

DECISION RENDERED BY THE
CIVIL SERVICE COMMISSION ON
THE 24th DAY OF APRIL, 2019

Deirdre' L. Webster Cobb

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Civil Service Commission

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Attachment



State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

INITIAL DECISION

OAL DKT. NO. CSV 08926-15

AGENCY DKT. NO. 2015-2963

**IN THE MATTER OF M ██████ M ██████, DEPARTMENT
OF HUMAN SERVICES - ANCORA PSYCHIATRIC HOSPITAL.**

Nathan M. Edelstein, Esq., for petitioner (Szaferman, Lakind, Blumstein, and Blader, P.C., attorneys)

Caroline Gargione, Deputy Attorney General, for respondent (Gurbir S. Grewal, Attorney General of New Jersey, attorney)

Record Closed: March 5, 2019

Decided: March 21, 2019

BEFORE SARAH G. CROWLEY, ALJ:

PROCEDURAL HISTORY

On February 2, 2012, petitioner filed a claim of sexual harassment, discrimination and hostile workplace environment against her employer, Ancora Psychiatric Hospital (APH or Ancora). The petitioner alleges that she had been subjected to violations of the New Jersey State Policy Prohibiting Discrimination in the Workplace (State Policy). After an internal investigation was conducted by the Equal Employment Office (EEO), the Assistant Commissioner of the Department of Human Services (DHS) determined the allegations were unsubstantiated. The appeal of that decision was denied without a

hearing by the Civil Service Commission (CSC). Petitioner appealed that decision to the Appellate Division of the State of New Jersey. On May 12, 2015, the Appellate Division reversed the CSC, finding that there were factual issues which required a hearing and remanded the matter for a hearing before the Office of Administrative Law (OAL). The matter was transmitted to the OAL, where it was filed as a contested matter on June 10, 2015. N.J.S.A. 52:14B-1 to -15; N.J.S.A. 52:14F-1 to -13. Hearings were held before the undersigned on September 11, 2017, September 12, 2017, September 13, 2017, September 18, 2017, September 20, 2017, September 28, 2017, October 18, 2017, October 19, 2017, and April 26, 2018, and the record closed after submissions by the parties on January 15, 2019. The record was reopened for submission of exhibit list from the parties and closed the record on March 5, 2019.

SUMMARY OF CASE

The petitioner is employed as a clinical psychologist at Ancora, a state hospital administered by DHS. The allegations in the petitioner's complaint revolve around a male employee who was on her team for a period of time. She has alleged multiple allegations of sexual harassment, hostile work environment and retaliatory conduct which occurred between 2011 and 2012. Petitioner has alleged that this conduct continued over a period of time. Petitioner made numerous complaints to her supervisors regarding this conduct, who failed to respond appropriately. Petitioner has also alleged retaliatory treatment in the form of denial of time off and an attempt to transfer her as well as negative performance evaluations.

ISSUES

Has petitioner established by a preponderance of credible evidence a violation of the state policy against discrimination, sexual harassment, hostile work environment and retaliation by Ancora.

TESTIMONY

For petitioner:

Dr. M [REDACTED]

M [REDACTED] [REDACTED] Ph.D., (Dr. [REDACTED] is a clinical psychologist at Ancora Psychiatric Hospital, a state psychiatric hospital that provides court ordered treatment to individuals determined to be a danger to themselves or others. Dr. [REDACTED] has worked at Ancora since 1999. Her duties include providing individual and group therapy, participating in the treatment planning process and treatment team meetings, and conducting psychological testing. From 2011 to 2012, Dr. M [REDACTED] worked with Dr. Felix Salzberg (Dr. Salzberg), a psychiatrist on the team. Her direct supervisor was Dr. Jeffrey Uhl (Dr. Uhl) who was also the administrator of psychological services. In August 2011, she complained to her supervisor, Dr. Uhl about Dr. Salzberg, stating that he was verbally abusive, he harassed other women, and he degraded female staff members while showing favoritism towards male staff members. Specifically, Dr. Salzberg consistently talked over her in treatment team meetings, insinuated that she had an inappropriate relationship with a patient because she met with the patient late at night. Dr. Salzberg threw a pen at her during a meeting, snatched a chart out of her hand, and pushed her out of the way with his body in the nurse's station. She claims that this conduct occurred in front of another team member.

Dr. M [REDACTED] complaints were referred to EEO, and she was told by Dr. Uhl that she was being transferred to another unit because of "operational efficiency." Although this would have removed her from the team with Dr. Salzberg, she objected to this transfer. She also claims a leave request submitted on March 28, 2012 for time off on March 29 and 30, 2012, which was denied by Dr. Uhl in retaliation for her claims against Dr. Salzberg. She claims there was no specific policy requiring notice for leave requests. She took the time anyway, and there were no repercussions for not getting prior approval. Dr. [REDACTED] also stated said that she failed portions of her job performance evaluation after complaining about Dr. Salzberg. She believes the transfer, the denial of her leave

request, and poor performance reviews were retaliatory because of her complaints against Dr. Salzberg. She also claims her supervisor did not do enough to address the problem.

Melanie Clouser

Ms. Melanie Clouser (Clouser) received her bachelor's in psychology from Rider College in 1986. Clouser was hired as a social worker at Ancora in 1997 and was visually impaired for the duration of her employment. Beginning in 2007, she worked as a social worker on the same team as Dr. Salzberg and fellow social worker, Angelina Ibacache. Although Dr. Salzberg was the psychiatrist on the team, he was not her supervisor. In 2010, Clouser was promoted to program coordinator, who are considered team leaders, directing the team process and creating treatment plans in collaboration with the treatment team. She was not on the team with Dr. ██████

Ms. Clouser testified that her treatment team was initially a good team but later became contentious due to Dr. Salzberg's "explosive, verbal attacks" on the social workers. She described Dr. Salzberg as demanding and demeaning. According to Clouser, Dr. Salzberg told other staff that she "did not belong" and was incompetent and told them not to sign off on her notes. Four other staff members, including Dr. Uhl, who was the psychologist on the team at the time, informed her that Dr. Salzberg had made comments about her, which continued even when they were put on different teams.

Clouser testified that she did not know how to file a formal complaint, but she communicated her concerns informally through via emails and phone calls to her director, Karen Christian, and then later Cynthia Vitrano around 2008 or 2009. Dr. Roat was also copied on some of these emails. Clouser was unable to find these emails to produce for trial. Clouser testified that her and Ibacache also complained directly to Dr. Roat, and Dr. Salzberg was eventually transferred from the team. Clouser testified that she knew of Dr. M█████ but she never worked with her, nor was she ever aware of, or present when any of the interactions between Dr. M█████ and Dr. Salzberg occurred.

Ngozi Ugoh

Ms. Ngozi Ugoh (Ugoh) is a registered nurse and received a bachelor's in nursing from Immaculata University in 2013. Ugoh has worked at Ancora for thirteen years and is currently a charge nurse. Her duties include providing patient care, counseling, administering medications, redirecting patients, delegation of duties and assessments. She is also part of the treatment team. Briefly, from 2008 to 2009, she was also the supervisor of nursing services. In 2009, Ugoh became part of the same treatment team as Dr. Salzberg and Dr. M [REDACTED] for approximately a month or two. She never discussed these incidents with Dr. M [REDACTED] and was only on a treatment team with her for a short period of time. She never witnessed any of the inappropriate conduct or comments by Dr. Salzberg to Dr. [REDACTED]

According to Ugoh, Dr. Salzberg was initially pleasant, but he became hostile after she reported him to the assistant director of nurses, Patrick Williams, for comments that he made about her clothing. Ugoh testified that on multiple occasions Dr. Salzberg would make inappropriate comments and told other staff that her clothes were tight. Additionally, she testified that he once looked at her cleavage when they were alone in a patient room for a restraint. Williams informed Dr. Salzberg to refrain from making comments about her dress. Shortly thereafter, Dr. Salzberg began to blame Ugoh for everything that happened on the unit and would yell at her in front of patients. Ugoh did not witness him behaving this way to anyone else on the unit. She filed a grievance against him through the EEO in Ancora, which was forwarded to Trenton. Ugoh did not receive a response from Trenton and is not aware of any action that Ancora or the State took to address the concerns. According to Ugoh, she requested a transfer due to the issues with Dr. Salzberg. Once she was transferred to a different unit, she had no further issues with Dr. Salzberg.

Deborah King

Ms. Deborah King (King) is a licensed practical nurse (LPN). Prior to obtaining her LPN, King worked at Ancora for seventeen years as a nursing service clerk. The only interaction King had with Dr. Salzberg was when he was temporarily covering her unit for another psychiatrist, who was out on leave around 2011 or 2012. She described Dr. Salzberg as “very mean, nasty” and “degrading.” King testified regarding an incident between herself and Dr. Salzberg, which led to her being transferred from the unit. Dr. Salzberg was having a conversation with a nurse on the unit in the nursing station. King, needing access to the charts in the small room, asked them if they could hold the conversation in the team room instead. According to King, Dr. Salzberg became very offended, replying, “do you know who I am?” Dr. Salzberg proceeded to ask King for her name. Even though King reportedly gave him her name, Dr. Salzberg grabbed her name tag to see her name. She filed a written complaint with EEO, and met with Mr. Dillon, the head of EEO at the time. He informed her that when they pulled the cameras it appeared that she hit Dr. Salzberg. She never saw the video and moved off the unit after that. She never discussed the incident with Dr. [REDACTED] and was not a witness to any of her allegations.

For respondent:

Dr. Felix Salzberg

Felix Salzberg, Ph.D., (Dr. Salzberg) worked at Ancora Psychiatric Hospital from approximately 2002 through 2015 as a clinical psychiatrist. He concluded that there were complaints that had been filed against him, and he was required to go to some training as a result. He received some training on the state policy against discrimination and was familiar with the overall policies. Dr. Salzberg denied the allegations of sexual harassment and gender-based discrimination. He acknowledges some complaints by female employees, but they were ultimately found to be unsubstantiated. He was required to attend sensitivity training after one finding that he violated the state policy against discrimination. However, Dr. Salzberg could not recall the content of the training.

Dr. Salzberg had a series of transfers to other units, which he claims were made at his request or due to a lack of coverage in the units. Dr. Salzberg denies speaking with any other employees, including Dr. [REDACTED] about the incidents or complaints against him.

Dr. Salzberg described his responsibilities as clinical psychiatrist at Ancora, which included patient evaluations, medication management and administration of medication, and finalizing treatment plans. To develop a treatment plan, each discipline (psychiatry, psychology, social work, nursing and the medical director) submits a treatment approach to the program coordinator based on their evaluation of the patient. The program coordinator compiles the information together to develop the plan. Each discipline's treatment approach is separated by sections in the plan. Dr. Salzberg claimed he had no supervisory role over Dr. M [REDACTED] and was not the clinical director of the team. Dr. Salzberg described the administrative leadership at the hospital. Dr. Roat was the hospital director, Ms. Debbie McCahan was the acting program coordinator, and Dr. Jeffery Uhl was supervisor of psychology.

He testified that the conflict with Dr. M [REDACTED] began shortly after Dr. Salzberg was hired at Ancora. They worked on different units for many years until April 5, 2010, when Dr. Salzberg was transferred to Dr. M [REDACTED]'s unit. During Dr. Salzberg's employment at Ancora, she filed several complaints against him, and they were all unsubstantiated. He described a patient named Gary, who had a history of attacking female staff, and was very physical. According to Dr. Salzberg, the majority of the treatment team made the decision that only male staff should be assigned to the patient. The decision was approved by the section chief and medical director in collaboration with the union representative. That was the only reason that he suggested that Dr. [REDACTED] not meet with him alone. He never implied that there was anything inappropriate. However, he did not go to her directly, because she misconstrued everything he said.

Dr. Salzberg described an incident that he had with Dr. M [REDACTED] in August 2011, which occurred at the nursing station on the unit and involved another employee, John Mills. According to Dr. Salzberg, as Mills arrived in the unit to request references from Dr. Salzberg, Dr. [REDACTED] commented, "Doc, your boyfriend is coming." In response, Dr.

Salzberg sent a letter via email to Dr. Uhl, with Dr. Roat copied, requesting that he ensure Dr. [REDACTED] speak to him in a professional manner. Another incident involved a disagreement about a patient named Stan. According to Dr. Salzberg, the team decided, by majority vote (four to one), to gradually discharge the patient to an outpatient facility. Dr. M [REDACTED] disagreed with this decision and was very vocal about it.

In 2012, they were involved in another incident regarding a patient chart. According to Dr. Salzberg, each patient only has one chart, although each discipline has progress notes contained within the chart. Since he was doing an admission for a patient, he needed access to the chart to write the patient's orders. When Dr. M [REDACTED] walked out of the nursing station with the chart, Dr. Salzberg requested that she return the chart to the nursing station. According to Dr. Salzberg, Dr. M [REDACTED] responding by asking him to say "please," to which he complied. He testified that she then "threw" the chart at him. Dr. Salzberg complained to Dr. Roat after this incident and included staff names that were present. Dr. Salzberg adamantly denied every rubbing against or flirting with her or any other staff members.

During the EEO investigation, Dr. Salzberg claims that he asked Dr. Roat multiple times to transfer him to a different ward to avoid conflict between him and Dr. [REDACTED] which was not good for patient care. After the investigation was complete, in February 2012, Dr. Roat approved the transfer. According to Dr. Salzberg, he retired from the State in 2015 for personal reasons and denies being forced into retirement. He asserts he retired in good standing. He is now working in a facility in Philadelphia and has his own practice in Cherry Hill.

Chandra Medina Ramos

Ms. Chandra Medina Ramos (Ramos) has been employed as a social worker at Ancora since December 2010. In 2015, she was promoted to program coordinator, or team leader. As a social worker, Ramos was a part of the same treatment team as Dr. M [REDACTED] and Dr. Salzberg from 2010 to 2012. Heather Noble was the program coordinator for most of this time. Ramos explained that treatment teams are interdisciplinary teams

composed of a psychiatrist, psychologist, social worker, nurse and the program coordinator. Team members work collaboratively to contribute the strengths of each professional to address the patients' needs in a wholistic manner. At times, collaborating with other professions was challenging, as each discipline would view problems differently. Overall, the team would discuss differences in a professional manner and facilitate an academic discussion to provide an appropriate resolution to deliver the most effective patient care.

According to Ramos, all members of the treatment team had an equal opportunity to engage in the decision-making process. However, due to the medical model prescribed by the hospital, the psychiatrist took a leadership role as the clinical team leader to keep treatment progressing efficiently. Ramos explained that in practice, this role was at times carried out by other members of the team as well. While the psychiatrist did not supervise anyone on the treatment team, he or she did have an important role in carrying out "action steps," such as writing orders for medications and testifying at commitment hearings as to the team's recommendations.

Ramos testified that eventually the discussions on the treatment team became contentious and "combative" due to what she described as a power struggle between Dr. M█████ and Dr. Salzberg, which created an unpleasant work environment for everyone on the team. According to Ramos, the conflicts between Dr. ██████ and Dr. Salzberg were not clinical differences of opinion, but rather personal issues between the two. Ramos described Dr. M█████ as engaging in antagonistic picking. Dr. Salzberg would become visibly frustrated and speak in angry tones. Ramos testified that it became very difficult to meet the patients' needs because of the difficulty created within the team

During Ramos' pregnancy she chose to leave the unit because she did not want work related stress, which she largely contributed to Dr. M█████. Although Dr. Salzberg had already been reassigned prior to her transfer, there was still ongoing conflict between psychiatry and psychology because of Dr. M█████. Ramos testified that in her opinion Ancora was not addressing the problem by transferring doctors to different units, since it was Dr. M█████ who was at the root of the issues on the team. According to Ramos, Dr.

M█████ contributed a lot of knowledge to the team, but it was undermined by her delivery, including her “snide tone.” One major complaint regarding Dr. ██████ was her dissenting notes on patient charts. According to Ramos, Dr. M█████ who was very outspoken at the treatment team meetings, would not address her concerns or objections with the team, but would subsequently add a dissenting note to the chart. Ramos was offended by the way Dr. ██████ handled her differences in opinion and testified that it caused the team to lose trust in Dr. M█████

Ramos testified that during her time on the treatment team with Dr. Salzberg, she never heard him say anything derogatory, disrespectful or sexist towards women. She perceived him as treating men and women equally. According to Ramos, Dr. Salzberg did not disregard anyone else’s opinion on the team or proceed without a consensus. Regarding Dr. M█████ Ramos testified that she never heard Dr. Salzberg refuse to let Dr. M█████ speak, make disparaging remarks against her, snatch a chart from her, push past her, throw a pen at her or otherwise inappropriately touch her in anyway. She believed that it was Dr. M█████ who was inappropriate and very hostile toward Dr. Salzberg, and it was her conduct that created the hostility.

Heather Noble

Ms. Heather Noble (Noble) holds a bachelor’s in psychology and master’s in counseling. She is currently a program coordinator and was the program coordinator on the same team as Dr. Salzberg and Dr. M█████ during 2011 and 2012. During that time, Dr. Salzberg was the only male on the treatment team. Noble described the treatment teams as multi-disciplinary, composed of social worker, psychologist, psychiatrist, nurse, program coordinator, rehab specialist, medical doctor, dietician and wellness providers. The team will also consult with the human service technicians, staff who supervise the patients, to receive input on their concerns for the patient.

Prior to 2011, Noble was employed as a behavior modification program technician and was supervised by Dr. M█████ Noble described Dr. ██████ as belittling and explained that their working relationship was tumultuous at times. The dynamics of the

relationship changed after she became program coordinator, but it then became difficult for Dr. M█████ to view her as a team leader. Noble testified that she had no issues with Dr. Salzberg at work and that he had no supervisory authority over him.

Noble testified that Dr. Salzberg and Dr. M█████ did not get along, which created a lot of tension on the team. They often disagreed about patient care and the level of discharge. Noble explained that a psychiatrist cannot unilaterally discharge a patient because they must appear for mental health court to be placed on discharge pending placement. Disagreements on treatment teams could be handled by majority vote or by having an open discussion. When a majority could not be reached, the final decision regarding medication rests with the psychiatrist, since he is the only one that could write an order.

Due to the tension on the treatment team with Dr. ██████ and Dr. Salzberg, Noble was informed that both would be moved off the unit. However, only Dr. Salzberg was transferred to another unit. Even after his transfer, tensions still ran high, as the new psychiatrist also had difficulties with Dr. M█████ Noble spoke to her supervisor regarding the tension on the team, but her understanding was that after Dr. ██████ retained counsel she was permitted to remain on the unit. Regarding the accusations against Dr. Salzberg, Noble denied witnessing him engage in any inappropriate conduct. Noble testified that she never saw Dr. Salzberg refuse to let Dr. M█████ talk during meetings or dictate who could talk. Noble did not see Dr. Salzberg push past Dr. ██████ touch her or other staff inappropriately, or throw a pen at her. She denied having heard Dr. Salzberg say anything derogatory, degrading or sexist towards woman, comment on their attire or touch or look at them inappropriately. It was her opinion that he treated female and male staff the same way. In her opinion, it was Dr. M█████ who created the tension on the team.

Pamela Boozer

Ms. Pamela Boozer (Boozer) has been a licensed practical nurse (LPN) at Ancora since 2001. As an LPN her main role was to administer medications to patients at the nursing station. As an LPN she spent much of her time in the medicine room, a room

within the nursing station, to prepare medications for the patients. Her hours were from 7:15 a.m. to 3:45 p.m., and every other weekend. Boozer worked on the same unit with Dr. [REDACTED] and Dr. Salzberg from 2010 to 2012. As an LPN she was part of the treatment team, but did not attend team meetings regularly, which is the role of the RN. She has observed Dr. Salzberg and Dr. M [REDACTED] working together during meetings and on the unit. Boozer was interviewed in 2012 by an EEO investigator regarding the complaint that Dr. M [REDACTED] filed against Dr. Salzberg. Boozer never witnessed Dr. Salzberg snatch a chart, push past, throw a pen, or inappropriately touch Dr. M [REDACTED]. She never heard him say any inappropriate, disparaging or derogatory toward Dr. M [REDACTED] or other women.

Angelina Ibacache

Ms. Angelina Ibacache (Ibacache) holds a bachelor's in psychology. She has worked at Ancora Psychiatric Hospital for twelve years and is currently a social worker in the rehabilitation department. Her current duties include completing commitment reports, collaborating with the treatment team for patient discharges and treatment plans and developing protocol and lesson plans to facilitate groups. She also supervises some staff from 3:00 p.m. to 4:00 p.m. daily. She served as a social worker on the treatment team with Dr. Salzberg from 2010 to 2012.

Ibacache testified that Dr. Salzberg was ingratiating at the onset but became nasty over time. She described him as passive aggressive and abusive, dismissive and critical of women. According to Ibacache, Dr. Salzberg would not allow people to talk during team meetings and he only respected the men on the team. However, on cross, she admitted that in the beginning, he would ask her for her opinions. Dr. Salzberg made derogatory statements towards Ibacache and against other women in her presence.

Dr. Salzberg would make inappropriate comments during treatment team meetings and in other locations throughout the hospital. Ibacache filed an EEO complaint against Dr. Salzberg as a result of some of his comments. However, Dr. [REDACTED] was not present, or even in the same building, when the incidents underlying her complaints occurred. Ibacache's complaint was substantiated and Dr. Salzberg's appeal was denied. She is

not sure what, action Ancora took against Dr. Salzberg, but eventually, they moved Dr. Salzberg off the unit. Following Ibacache's grievance, Dr. Salzberg filed a complaint against her alleging discrimination based on national origin. He alleged that she said, "Why is he in this country? Why does he not go back to his country?" Ibacache denied these statements and denied directing an obscene gesture at Dr. Salzberg.

Justina Higgins

Ms. Justina Higgins (Higgins) is a nurse practitioner with a Masters in family practice and has been an employee of Ancora since 2008. Higgins worked as a charge nurse and was on the same treatment team as Dr. M█████ and Dr. Salzberg when she wasn't on the floors. She explained that psychiatrists never supervise nursing since they work for different departments. Higgins was interviewed by an EEO investigator because Dr. ██████ alleged that she saw Dr. Salzberg touch her breast. Higgins denied these allegations and denied ever being touched in an inappropriate manner by Dr. Salzberg.

Dr. Jeffrey Uhl

Dr. Jeffrey Uhl (Dr. Uhl) holds a Ph.D. in clinical psychology and an MBA in human resource administration and operational effectiveness. He has worked at Ancora for eleven years, first as a clinical psychologist and then as administrator of psychological services (director of psychology) from 2011 through the present. As a supervisor, Dr. Uhl's duties included time approvals, review of work for timeliness and competency, and completion of evaluations or annual performance assessment reviews (PAR).

Dr. ██████ was part of Dr. Uhl's interview panel when he was hired and became his supervisor for a few years. Dr. Uhl described Dr. ██████ as good with patients and their families. He testified that he initially had a good working relationship with Dr. ██████ and described her as a friend. From 2011 through 2012, as a result of his promotion to director, Dr. Uhl became Dr. M█████ supervisor and the working relationship changed. According to Dr. Uhl, Dr. ██████ was not confident in his leadership competency and this caused some "interactions" between the two.

During his first PAR of Dr. M█████ Dr. Uhl rated her as having satisfactory performance overall, but he failed her for organizational citizenship, which is the extent to which an employee contributes to a productive and harmonious work environment by acting respectful toward people in the workplace. She also received negative marks for "willingly cooperates with others who hold different view in order to complete the task/job at hand", "the employee understands his/her part in shaping the environment" and "treats fellow workers with respect." The negative scores she received were based on interviews with staff, self-reporting and limited direct observation. He described Dr. M█████ as abrasive and critiqued her approach on the team, explaining that she was very critical of other ways of thinking. Dr. ██████'s team members reported that she was not compromising and that it was "her way or the highway." According to Dr. Uhl, Dr. ██████ would confront her colleagues on the merits of their thinking or ignore their ideas completely. According to Dr. Uhl, Dr. M█████ was not a team player. Dr. Uhl made recommendations of other approaches Dr. ██████ could utilize when the rest of the team agreed in a direction in which she was strongly opposed.

During his second year as director, Dr. Uhl again failed Dr. M█████ on her PAR for team work and organizational citizenship, although she again received a satisfactory rating overall. Dr. Uhl explained that Dr. M█████ had self-identified that she struggled to work with the team. On her evaluation, Dr. Uhl recommended that she develop her ability to work collaboratively in group, keep an open line of communication, cooperate with others who hold differing views and understand her part in shaping the environment. He identified goals for Dr. ██████ as "work on negotiating patient treatment approaches that are acceptable to all of the team members" and "use timelines as a way to gain support for interventions that are currently not being accepted by the team."

Dr. Uhl received complaints from various staff regarding Dr. M█████ behavior on team, and that the primary source of tension on the team was that between Dr. ██████ and Dr. Salzberg. While Dr. Uhl agreed that by raising her concerns with him regarding Dr. Salzberg, Dr. ██████ was attempting to shape her working environment, he found it preferable had she also worked to develop lines of communication. After she filed the EEO complaint, the administration decided to transfer Dr. M█████ to a different unit for

"organizational efficiency" because team building had become ineffective to resolve the issues on the team. He met with Dr. █████ on March 16, 2012 to discuss her reassignment, which was to become effective on April 2, 2012. Dr. Uhl could not recall the details of that meeting or who else was present. According to Dr. Uhl, Dr. M████ was set to swap places with Jamie Rodriguez, another psychologist. Dr. Uhl explained that the transfer would not change Dr. M████ title, pay or other benefits. Dr. █████ was instructed to inform her patients about the transfer and meet with Rodriguez to discuss the transfer of care. Dr. M████ never informed the patients of her reassignment and refused to meet with Rodriguez. The transfer never took place because Dr. M████ refused. Dr. Salzberg was however, transferred in the interest of operational efficiency.

As an administrator, Dr. Uhl received reports and complaints of sexual harassment from his staff. Dr. Uhl testified that he received training on the state policy against discrimination in the workplace and how to handle these complaints. He could not recall when the training occurred. When a complaint was filed, he would often consult with human resources for direction on how to proceed. When Dr. M████ made complaints about Dr. Salzberg, he referred the matters to human resources and the EEO office. At that point, it is out of his hands. However, he did first recommend Dr. █████s transfer and when she refused, he transferred Dr. Salzberg.

Dr. Uhl testified regarding the policy for leave approval, which required employees to give two weeks' notice of time off. In practice, he made exceptions to this rule if there weren't patient care issues. However, there was no written policy. The expectation was that staff who request leave with less than two weeks' notice, must communicate with him directly for approval to be granted. Dr. Uhl testified that following the proper procedure for leave request was important due to the nature of the psychiatric hospital, which required patient coverage. Dr. M████ as a service coordinator or most senior psychologist, was responsible for the initial approval of time off requests in her department. Prior to approval, service coordinators would ensure services were being provided and that there was adequate coverage in the units. Once a request for time off was approved by the service coordinator, they were submitted to Dr. Uhl for a final

signature. Dr. Uhl only provides approval for time off for those employees who report directly to him, such as the service coordinators.

Dr. M [REDACTED] requested time off for March 29, 2012 and the morning of March 30, 2012. According to Dr. Uhl, she did not speak with him about the requested days off, and he did not receive the request form until the March 29, 2012. According to Dr. Uhl, he did not approve Dr. M [REDACTED] leave request because it was not submitted timely and Dr. M [REDACTED] had not met with Rodriguez to complete the transfer of patient care as instructed. Notwithstanding the denial of the time off, Dr. M [REDACTED] took the time off, and she was not disciplined or docked for this failure to follow protocol.

Simon Milon

Simon Milon (Milon) has been a clinical psychologist at Ancora for thirty-five years. He testified that Ancora does have a policy for submitting leave requests, although he does not know what exactly the policy states. He further stated that he believes the latest an employee can file a leave request is one or two days before the absence date.

Sandra Medina Rodrigues

Sandra Medina Rodrigues (Rodrigues) is a social worker at Ancora Hospital. She has been a social worker since 2002. She was a social worker at Ancora until 2015, when she was promoted to program coordinator. She worked on Birch Hall D from December 2010 to late 2012. The treatment team consisted of her, Bruce Williams, Dr. Salzberg and Dr. [REDACTED] and Noble. She testified that they worked together as a team. Everyone had a different discipline and Dr. Salzberg was the psychiatrist, but he was not the supervisor. There was separate supervisor for each discipline and the program coordinator had a separate supervisor as well.

Rodrigues testified that neither Dr. Salzberg or Dr. [REDACTED] were her supervisor. She testified that it became a very combative environment. It became difficult to meet the patient needs because of the hostility between Dr. [REDACTED] and Dr. Salzberg. She chose

to leave the unit because she found it difficult to work with Dr. [REDACTED]. She was on the team for two years, but Dr. M [REDACTED] interaction and her delivery took away from what she could have brought to the team. Dr. [REDACTED] was always against moving patients up in levels of care. She spent more time writing risk management reports than helping patients and meeting their needs.

Rodrigues had no problems working with Dr. Salzberg and does not recall ever being offended by him. She never saw him refuse to let anyone speak nor did he treat females differently than males. She never saw him completely disregard what others said. It was generally the majority in agreement, and Dr. M [REDACTED] was always in disagreement on everything. Rodrigues testified that she loathed being present when Dr. [REDACTED] was there as it was always difficult. Dr. [REDACTED] spent more time writing notes about Dr. Salzberg, then doing her job and the patients were suffering. It was generally Dr. [REDACTED] who was dissenting to things and it was a constant struggle between them. The rest of the team was in an awkward position. We spent more time filling out paperwork over complaints that they filed against each other than treating the patients.

She never heard Dr. Salzberg mention anything about meeting with clients at night and never saw him snatch a chart from Dr. M [REDACTED]. She never saw him throw a pen at her or touch her or anyone else inappropriately. She only witnessed the constant disagreement between M [REDACTED] and him and in her opinion, Dr. [REDACTED] was very difficult and always disagreed and made meetings difficult. She loved the population on the unit but could not work with the team anymore because of Dr. M [REDACTED] and Dr. Salzberg disagreement about everything. They replaced Salzberg with another psychiatrist, but she did not want to work with Dr. [REDACTED] anymore, so she left the unit. In her opinion, it was Dr. M [REDACTED] that caused the problems and was so hostile to Salzberg and others.

Heath Noble

Heath Noble (Noble) has her masters in psychiatry and was a program coordinator at Ancora Hospital. She worked on Birch Hall with Dr. M [REDACTED]. She has no relationship with her outside of work. She testified that Dr. M [REDACTED] took her work very seriously. She

testified that she observed Dr. M█████ and Salzberg working together and they did not get along and they disagreed about patient care, level of treatment and patient discharge. We would talk at team meetings about anything that happened during the night and treatment plans for people. If there was a disagreement among the members, we would vote on it.

Noble never saw Salzberg treat females differently. She testified that certain patients were physically aggressive, and he recommended that men handle them. She never saw him snatch a chart from Dr. ██████ throw a pen at Dr. ██████ or rub against her or anyone else inappropriately. They were told they were both going to be moved off the team, but only Salzberg was moved. It was difficult because Dr. ██████ had caused a lot of tension and it was problematic that she was still there, so there was still tension even after Salzberg transferred to another team.

Pamela Boozer

Pamela Boozer (Boozer) worked with Dr. M█████ and Dr. Salzberg on Birch Hall between 2010 and 2012. She was interviewed in connection with the 2012 EEO complaint that had been filed by Dr. ██████ She never saw Dr. Salzberg treat women differently than men. She never saw Salzberg snatch a chart, throw a pen or touch or rub Dr. M█████ or anyone inappropriately.

FINDINGS OF FACT

The resolution of the claims made by the petitioner requires that I make a credibility determination regarding the critical facts. The choice of accepting or rejecting the witnesses' testimony or credibility rests with the finder of fact. Freud v. Davis, 64 N.J. Super. 242, 246 (App. Div. 1960). In addition, for testimony to be believed, it must not only come from the mouth of a credible witness, but it also must be credible. It must elicit evidence that is from such common experiences 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 witnesses' story considering its rationality, internal consistency and the way it "hangs together" with the other evidence. Carbo v. United States, 314 F.2d 718,749 (1963). A fact finder is free to weigh the evidence and to reject the testimony of a witness, even though not directly contradicted, when it is contrary to circumstances given in evidence or contains inherent improbabilities or contradictions which alone, or in connection with other circumstances in evidence, excite suspicion as to its truth. In re Perrone, 5 N.J. 514. 521-22 (1950). See D'Amato by McPherson v. D'Amato, 305 N.J. Super. 109, 115 (App. Div. 1997).

Having had an opportunity to carefully observe the demeanor of the witnesses, it is my view, that Dr. ██████'s testimony about the conduct of Dr. Salzberg was not credible. Moreover, the testimony of the witnesses to the alleged conduct, whom I **FOUND** to be credible did not cooperate Dr. M█████'s allegations of sexual harassment, hostile work environment, a violation of state policy against discrimination or retaliation. I **FOUND** the testimony of Dr. Salzberg credible and was cooperated by the majority of the witnesses who had first-hand knowledge of the facts and circumstances surrounding the claims.

In addition to the testimony of Dr. ██████ and Dr. Salzberg, there were twelve other witnesses, whom were either current or past employees at Ancora. Nine of the twelve witnesses had direct knowledge of the allegations that form the basis of the petition. However, the other three witnesses, who indeed disliked Dr. Salzberg and had their own issues with him, had no firsthand knowledge of any of the inappropriate conduct at issue in this case. Moreover, they either didn't know, or had no interaction with Dr. M█████ until years after the allegations which form the basis of this petition, and therefore, their testimony is not relevant to the claim of hostile work environment or sexual discrimination.

With respect to the remaining testimony, I **FOUND** the witnesses who were on the treatment team to be sincere and credible. I likewise **FIND** the testimony of Dr. Uhl to be credible.

Accordingly, I **FIND** the following as **FACT**:

1. Dr. [REDACTED] and Dr. Salzberg worked together at Ancora Hospital and were on the same treatment team between 2010 and 2012.
2. Dr. Salzberg was the psychiatrist and Dr. [REDACTED] the psychologist on the team.
3. Dr. Salzberg was not Dr. [REDACTED]'s supervisor and had no authority to take any supervisory actions against her.
4. There were several other members of the team including Heather Noble, Chandra Medina Ramos, Justin Higgin and Pamela Boozer during this period.
5. Dr. [REDACTED] and Dr. Salzberg did not get along and were constantly in disagreement on the appropriate treatment for residents on the unit.
6. Dr. M [REDACTED] made multiple complaints and filed an EEO complaint against Dr. Salzberg.
7. Dr. M [REDACTED] supervisor, Dr. Jeffrey Roat referred the complaints to the EEO and/or HR office.
8. During the pendency of the investigation, Dr. Uhl attempted to transfer Dr. [REDACTED] to another treatment team in the interest of operational efficiency.
9. When Dr. [REDACTED] refused the transfer, Dr. Salzberg was transferred.
10. The EEO investigation was conducted and concluded and the claims were not substantiated. The Civil Service Commission affirmed the finding of the EEO Office.
11. The Administration acted appropriately and timely in responding to multiple complaints filed by both, Dr. [REDACTED] and Dr. Salzberg.

12. Dr. ██████'s claims against Dr. Salzberg of sexual harassment, hostile work environment and other inappropriate conduct by Dr. M█████ were not witnessed or cooperated by any other members of the team or employees on the unit.
13. Dr. M█████ was openly hostile to Dr. Salzberg, which was observed and noted by several of the team members and caused tension on the team.
14. The vacation policy at Ancora requires advance notice to your supervisor and approval before vacation can be taken.
15. Dr. M█████ submitted a vacation request on March 28, 2012, for vacation time on March 29, 2012 and March 30, 2012.
16. The request was denied due to the untimeliness of the submission. However, no discipline was imposed, and her pay was not docked when she took the time anyway.
17. The denial of the vacation request was predicated on the untimeliness of it and was not in retaliation for her filing an EEO or other complaints against Dr. Salzberg.
18. Dr. M█████ received several failing marks in her PAR evaluations, all of which related to her problems getting along with others. The testimony of her co-workers and supervisors, cooperated the unsatisfactory remarks in her PAR.
19. These evaluations were accurate and were not in retaliation for Dr. ██████ filing EEO and other complaints against Dr. Salzberg.
20. There is no credible evidence that Dr. Salzberg threw a pen, pushed and/or made inappropriate comments to Dr. ██████

21. There is no credible evidence of sexual discrimination, hostile work environment or a violation of the state policy against discrimination by Ancora.
22. There is no credible evidence of retaliation and the attempt to transfer Dr. ██████ the denial of a vacation request and the negative PARs were based on legitimate business purposes.

LEGAL ANALYSIS AND CONCLUSION

The state policy at issue in this matter forbids “discrimination or harassment based on specified characteristics, including sex or gender.” N.J.A.C. 4A:7-3.1(a). The Policy further states that “it is a violation of this policy to engage in any employment practice or procedure that treats an individual less favorable based upon sex or gender, or to use derogatory or demeaning references regarding a person sex or gender.” In this case, the petitioner, Dr. ██████ ██████ has alleged that a member of her treatment team between 2010 and 2012, Dr. Felix Salzberg subjected her to sexual harassment, sexual discrimination and created a hostile work environment. She further alleges that her employer violated the state policy against discrimination by not responding appropriately. Finally, she alleges that she was retaliated against for making such complaints.

The state policy prohibits workplace discrimination in all state departments. To establish a violation of the state policy against discrimination, the petitioner must demonstrate that she belongs to a protected class, she was treated less favorably than other similarly situated workers. If she demonstrates the foregoing, the burden then shifts to the respondent to demonstrate some legitimate non-discriminatory purpose for the conduct. Shepherd v. Hunterdon Developmental Center 174 N.J. 2Y (2002). In this case, the petitioner is in a protected class. However, she has not demonstrated that she was treated less favorably than other similarly situated workers. The other members of the treatment team testified credibly that Dr. Salzberg did not treat women any differently. Moreover, any difference in treatment was a direct result of Dr. M█████ hostility and constant disagreement with Salzberg and everyone on the team. Moreover, I have found that the employer, Ancora, did in fact respond appropriately to the complaints that were

made by the petitioner. Accordingly, I **CONCLUDE** a violation of the state policy against discrimination has not been demonstrated by the petitioner.

The petitioner has also alleged that the conduct of Dr. Salzberg created a hostile work environment. A hostile work environment claim under the LAD requires the complainant to satisfy a four-prong test. Shepherd v. Hunterdon Developmental Ctr., 174 N.J. 1, 24 (2002). In order to prevail, a complainant must show that “the complained-of conduct (1) would not have occurred but for the employee’s protected status and was (2) severe or pervasive enough to make a (3) reasonable person believe that (4) the conditions of employment have been altered and that the working environment is hostile or abusive.” Ibid. Dr. M█████ does not need to show that she lost any tangible job benefit, but she must show that the complained of conduct was “severe or pervasive,” that it objectively altered the conditions of her employment, and that it was hostile or abusive. Id. at 28. The New Jersey Supreme Court instructed courts to consider the cumulative effect of discriminatory practices instead of considering each incident separately. Lehmann v. Toys R Us, 132 N.J. 587, 607 (1993). The Court elaborated

Rather than considering each incident in isolation, courts must consider the cumulative effect of the various incidents, bearing in mind “that each successive episode has its predecessors, that the impact of the separate incidents may accumulate, and that the work environment created may exceed the sum of the individual episodes.” Burns v. McGregor Elec. Indus., 955 F.2d 559, 564 (8th Cir. 1992) (quoting Robinson v. Jacksonville Shipyards, 760 F. Supp. 1486, 1524 (M.D. Fla. 1991)).
[Ibid.]

The issue is whether or not Dr. Salzberg's conduct was “severe or pervasive” enough that a reasonable person of the same protected class would believe that the work environment became hostile. See Shepherd, supra, 174 N.J. at 82 (emphasis added). Use of the word “or” indicates that either qualification would fulfill the requirement. Based on the testimony and my findings of fact, I **CONCLUDE** that Dr. M█████ has not demonstrated any of the prongs of a hostile work environment claim. First, she has not demonstrated that the alleged conduct occurred, or that it would not have occurred but for her gender. The testimony presented of the other employees who had difficulty with

Dr. Salzberg is not relevant in the instant matter since none of them witnessed the incidents in question. Moreover, Dr. M█████ was unaware of these other women and their claims at the time she filed her complaints, and thus, they could not have provided any basis for her hostile work environment. The critical witnesses in this case, whom I found credible and had first hand knowledge of the allegations of Dr. ██████ maintained that there was no sexual harassment or discrimination by Dr. Salzberg.

Dr. M█████ alleged that the majority of the inappropriate comments and contact occurred during team meeting, but none of the team members corroborate these allegations. Moreover, they all disputed that Salzberg treated women differently. The witnesses that had difficulty with Dr. Salzberg would only be relevant if this conduct had witnessed this conduct and it had an impact on the petitioner. Lehman, 132 N.J. at 611. However, petitioner neither knew of, or witnessed this alleged conduct. Therefore, it is irrelevant to her claim of a hostile work environment. Accordingly, I **CONCLUDE** that petitioner has not established by a preponderance of the credible evidence that a hostile work environment existed at Ancora.

The final claim by Dr. M█████ is that she was retaliated against as a result of the claims that she asserted against Dr. Salzberg. A retaliation claim under the LAD requires the plaintiff to show that the "(1) plaintiff was in a protected class; (2) plaintiff engaged in protected activity known to the employer; (3) plaintiff was thereafter subjected to an adverse employment consequence; and (4) that there is a causal link between the protected activity and the adverse employment consequence." Victor, supra, 203 N.J. at 409. Prong-three, the "adverse employment consequence," can be satisfied by "factors such as the employee's loss of status, a clouding of job responsibilities, diminution in authority, disadvantageous transfers or assignments, and toleration of harassment by other employees." Mancini, supra, 349 N.J. Super. at 564. After the plaintiff establishes the prima facie case of retaliation, the burden shifts to the defendant to provide a legitimate reason for its action to show it was not retaliatory. Romano v. Brown and Williamson Tobacco Corp., 284 N.J. Super. 543, 549 (App. Div. 1995). If the employer provides a legitimate reason, the burden shifts back to the plaintiff to prove discriminatory motive. Ibid.

Dr. M█████ alleges that she was denied vacation time as a result of her filing of an EEO and other complaints against Dr. Salzberg. Dr. ██████ submitted a request for vacation time on March 28, 2012, for time off on March 29, 2012 and March 30, 2012. The evidence and testimony of Dr. Uhl demonstrated that Dr. M█████ was denied a vacation request because it was untimely. Vacation request are to be submitted and approved two weeks prior to time off. The reason for the policy and the denial in this case was predicated on a legitimate organizational need to have proper staffing at the facility. Moreover, Dr. ██████ took the time anyway and no action was taken against her as a result of her failure to follow the leave request policy. Accordingly, she has not demonstrated by a preponderance of the evidence that the denial of her March 29, 2012, vacation request was in retaliation for her filing a complaint against Dr. Salzberg.

Dr. M█████ also claims that the attempt to transfer her to another team was retaliatory. The evidence and testimony demonstrated, and I have found that the administration was trying to diffuse the difficult situation by transferring Dr. ██████ to another team while the EEO investigation as being conducted. No change in title or salary was proposed. After she refused the transfer, they transferred Dr. Salzberg, thus further evidencing the legitimate business reason for the proposed transfer. This conduct by Ancora also supports the fact that Ancora did respond appropriately to the filing of the complaint and did everything they could to remedy the personality conflict between Dr. M█████ and Dr. Salzberg. The attempt to transfer Dr. M█████ was made for a legitimate organization purpose and was not in retaliation for her filing complaints against Dr. Salzberg.

The last allegations with respect to retaliation has to do with her performance evaluations. Dr. ██████'s supervisor testified credibly that the negative performance evaluations were justified and had nothing to do with the fact that she had filed an EEO complaint. In addition, the other witnesses support the conclusions in the evaluations that Dr. M█████ was very difficult to work with and had caused hostility on the team. Dr. M█████ failed to submit any evidence that there is a causal link between the protected activity and the adverse PARS.

CONCLUSION

I **CONCLUDE** that the petitioner has not demonstrate by a preponderance of the credible evidence any violations of the State Policy against discrimination by the employer, any sexual harassment or hostile work environment. In addition, I further **CONCLUDE** that petitioner has not demonstrated by a preponderance of the credible evidence that there was any retaliation by the respondent as a result of the petitioner's filing of an EEO or any other complaints.

ORDER

The allegation of the petitioner has not been proven. I therefore **ORDER** that the petition is hereby **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, PO 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.



March 21, 2019
DATE

SARAH G. CROWLEY, ALJ

Date Received at Agency:

March 21, 2019 (emailed)

Date Mailed to Parties:

SGC/mel

APPENDIX

LIST OF WITNESSES

For Petitioner:

M [REDACTED] M [REDACTED]
Melanie Clouser
Ngozi Ugoh
Deborah King

For Respondent:

Felix Salzberg
Chandra Medina Ramos
Heather Noble
Pamela Boozer
Angelina Ibacache
Justina Higgins
Jeffrey Uhl
Simon Milon
Sandra Medina Rodrigues

LIST OF EXHIBITS

Joint:

None

For Petitioner:

- P-1 New Jersey State Policy Prohibiting Discrimination in the Workplace
- P-2 New Jersey State Model Procedure for Internal Complaints in the Workplace
- P-7 Petitioner's Resume
- P-9 Email dated August 10, 2011 from petitioner to Jeffrey Uhl and David Roat
- P-10 Email dated August 11, 2011 from petitioner to Jeffrey Uhl and David Roat
- P-11 Email dated August 21, 2011 from petitioner to Jeffrey Uhl
- P-12 Email dated August 30, 2011 from petitioner to Jeffrey Uhl and Sohail Rana
- P-13 Emails dated August 30, 2011 between Jeffrey Uhl and petitioner
- P-14 Email dated September 12, 2011 from petitioner to Jeffrey Uhl
- P-15 Interdisciplinary Progress Notes of an Ancora Psychiatric Hospital Patient
- P-18 Email from petitioner to Jeffrey Uhl and David Roat dated November 3, 2011
- P-19 Email dated November 17, 2011 from petitioner to Jeffrey Uhl and David Uhl
- P-20 Email dated December 12, 2011 from petitioner to Jeffrey Uhl
- P-21 Copy of petitioner's handwritten document dated December 12, 2011
- P-22 Email from petitioner to John Lubitsky dated December 14, 2011
- P-23 Emails between David Roat and petitioner on December 13, 2011 and December 15, 2011
- P-24 Email dated December 15, 2011 from petitioner to Jeffrey Uhl
- P-25 Petitioner's Typed Notes Concerning Bruce Stokes
- P-26 Email dated January 17, 2012 from petitioner to Jeffrey Uhl and Nancy Burgess
- P-27 Email dated January 18, 2012 from petitioner to Jeffrey Uhl
- P-28 Emails from Jeffrey Uhl to petitioner on January 19, 2012
- P-29 Email dated January 23, 2012 from Jeffrey Uhl to petitioner, Email dated January 22, 2012 from petitioner to Jeffrey Uhl, and Email dated January 22, 2012 from Geneva Bell to petitioner and other APH staff
- P-30 Petitioner's typed note dated February 2, 2012

- P-31 Email exchange between petitioner and Jeffrey Uhl on February 7 and 8, 2012
- P-33 Petitioner's Typed Note dated February 7, 2012
- P-34 Petitioner's Typed List of Incidents Between December 26, 2011 and February 2, 2012
- P-35 Letter dated February 8, 2012 from EEO Investigator David Fitzgerald to petitioner Regarding Petitioner's EEO Complaint of February 6, 2012
- P-40 Letter dated March 19, 2012 from Jeffrey Uhl to petitioner regarding Administrative Re-assignment
- P-41 Emails dated March 26, 2012 from petitioner to Jeffrey Uhl
- P-49 Petitioner's Employee Leave Request dated March 28, 2012
- P-51 Email from Melissa Gonska to petitioner and Other APH Staff dated February 21, 2013
- P-52 Melissa Gonska's Employee Leave Request dated February 22, 2013
- P-53 Employee Leave Request of Jamie Rodriguez dated February 26, 2013
- P-54 Employee Leave Request of petitioner dated June 15, 2015
- P-55 Employee Leave Request of John Bishop dated August 29, 2016
- P-63 Petitioner's Performance Assessment Review between March 1, 2000 and February 28, 2001
- P-64 Petitioner's Performance Assessment Review between March 1, 2001 and February 28, 2002
- P-66 Petitioner's Performance Assessment Review between March 1, 2002 and February 28, 2003
- P-67 Petitioner's Performance Assessment Review between March 1, 2003 and February 28, 2004
- P-68 Petitioner's Performance Evaluation System Rating Cycle March 1, 2004 and February 28, 2005
- P-69 Petitioner's Performance Evaluation System Rating Cycle March 1, 2005 and February 28, 2006
- P-70 Petitioner's Performance Evaluation System Rating Cycle March 1, 2010 and February 28, 2011

- P-71 Petitioner's Performance Evaluation System Rating Cycle March 1, 2011 and February 28, 2012
- P-72 Petitioner's Performance Evaluation System Rating Cycle March 1, 2012 and February 28, 2013
- P-75 Email dated March 13, 2012 from petitioner to Jeffrey Uhl
- P-120 Petitioner's Interim Performance Evaluation System Rating System March 1, 2008 to February 28, 2008
- P-121 Petitioner's Performance Evaluation System Rating Cycle March 1, 2008 and February 28, 2009
- P-122 Petitioner's Performance Evaluation System Rating Cycle March 1, 2009 and February 28, 2010
- P-126 Email dated October 4, 2011 from Olga Matthews to MHS-APH Users
- P-131 Compilation of Vacation Requests from Various State Employees with Redacted Names
- P-132 Hand Drawn Diagram of Treatment Room
- P-148 Document Purporting to be Ancora Psychiatric Hospital's Discharges by Ward from March 1, 2011 to February 28, 2012
- P-149 Document Purporting to be Ancora Psychiatric Hospital's Discharges by Ward from March 1, 2012 to February 28, 2013
- P-155 Petitioner's Psychology Progress Notes

For Respondent:

- R-1 Petitioner's EEO Complaint received by DHS on February 7, 2012
- R-18 Letter dated March 19, 2012 from Jeffrey UHL to petitioner
- R-19 Nine emailed between Jeffrey Uhl, ██████ M█████ Jamie Rodriquez, Zurla Ryan, Deb Bense, and David Roat from March 27, 2012 to March 29, 2012
- R-54 Final Notice of Disciplinary Action from Human Resources at Ancora addressed to Felix Salzberg