phone thereby giving him her cell phone number. Patel also alleges that Rajram asked her to go out to a bar with him. After she declined, he asked her out for ice cream with him. In addition, Rajram had asked her personal questions and had secured other personal information about her and her relationships. This encounter caused Patel to become frightened. After Patel filed criminal charges against Rajram, Rajram attempted to contact Patel in order to convince her to drop the

charges. These activities made Patel feel unsafe and she believed that his actions were inappropriate.

Patel stated that she had seen Rajram occasionally the year before the incident in 2013. She would see him taking out the trash. At no time did she introduce herself to Rajram. Rajram would say hello to her only when she was by herself and never when she was with others.

On September 29, 2014, Rajram approached her and asked her if she was Bina (her sister's name) and then asked whether she had broken up with her boyfriend. Patel found it odd that he would have such detailed personal information about her. Patel responded by saying yes that she and her boyfriend had broken up. Rajram then asked Patel if she wanted to go to a bar with him. Patel reminded Rajram that she was not twenty-one years old and, therefore, unable to legally drink alcohol and said "no." Rajram then stated to Patel that he had a friend who worked at the bar and thus could get her into the bar even though she was under age. In addition, based on the conversation, it was clear that he knew her sister's name, Bina.

Patel further testified that she became scared due to this encounter. She was of the belief that the conversation was not appropriate. She especially felt this after she had told him that she did not want to go to the bar with him. Rajram then asked her if she knew of a good place in India to get cricket bats. Patel responded by saying "no" as she was never in India. At this point, Patel stated that Rajram "grabbed the phone from her hand." He then used her phone to call his cell phone so that he would have her cell phone number. Rajram then ended the call after it rang.

At the time of the above conversation, Patel was walking to her room away from Rajram. Rajram continued to walk behind her and then asked her if she wanted to go out for ice cream. Patel again responded "no." Patel was trying to get into her room. Rajram advised her that he would call or text her that night. As she had texted her friend Claudia to advise her of this incident, Claudia called her to see if she was all right. Patel's text messages were reflected in the copies submitted, copied via "screen shot." (R-1.) The text messages from Patel to Claudia begin with: "HELPPPP MEEEE." Patel

stated that she sent this text because she did not know what to do. Patel testified that she did not give her cell phone number to Rajram voluntarily. She thought it was inappropriate for Rajram to take her phone.

Patel recalled that she had an exam on that date at 7:00 p.m. Patel said she was very upset and could not study. Claudia advised Patel to call the front desk. Patel called the front desk and texted her ex-boyfriend. Patel then left the exam early in order to call the RA. The exam ended at 9:30 p.m. but she left at 8:00 p.m. Patel failed the exam because of the incident. She otherwise felt prepared for the exam but could not focus as a result of the incident. Patel told the RA that she did not feel safe. Patel explained that she cried as she told the RA what happened.

I cannot see how Patel would have created those text messages prior to the exam in anticipation of failing the Business Law exam as alleged by the appellant's attorney.

Claudia was with Patel and tried to calm her down. Thea Dyer (Dyer) employed by MSU as the Director for Blanton Hall was contacted. Patel did not want to speak to Thea, but Claudia convinced her to do so. Claudia went to Thea's office and then advised Patel to come to the office. Patel told Thea what happened with Rajram. Thea then called the campus police department. When the police officer arrived, they told the officer what happened. Prior to this meeting, Patel had deleted Rajram's phone number from her phone. The officer told her that it was a bad idea. Patel advised the officer that Rajram stated that he was going to text her that night. The officer asked Patel if she wanted to press charges against Rajram. Patel stated that she did not know. Thereafter, Patel went to spend the night with Claudia. She was advised that once Rajram contacts her, she should call Thea who will then call the police.

The sum of Patel's actions would be an enormous incredible ruse all to explain away an otherwise "A" student, failing an exam.

Between 9:30-10:00 p.m., Patel went to Claudia's apartment due to the fact that she was upset. Patel also contacted Sonam, her cousin, who attends MSU. Patel

made a screen shot of the text messages sent to and from Rajram to Sonam. (R-2.) Patel explained to Sonam what had transpired. Patel also screen shot the text she received from Rajram at about 10:20 p.m. (R-3.) Claudia then contacted Thea and had her cell phone on speaker so Patel could hear the conversation. A police officer then showed up in response to the call from Rajram. Rajram did not respond when he received a text from Patel stating: "Naresh who?"

Patel then spoke with the officer and the officer asked her if she wanted to press charges. Patel went to the police department with Claudia to write a statement about the incident. Patel did not see Rajram at the police department. Patel then dictated her statement to Claudia, who then wrote out the statement. (R-7.) Patel then reviewed that written statement prior to it being submitted. Patel signed the statement and then called Rajram from the police station. (See R-6.) In addition, R-5 shows the text sent from Rajram and R-4 shows Rajram's cell phone records—both sent and received text messages. Patel was still scared after the incident. When she left, Rajram was still in the police station. Patel was frightened because she did not know if Rajram would be on campus the following date.

Patel was then contacted by Barbara Milton (Milton), Director of Equal Opportunity and Affirmative Action and Diversity and Title IX Coordinator, and she took Patel's statement in person. Patel dictated the statement and Barbara took notes. (R-9.) Patel reviewed the document, found it to be accurate and then signed it. Patel stated that she forgot to mention the part about Rajram asking her to a bar. At the municipal court hearing, Patel spoke to the prosecutor. He advised Patel that she could not get a restraining order as there was no relationship between Patel and Rajram. Patel stated that she did not want to deal with it any longer so she just dropped the whole thing. Patel stated that she would feel unsafe if Rajram continued to work at MSU.

On cross-examination, Patel admitted that appellant was not directly threatening in his conversation with her. Patel also admitted that when she issued her statement at the police station, she did not write her statement, but instead she dictated her statement to her friend Claudia, who wrote it out and then Patel read the statement

quickly and signed it. Patel reinforced her position that the appellant gave her his cell phone number by putting it in her cell phone.

Patel further testified that Claudia texted her "HAHAHAHAHAHAHAHAHA WALK AWAY," but that Patel did not feel it was funny. (R-1.) The exam she attended after the incident was Business Law, which was a requirement for her major. The professor for that subject did not permit a make-up exam. Patel failed this exam and she had never failed an exam before. Patel confirmed that her statement (R-9) was accurate.

Patel stated that she did not want to ruin appellant's career. The criminal charges against Rajram were dismissed. Patel told the judge at the municipal hearing that she was not in fear of her safety because she was advised that Rajram was going to be terminated. Patel did not want any further interactions with Rajram. If Rajram was no longer on campus, she would have no fear of him. When Rajram was around campus, Patel felt scared because Rajram could be outside her room or waiting for her. R-2 was a screen shot from Patel's cousin as she did not have this shot on her phone. Patel also texted messages to her ex-boyfriend regarding this incident.

On re-direct, Patel stated that she met with Milton and gave a statement to her. The incident occurred on September 29, 2014, and Patel met with Milton on October 6, 2014. The statement provided by Patel (R-7) was far more accurate than the separate text messages. Patel believed Rajram to be "creepy" especially when he began to ask about her roommate. He asked Patel if her roommate was black. Patel then thought to herself how would Rajram know that her roommate is black. Rajram also asked Patel about her ex-boyfriend. This concerned Patel that Rajram knew about her romantic relationship.

On the day that Rajram approached her, he was walking behind her as she walked to her dorm room. Patel walked away from Rajram because he knew her sister's name and he had information about her ex-boyfriend. Patel found particularly disturbing that Rajram took her cell phone out of her hand. This act made her very nervous. Patel stated that she was still scared when she met with Milton. Patel's friend



Claudia would walk her to and from classes just after this incident. Patel would also stay in her dorm room often, instead of going out.

Kenneth Bledsoe

Kenneth Bledsoe (Bledsoe) is employed by MSU as a Senior building maintenance crew supervisor. He supervises between eight and nine people. Bledsoe assigns cleaning tasks and orders supplies. He was Rajram's immediate supervisor. Bledsoe stated that Rajram was never written up for discipline, was a good employee, there were no complaints, and he was a member of the CWA Union 195. Bledsoe further stated that he would like to have Rajram back as an employee.

On cross-examination, Bledsoe stated that he was not with Rajram the entire evening on the night of the incident. In fact, Bledsoe was not with Rajram from 5:00 to 6:00 p.m. Bledsoe indicated that he heard of the allegations against Rajram but was unaware of the details. It was Bledsoe's position that it would be improper for Rajram to take a student's cell phone and call himself on it. Bledsoe also stated that he believed that it would be inappropriate for an employee to ask to meet an underage student in a bar and no employee should ask a student out.

Thea Dyer

Thea Dyer (Dyer) is employed by MSU as the Director for Blanton Hall. She oversees staff and student behavior. Dyer does not supervise the janitorial staff. She knew Patel for two years and feels like she knows her fairly well. Dyer had no issues with Rajram and has a professional relationship with him. Dyer finds Rajram to be quiet and reserved.

On September 29, 2014, Dyer became aware of the incident between Patel and Rajram by an RA. Dyer found that Patel was texted by Rajram and was feeling uncomfortable. It was Dyer's understanding that Patel was approached by Rajram close to Patel's dorm room. Ultimately, Dyer was approached by Claudia (Patel's friend) because Patel was too nervous to say anything. Dyer explained to Claudia that

it was important for Patel to come down and speak with her. Patel then came down and spoke with Dyer about the incident and explained that she did not know how to get out of the situation.

Dyer testified that Blanton Hall was an undergraduate building with students generally under the age of twenty-one. Dyer described Patel as very upset, teary-eyed, and shaking. Patel was very soft spoken and very uncomfortable. Dyer spent six years in resident life and has never seen anything to this degree. Dyer found the incident to be very concerning because the maintenance workers have full access to the dormitory buildings. The event raised a lot of red flags and crossed many lines, i.e.,: 1) employees should have appropriate relationships with students; 2) the students are generally under the age of twenty-one; 3) an employee should not ask a student to go to a bar; 4) employees should not attempt to have sex with students; and 5) employees should not go to a student's room.

Dyer asked Patel what she wanted to do (file a formal complaint; contact police; place a report on file; file charges). Patel stated that she did not know what to do. Patel decided to call the MSU police to report the incident. The police were called and took her statement. The police asked general questions. Patel was advised by the police that if she was contacted again by Rajram, she should contact the MSU police by phone or in-person. Patel decided that she would reside with a friend that evening. While staying with a friend, Patel received a text message. Patel did not recognize the sender and asked "Who is this?" The response was "I work here." Thereafter, Patel contacted the MSU police to report the further event.

After charges were filed by Patel against Rajram, Dyer received a note from another housekeeper asking Patel to drop the charges against Rajram. The description to the other housekeeper was vague. Dyer then took the note. This housekeeper never ended up meeting with Patel. The MSU police were contacted and they took the note. In addition, Dyer received a voicemail from Rajram asking her to contact Patel about the charges because he has a family. Rajram asked Dyer to have Patel contact him. This message was erased from the phone system. The MSU police stated to Dyer that they would contact Rajram. The police advised Rajram to have no further contact with Patel.

On cross-examination, Dyer confirmed that she did not obtain Patel's phone records to verify Patel's story. Dyer stated that she was unsure of Patel's cell phone as to whether it had a phone lock. Dyer indicated that she saved the voice mail from Rajram but when she went to retrieve it, the message was gone and that she did not erase the message. Dyer further indicated that only Internet Technicians can erase messages. Dyer explained that she saved quite a few messages and they were all erased. Dyer testified that she was unaware of the date when Rajram left the voicemail. She believed that the message was left the week of October 16, 2014, and that the message was erased in February 2015. Dyer also recalled telling Patel that Rajram could be fired. Dyer also stated that she was told that Rajram invited Patel to meet him at a "bar." She testified that the note from the housekeeper was given to the MSU police.

Dr. Karen Pennington

Dr. Karen Pennington (Pennington) is the Vice President for Student Development and Student Affairs. Pennington's duties include student safety and creating a safe environment for the students at MSU. As an entity receiving federal funds, the MSU is required to adhere to Local, State and Federal laws. Pennington cited the Victims Bill of Rights as one of the policies which must be followed as well as Title 9 that protects students from harassment. Pennington testified that if the MSU fails to comply with these laws and regulations it could result in a loss of federal funding. Pennington also stated that all Human Resource regulations apply to the employees. Pennington pointed to the Sexual Harassment Complaint Procedures Involving Students (R-10) as to one of the requirements which must be followed by the employees.

Pennington stated that she was aware of the allegations made by Patel as she was notified by the staff working in the residence halls and she saw the Police Report on the incident. It was Pennington's opinion that the allegations, if true, violated the regulations regarding Sexual Harassment. Pennington believed that Rajram's actions created a hostile environment for Patel. She stated that the school/dorm was the

student's home and should not feel unsafe or insecure. When students feel unsafe, it affects their education. The fact that Rajram had access to upper dorm floors made his actions more unsafe and more hostile. Pennington believed that asking a student to go to a bar or to get ice cream was inappropriate. Pennington stated that Rajram's conduct was unbecoming a public employee. Pennington was particularly disturbed by Rajram taking the phone out of Patel's hand because there was absolutely no reason for Rajram to take the phone out of her hand. In addition, there was no reason for Rajram to text Patel and to initiate personal contact with her. Pennington expects employees to act in a professional manner. This expectation applies to all employees beyond faculty members.

Pennington stated that students are still developing and the job of everyone at the University is to head them in the right direction. Such harassment, Pennington believed, has a ripple effect inasmuch as if one student is concerned for her safety, other students may question their safety as well. Even if the events are not significant to one student (not the case with Patel), it may still affect other students. It was Pennington's opinion that the University took appropriate action, which she believed was Rajram's dismissal. When an employee interacts with a student in such a manner, it was possible that it could happen again. Pennington found that often events like this are not a one-time occurrence.

On cross-examination, Pennington described Rajram's responsibilities as cleaning areas, mopping, vacuuming, dusting, cleaning bathrooms, and snow shoveling. Pennington stated that Rajram also had a responsibility to lead students in the right direction and to show the students respect. Pennington admitted that she did not personally explain these responsibilities to Rajram. Employees are required not to take actions which would make a student feel uncomfortable. Pennington explained the standard actions which would make the "reasonable person" feel uncomfortable. Pennington further explained the difference as: it is okay for a janitor to say hello, but not okay for a janitor to ask a student to a bar or out for ice cream. Pennington felt that the University should err on the side of caution and in protecting the student.

On redirect, Pennington stated that Patel was clearly upset by Rajram's actions. It could have been sexual harassment even if Patel was not upset. An additional problem stated by Pennington was that Rajram attempted to contact Patel even after being told not to contact her. Pennington stated Title 9 directs the University to fully investigate the incident and then take appropriate action. Pennington further stated that she does not think about funding when deciding a case, but instead thinks about doing the right thing. Pennington stated that it was not her decision to terminate Rajram, but she agreed with the decision.

### Naresh Rajram

Naresh Rajram stated that his work title was senior building maintenance worker. Rajram stated that he would clean the general campus areas including the dorms. Rajram said that he was from Guiana, that he still has contact with his family there, and is involved with sports development. Rajram stated that he works with the youth leagues cricket organizations. Rajram stated that he helps obtain cricket gear including bats and balls.

Rajram described the interaction with Patel very differently from the account provided by Patel. Rajram stated that he did not sexually harass Patel and that his interaction was purely based on obtaining information regarding buying cricket bats from a source in India. Rajram described the encounter quite innocuously by stating that he wanted Patel's phone number simply to call her about the cricket bats. Rajram alleges that at no time did he harass her and he denies that he asked her to go with him to a bar or to go out with him for ice cream. Rajram also denies that he grabbed her cell phone out of her hand.

Rajram's account of the encounter is as follows. On September 29, 2014, Rajram explained that he was working in Blanton Hall on the fourth floor and he seen Patel that evening. They struck up a conversation as he was shampooing a spill someone created. Rajram stated that he saw Patel and asked her if he could ask her a question to which she responded "no problem." Rajram explained that he was originally from India not Guiana. Patel said to Rajram that some of her family was still in India.

Rajram then stated that he asked Patel about getting cricket bats from any places in India for sports development in Guiana. Rajram stated that Patel did not mind and that she would make inquiries regarding cricket bats. Rajram stated that he asked Patel about the cricket bats because he had purchased a bat from Australia and it stated that it was made in India. Rajram was advised by another person that he could get cricket bats from India at about one half the price. Rajram asked Patel because he noticed that she was Indian and thought she could be from India.

Rajram stated that he asked Patel to look into getting cricket bats for him and she said okay, "What is your number?" Rajram then gave his number to her. Rajram said that she had her phone in her hand. Rajram told her his number and claims that he typed it into her phone. Rajram further stated that Patel told him that he could call or text her later. Rajram then testified that was the extent of the conversation. After the conversation, Rajram said that Patel went to her room and he continued to work.

Rajram denied that he asked Patel to go to a bar with him. Patel did not look upset or shaken by their encounter and appeared calm to him. Rajram claims that Patel then talked about her Indian heritage.

When Rajram's shift ended that evening at 10:21 p.m. or so, he sent a text to Patel saying "Hi. How are you doing?" The text he received back was "who is this?" Rajram responded "Naresh, I work here." After that, Rajram stated that he was approached by campus police who stated to him that he was harassing a student. He was taken to police headquarters during which time he received additional texts from Patel's phone at 10:41 p.m., asking him again "who is this?" to which he never responded. Rajram was arrested and questioned by the police. Rajram claims he had no further contact with Patel. He denied asking another janitor to speak with Patel in order to convince her to drop the charges against him. Rajram did admit that he called Dyer and left a voice mail stating "My name is Naresh, if you could please call me back." Rajram denied contacting Patel and would like to have the charges dropped against him. Rajram denied contacting Patel and asking her to have the charges dropped against him.

Rajram stated that he had no other disciplinary charges against him by the University or any other employer. Rajram stated that he was never fired. In addition, Rajram stated that he never had any other criminal charges against him. Rajram was unable to explain why his version and Patel's version of their meeting were so different.

On cross-examination, Rajram stated that the first time he saw Patel was on September 29, 2014. Rajram denied approaching Patel in conversation, but rather Patel happened to be walking by him as he was working. Rajram did admit that he initiated a conversation with Patel. Rajram asked Patel if she was from India and she responded "yes." Rajram further denied ever touching Patel's cell phone. Rajram admitted that by the time he was picked up by the University police, he was aware that Patel did not believe their conversation was friendly and innocent and that charges had been filed against him. Rajram also denied giving a note to a janitor (co-worker) with Patel's name and location (fourth floor) on it.

### CREDIBILITY

When you have a matter where the testimony of two parties diverge so drastically, the credibility of both parties are clearly at issue. For testimony to be believed, it must not only come from the mouth of a credible witness, but it also has to be credible in itself. It must elicit evidence that is from such common experience and observation that it can be approved as proper under the circumstances. See Spagnuolo v. Bonnet, 16 N.J. 546 (1954); Gallo v. Gallo, 66 N.J. Super. 1 (App. Div. 1961). A credibility determination requires an overall assessment of the witness's story in light of its rationality, internal consistency and the manner in which it "hangs together" with the other evidence. Carbo v. United States, 314 F.2d 718, 749 (9th Cir. 1963).

Patel had absolutely no reason to fabricate such a detailed story. Appellant argues that Patel used the conversation with Rajram as an excuse for failing her exam. I find it difficult to believe that Patel would have this employee terminated and to have criminal charges filed against him in order to explain the failing of an exam. There was no showing of animus toward Rajram. Her testimony contained consistent, in-depth details. In fact, just the opposite is true regarding Patel's feelings about Rajram. Patel

seemed genuinely concerned about Rajram's career and him as a person. She seemed to be reluctant in telling her story. Patel's testimony was clear and consistent and did not conflict with any of her written statements in a significant way, which were made close in time to the September 29 incident. Patel's statement in this venue was truly credible testimony. Although both Patel and Rajram disagree in a very fundamental way as to what happened when they met at Blanton Hall on September 29, 2014, I have every reason to believe Patel's version of the events and discount Rajram's version. I find Rajram's version odd and not credible that he would approach a young girl of Indian descent and make inquiries regarding cricket bats and then follow up so quickly, relatively late at night. In addition, Patel went on to describe the depth of the conversation to go far beyond the similar innocuous conversation as described by Rajram. Furthermore, Patel's angst regarding the event seemed real and credible.

Accordingly, I make the following **FINDINGS** of critical **FACTS**:

- 1) Patel was a junior living on MSU campus during the 2014-2015 school year and was residing on campus at Blanton Hall.
- 2) Appellant, Rajram, worked as a custodian during this time.
- 3) On September 29, 2014, as Patel was returning to her dormitory room, she was approached by Rajram about 5:30 p.m. and was asked if her name was "Bina."
- 4) Prior to this conversation, Rajram and Patel never had a conversation and only exchanged hellos in passing.
- 5) Patel advised Rajram that Bina was her sister and instead introduced herself.
- 6) Rajram then asked Patel if she had broken up with her boyfriend.
- 7) The depth of knowledge Rajram had about Patel made Patel feel uncomfortable in light of the limited previous contact between the two of them.



- 8) Patel continued to walk back to her room and Rajram continued to follow her there.
- 9) Patel was then asked by Rajram if she was twenty-one years old and if she would like to go to a bar with him.
- 10) Patel responded that she was not twenty-one years old to which Rajram stated that he had a friend at the bar who could get her in. Patel then responded "no" she would not like to go to a bar with him.
- 11) It was only after this inquiry that Rajram then began asking Patel about cricket and places to go in India. Rajram also asked Patel about cricket bats.
- 12) As the conversation continued, Patel began to grow more and more anxious.
- 13) Patel took her cell phone out and Rajram took the phone out of her hand and dialed his phone number into Patel's phone.
- 14) Patel saw Rajram use her phone to call his phone number, causing his cell phone to ring.
- 15) After the above event, Rajram than asked Patel if she wanted to go for ice cream that evening, to which Patel declined.
- 16) When Patel entered her dorm room after the conversation with Rajram, she began to cry and sent a text message to her friend, Claudia, saying "Help Me" because she was scared.
- 17) Patel also texted her ex-boyfriend who arranged to have the RA escort her to class that evening, confirming the fear she had after her encounter with Rajram.

- 18) Patel was unable to focus on her exam after her conversation with Rajram and instead she left the exam early and was escorted back to her dorm room by her friend Claudia.
- 19) Once back in the dorm hall, Patel met with Dyer and recounted the incident with Rajram.
- 20) After speaking with Dyer, a police officer was summoned and Patel repeated the events with the officer.
- 21) After speaking with the officer and Dyer, Patel went to Claudia's room and received another text from Rajram. Claudia advised Dyer of this further contact and Dyer sent a police officer to Claudia's room.
- 22) When asked by the police officer if she wished to press charges, Patel responded affirmatively.
- 23) Patel went to the campus police station and provided a written statement regarding her interaction with Rajram.
- 24) Patel was unable to write her statement and had her friend Claudia write it out for her as provided to Claudia by Patel.
- 25) MSU barred Rajram from campus and suspended him from his job.
- 26) About one week after his suspension, Patel and Rajram met separately with Milton, MSU's Director of Equal Opportunity and Affirmative Action and Diversity and Title IX Coordinator, and both gave statements regarding the events of September 29, 2014.
- 27) Patel's statement mirrored her statement to the campus police.

- 28) Rajram's statement revealed that he only asked Patel about where he could purchase cricket bats in India. Patel asked for his cell phone number and then called Rajram from her cell phone. Rajram denied asking Patel to go to a bar or out for ice cream.
- 29) About one week later, Rajram made two attempts to contact Patel to convince her to drop the criminal charges against him, despite being advised not to contact her.
- 30) Rajram had another custodian reach out to Patel to convince her to drop the criminal charges.
- 31) Patel eventually dropped the criminal charges because, after speaking with the Municipal Prosecutor, Patel was of the belief that nothing would come of the charges and believed that Rajram was already removed from the campus.

Rajram's prior disciplinary record consists of no previous disciplinary action, which has no bearing on this case.

### **ANALYSIS AND LEGAL CONCLUSIONS**

A civil service employee who commits a wrongful act related to his or her duties, or gives other just cause, may be subject to major discipline. N.J.S.A. 11A:2-6; N.J.S.A. 11A:2-20; N.J.A.C. 4A:2-2.2; N.J.A.C. 4A:2-2.3. In an appeal from such discipline, the appointing authority bears the burden of proving the charges upon which it relied by a preponderance of the competent, relevant and credible evidence. N.J.S.A. 11A:2-21; N.J.A.C. 4A:2-1.4(a); Atkinson v. Parsekian, 37 N.J. 143 (1962); In re Polk, 90 N.J. 550 (1982). The evidence must be such as to lead a reasonably cautious mind to a given conclusion. Bornstein v. Metro. Bottling Co., 26 N.J. 263 (1958). Therefore, the tribunal must "decide in favor of the party on whose side the weight of the evidence preponderates, and according to the reasonable probability of truth." Jackson v. Del., Lackawanna and W. R.R. Co., 111 N.J.L. 487, 490 (E. & A. 1933). For reasonable probability to exist, the evidence must be such as to "generate belief that the tendered

hypothesis is in all human likelihood the fact.” Loew v. Union Beach, 56 N.J. Super. 93, 104 (App. Div. 1959). Preponderance may also be described as the greater weight of credible evidence in the case, not necessarily dependent on the number of witnesses, but having the greater convincing power. State v. Lewis, 67 N.J. 47 (1975).

Rajram has been charged with violation of policies of the University against harassment of a student and thus a violation of N.J.A.C. 4A:2-2.3(a)(6), conduct unbecoming a public employee.

A public employee may be disciplined for “[c]onduct unbecoming a public employee.” N.J.A.C. 4A:2-2.3(a)(6). “Conduct unbecoming a public employee” is an elastic phrase, which encompasses conduct that adversely affects the morale or efficiency of a governmental unit or that has a tendency to destroy public respect in the delivery of governmental services. Karins v. City of Atl. City, 152 N.J. 532, 554 (1998); see also In re Emmons, 63 N.J. Super. 136, 140 (App. Div. 1960). It is sufficient that the complained-of conduct and its attending circumstances “be such as to offend publicly accepted standards of decency.” Karins, *supra*, 152 N.J. at 555 (quoting In re Zeber, 156 A.2d 821, 825 (1959)). Such misconduct need not necessarily “be predicated upon the violation of any particular rule or regulation, but may be based merely upon the violation of the implicit standard of good behavior which devolves upon one who stands in the public eye as an upholder of that which is morally and legally correct.” Hartmann v. Police Dep’t of Ridgewood, 258 N.J. Super. 32, 40 (App. Div. 1992) (quoting Asbury Park v. Dep’t of Civil Serv., 17 N.J. 419, 429 (1955)).

I **CONCLUDE** that, based on a preponderance of the credible evidence, Rajram has engaged in conduct unbecoming a public employee. Accordingly, Rajram’s conduct of asking an underage student to go to a bar and out for ice cream was clearly inappropriate. In addition, Rajram, by taking the student’s cell phone from her hand in order to put his phone number in it, was a further form of harassment. Such conduct is more reprehensible when an employee such as Rajram has access to the dorms where this female student lives. Such employees have a heightened responsibility of acting in a professional manner and refrain from acting in an overly personal and harassing behavior. Rajram breached that responsibility. The effect on Patel was palpable as she

was frightened and disturbed by the incident. No student, especially as young and impressive as Patel was, should have to be the victim of such harassing behavior.

I further **CONCLUDE** that the penalty of removal for Rajram's actions against Patel is appropriate in light of the facts of this case.

**ORDER**

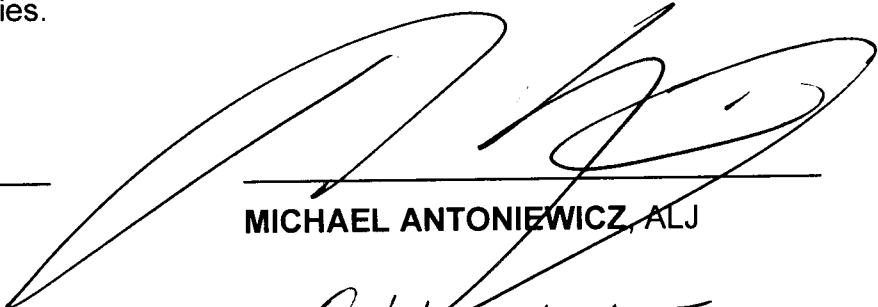
It is **ORDERED** that the penalty of removal of Naresh Rajram by the appointing authority is hereby **AFFIRMED**. It is further **ORDERED** that Rajram's appeal be **DISMISSED**.

I hereby **FILE** my Initial Decision with the **CIVIL SERVICE COMMISSION** for consideration.

This recommended decision may be adopted, modified or rejected by the **CIVIL SERVICE COMMISSION**, which by law is authorized to make a final decision in this matter. If the Civil Service Commission does not adopt, modify or reject this decision within forty-five days and unless such time limit is otherwise extended, this recommended decision shall become a final decision in accordance with N.J.S.A. 52:14B-10.

Within thirteen days from the date on which this recommended decision was mailed to the parties, any party may file written exceptions with the **DIRECTOR, DIVISION OF APPEALS AND REGULATORY AFFAIRS, UNIT H, CIVIL SERVICE COMMISSION, 44 South Clinton Avenue, P.O. Box 312, Trenton, New Jersey 08625-0312**, marked "Attention: Exceptions." A copy of any exceptions must be sent to the judge and to the other parties.

October 1, 2015  
DATE



A large, stylized handwritten signature in black ink, appearing to read 'Michael Antoniewicz', is written over a horizontal line.

**MICHAEL ANTONIEWICZ, ALJ**

Date Received at Agency:

October 1, 2015

Date Mailed to Parties:

October 1, 2015

jb

**APPENDIX**

**LIST OF WITNESSES**

**For Appellant:**

Kenneth Bledsoe  
Naresh Rajram

**For Respondent:**

Aveni Patel  
Thea Dyer  
Dr. Karen Pennington

**LIST OF EXHIBITS IN EVIDENCE**

**For Appellant:**

P-1 Statement Aveni Patel  
P-2 Investigation Report dated September 29, 2014

**For Respondent:**

R-1 Portions of text messages between Claudia and Aveni Patel  
R-2 Portions of text messages between Aveni Patel and Sonam dated September 29, 2014  
R-3 Portions of text messages between appellant and Aveni Patel  
R-4 Cell phone charges for Aveni Patel  
R-5 Verizon Wireless Historical SMS (Text Messages) from Rajram  
R-6 Verizon Wireless Historical Call Detail Explanation Form  
R-7 Montclair State University Police Department General Information/Voluntary Statement  
R-8 Complaint-Summons, State of New Jersey v. Rajram dated September 30, 2014  
R-9 Statement from Aveni Patel dated October 16, 2014

R-10 Montclair State University, Sexual Harassment Complaint Procedures Involving Students

R-11 Montclair State University Police Department, Supplemental Investigation Report, dated October 16, 2014