



MARICOPA
COMMUNITY COLLEGES

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MCCCD
OFFICE OF PUBLIC STEWARDSHIP

LETTER OF DISCIPLINE – INVOLUNTARY DEMOTION

Employee Name: Mark Moran

Location: Rio Salado

Date Presented: September 12, 2018

Position: Associate General Manager

This letter is official notice of your involuntary demotion from your Associate General Manager position, grade 121 at Rio Salado Community College to Project Manager Senior, grade 120 at Rio Salado Community College with an annual salary of \$104,944.60.

The effective date of your new assignment will be September 12, 2018. In accordance with SPM Policy A-41, and consistent with pay placement procedures, you will receive an immediate base pay decrease of 5%.

This action is taken under Maricopa County Community College District's (MCCCD) online Staff Policy Manual, for "cause", as outlined in Policy C-8, Notice and Appeal of Certain Disciplinary Measures.

As an Associate General Manager for Public Service, you are responsible for developing, planning, and administering the outreach, administration, development, and/or specialized services/activities of assigned staff at the broadcast station. You have been an employee of MCCCD since August 24, 1998.

On September 4, 2018, you were issued a Notice of Intent to Discipline, which contained allegations of conduct/performance violations. It also advised you that an involuntary demotion was being considered based upon those allegations and provided you with an opportunity to provide Kate Smith, Interim President for Rio Salado Community College, with a written response to the allegations, including any supporting materials, facts which were pertinent to the allegations and an explanation of any mitigating circumstances you wished the Department to consider. Your response to the Notice of Intent to Discipline did not, in our judgment, disprove the allegations contained therein, nor provide sufficient mitigating circumstances; therefore, a decision was made to proceed with the disciplinary action.

The specific reasons for your demotion are:

Alcohol Consumption:

On January 17, 2018, while on a business trip to Hermosillo, Mexico, witnesses reported that during dinner with members of the Mexican delegation and coworkers, you consumed four rounds of double shots of tequila along with a liter of beer with each double shot within a two-hour period. You then insisted on driving everyone back to the hotel.

On January 18, 2018, while at dinner with delegates and coworkers, you again ordered multiple double shots of tequila and beer and insisted on driving everyone back to the hotel.

Hostile Work Environment:

Witnesses reported that you made comments in the workplace that are perceived as inappropriate and/or sexist. Examples included off-color jokes, often followed by an apology; personal questions to female subordinates; jokes about LGBTQ people; comments about having to be politically correct in the context of reporting on transgender issues; condescending or paternalistic comments to young female employees, including one report that you advised a young female employee to go home and talk to her husband about a career opportunity she was being offered; and a series of events in the fall of 2017 when, in the wake of reports about NPR's Michael Oreskes, you went to several young female subordinates and asked them if he had ever harassed them or done anything inappropriate, which they found awkward at a minimum and disturbing in some instances.

A former intern reported that during a breakfast meeting with you on September 26, 2017, you kissed her several times; that following the breakfast meeting you engaged in an extensive exchange of text messages with her in which you told her you loved her and asked her twice if she still loved you; and that after a period of time she instructed you to stop contacting her.

Honesty During an Investigation:

The investigator found that you were not truthful with her during the investigation when you denied kissing the former intern and when you denied telling the former intern that you loved her in your text messages. The investigator noted that your denials continued even when shown written evidence that at least certain of your denials were false.

Your actions violated the following policies:

Policy A-4 Employment Standards, Group One Offenses:

B.1. Willful and intentional failure to perform job duties that have first been

communicated to an employee and are within the employee's scope of employment.

A.11. Dishonesty or dishonest actions, including but not limited to lying, deceitfulness, or making false statements.

Your actions constitute a serious violation of MCCCCD policies and procedures. Discipline is cumulative, and repeated or unrelated violations may result in progressive disciplinary action, including suspension, demotion or termination of employment. Please also be aware that an employee who has received a demotion, who seeks an internal transfer, must share the circumstances of the demotion with the hiring manager prior to the job offer. Failure to disclose the disciplinary action prior to accepting an offer of transfer may result in additional discipline, up to and including termination.

Moving forward, you are expected to abide by the following:

- You will conduct yourself in a professional manner at all times while performing work duties for Rio Salado Community College. This includes any behavior that can be perceived as creating a hostile work environment.
- You will not consume alcohol while representing Rio Salado Community College on and off campus.
- You will complete the group MCCCCD Sexual Harassment Training as well as one-on-one Sexual Harassment Training provided by Employee and Organizational Learning by December 21, 2018.
- You will complete MCCCCD Online Driver Training by December 21, 2018.

You have the right to appeal this involuntary demotion under Policy C-8, Notice and Appeal of Certain Disciplinary Measures. You may file a written appeal with the acting Vice Chancellor for Human Resources by emailing vc.hr@domail.maricopa.edu within ten calendar days from the effective date of this action and must state the facts with specificity upon which your appeal is based, along with the action you request. Failure to file a timely notice of appeal shall constitute a waiver of your right to such an appeal, and shall result in a final and binding determination that the disciplinary action was for just cause.

Sincerely,



J. Elliott Hibbs
Chief Operating Officer

cc: Employee Personnel File
College HR Director
Kate Smith, Interim President for Rio Salado Community College

Jean E. Wilcox, Attorney, P.L.L.C

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Prescott AZ 86303

928-310-8206
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TO: Samantha Blevins, Assistant General Counsel, MCCCDC
Cc: Leslie Cooper, General Counsel, MCCCDC
FROM: Jean Wilcox, Investigator
DATE: April 16, 2018
RE: Case No. 17-031 Expanded Investigation Report #2 (Moran)

Scope of Investigation

This investigation began with an anonymous letter received on December 19, 2017 by District HR and Vice Chancellor LeCoya Shelton containing allegations of sexual harassment occurring at Rio Salado College, including in the Division of Public Service (KJZZ). One of the allegations concerning KJZZ concerned Associate General Manager Mark Moran for sexually harassing and treating [REDACTED] female workers inappropriately. On March 2, 2018 a KJZZ employee sent a written complaint to Rio Salado College HR Dean Maria Bellino and Vice President Jim Paluzzi alleging that his supervisor, Mark Moran, had put his life at risk with his consumption of alcohol before driving and had used his authority over him to discuss things that could impact him legally. The March 2nd complaint is included in this report because it concerns one of the employees mentioned in the anonymous letter. This report will address both sets of allegations.

Witnesses Interviewed

For this report, the following witnesses were interviewed:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

34 current employees

- 7 past employees
- 2 NPR employees
- 1 media consultant

Current and past employees expressed an extreme level of fear of retaliation or retribution by Moran for participating in this investigation. Although they are protected from retaliation by District regulation, forms of retaliation in the media sector are often subtle and difficult to prove. People are passed over for advancement opportunities or training, given different assignments, have their supervisory responsibility removed, or are not hired by other media employers for unstated reasons. Public radio is a network of specialized employment. Employees who want to stay in public radio do not want to be identified in order to preserve their ability to seek other public radio opportunities in the future. Some employees have seen how other complainants at Rio Salado College have been re-assigned to unfamiliar or undesirable jobs. At their request, I have not identified current and past employees by name. One NPR employee who works with member stations in the region, including KJZZ, said the fear of retaliation at KJZZ is greater than any other station he works with (including NPR) and greater than he has seen in his entire career. He has also observed that women recognize harassment whereas men are not so sure when it is happening because it happens to men less often.

Documents Reviewed

Anonymous letter from a Concerned Citizen, received by District HR on December 19, 2017
Complaint sent via email dated March 2, 2018 to VP Paluzzi and Rio HR Dean Bellino
Receipt from Kona Grill dated January 9, 2018
Letter dated March 12, 2018 to VP Paluzzi and KJZZ HR, with copies of text messages
Email correspondence from witnesses
Incident report (undated) from an employee
Email dated March 9, 2018 from Paluzzi to Moran
Email dated February 24, 2018 from Paluzzi to Moran
Employee annual review of Moran signed by Paluzzi dated 2/10/17
Personnel file of Mark Moran
Email dated September 12, 2017 from [REDACTED] to Moran
Email dated September 13, 2017 from Moran to Marizco
Email dated August 6, 2015 from Greer to Shedd

Note: An email search was not conducted because almost all communications are through a rioradio.org address, Gchat, or private cell phones, none of which are retrievable through the Office of Public Stewardship.

Policies Reviewed

MCCCD A.R. 6.7 Employment Standards:

7. Reporting to work under the influence of alcohol...the use...of alcohol...on MCCCD premises, while conducting MCCCD business, or at any time which would interfere with the effective conduct of the employee's work for the MCCCD. The exception would include the consumption of alcohol at a reception or similar event at which the employee's presence is clearly within the scope of employment.

11. Performing acts or executing job responsibilities in a reckless manner that poses a threat to the physical safety of the employee or another person.

MCCCD A.R. 4.13 Alcoholic Beverages

This Administrative Regulation prohibits the use of District funds to purchase alcoholic beverages...it generally prohibits the presence of alcoholic beverages on premises owned by the District, or those leased or rented by the institution.

11. Personal responsibility. The personal or individual purchase of alcoholic beverages by individuals attending District approved functions held in places serving alcoholic beverages is a personal and individual responsibility. Administrative discretion shall be exercised in the approval of the location of such activities, as such decision pertains to the nature of the group involved.

MCCCD Policy A-4 Employment Standards

Group One Offenses:

6. Reporting to work under the influence of alcohol...the use...or possession of alcohol...on MCCCD premises, while conducting MCCCD business, or any time which would interfere with the effective conduct of the employer's work for the MCCCD.

10. Engaging in sexual harassment...

11. Dishonesty or dishonest actions, including but not limited to lying, deceitfulness, or making false statements.

MCCCD A.R. 2.4.7 Abuse-Free Environment

1. Maricopa Community Colleges recognize drug and alcohol abuse as an illness and a major health problem as well as a potential safety and security issue.

D. Legal Sanctions

1. Any employee is subject to disciplinary action, up to and including employment termination, for any of the following:...the use or possession of alcohol on MCCCCD premises, while conducting MCCCCD business, or at any time which would interfere with the effective conduct of the employee's work for MCCCCD...

MCCCCD A.R. 5.1.8 Sexual Harassment Policy for Employees

Sexual harassment is unwelcome, verbal, or physical conduct of a sexual nature that is sufficiently severe, persistent, or pervasive that it alters working conditions and creates a hostile work environment for employees. The unwelcome behavior may be based on power differentials, the creation of a hostile work environment, or retaliation for sexual harassment complaints. Sexual harassment by and between, employees; employees and students; and campus visitors and employees, is prohibited by this policy.

MCCCCD A.R. 5.1.9 Examples of Policy Violations

It shall be a violation of MCCCCD's Sexual Harassment Policy for any employee, student or campus visitor to:

1. Make unwelcome sexual advances to another employee, student or campus visitor;
4. Engage in verbal or physical conduct of a sexual nature that:
 - B. ...creates an intimidating, hostile or offensive work or academic environment.
7. Engage in other sexually harassing conduct in the workplace or academic environment, whether physical or verbal, including, but not limited to, commentary about an individual's body (or body parts), sexually degrading words to describe an individual, sexually offensive comments, sexually suggestive language or jokes, innuendoes, ...Other sexual misconduct may include sexual exploitation, stalking, and gender-base bullying.
8. Treat a complainant or witness of sexual harassment in a manner that could dissuade a reasonable person from pursuing or participating in the complaint and investigation.

MCCCCD A.R. 5.1.11 Responsibility for Policy Enforcement

Employees and students must avoid offensive or inappropriate sexual and/or sexually harassing behavior at work or in the academic environment. Employees and students are encouraged (but not required) to inform perceived offenders of this policy that the commentary/conduct is offensive and unwelcome.

Findings and Conclusions

1. Allegations regarding alcohol abuse.

(a) Use of alcohol on District property.

On January 9, 2018, there was a retirement party held at the Rio Conference Center on campus for Bill Shedd and Lou Stanley, two long-time employees of KJZZ. There was no alcohol served, the event was attended by 75 to 100 people, and presentations were made to the employees. For one presentation, Mark Moran was asked in advance by his boss, Vice President Paluzzi to come up to the front to unveil a box which contained a gift for one of the retirees. The event was organized by staff at KJZZ but attendance was voluntary.

The Complainant reported that he smelled alcohol on Moran that evening. Vice President Paluzzi stated he thought he smelled alcohol on Moran at the end of the event when Moran gave him a bear hug and told him he had to take two shots of Patron just to get through the event. In response to an email, Paluzzi stated he couldn't tell me if he detected alcohol on Moran. The Complainant said that Moran told him the next morning (January 10th) that he had had to take a few shots of Patron (tequila) in the parking lot during the retirement party because he felt emotional and this was his way of coping with the departure of the two people retiring. By Moran's own statement, he came to the retirement party after drinking alcohol at dinner prior to the party.

Moran insists that he was not drinking in the parking lot on District property. He said he had a couple shots of Patron with a meal at a restaurant nearby but could not remember the name of the restaurant. He was anxious and frightened because Paluzzi had asked him to come up to the front of the audience and he was concerned he was going to lose it. After the interview, Moran produced a copy of a receipt dated January 9, 2018 from the Kona Grill which listed only the total of the bill, not what was consumed. While the receipt neither proves nor disproves Moran's statement during the interview that he was not drinking on District property, it is more likely than not that he did not drink shots of tequila in the parking lot.

Paluzzi also said he thought he smelled alcohol on Moran when he came into his office at some point between mid-January (the trip to Hermosillo) and mid-February, 2018. Moran uses a water bottle with some sort of colored powder additive. Paluzzi has noticed that since Moran told him in December that he has been on [REDACTED], Moran belches loudly after drinking alcohol, with no effort to cover it up. Paluzzi noticed this on the February trip to Cananea also, but Paluzzi thought it may be just coincidental. Moran denied that his water bottle contains alcohol. When confronted with this allegation during his second interview,

Moran had his water bottle with him and let this investigator smell it. There was no smell of alcohol.

Paluzzi has not observed that Moran's consumption of alcohol interferes with his performance on the job, other than the incident in Hermosillo. He finds it hard to believe that Moran can perform as well as he does given the amount of alcohol he consumes. One of Paluzzi's direct reports has complained to Paluzzi about Moran's work ethic in the past, showing up late and leaving early, but Paluzzi has tried to work with Moran and believes he generally arrives around 9 a.m. and leaves around 5 p.m.

Moran stated in a subsequent interview that "alcohol is not him." Some events that occurred in the last eight or nine months (late summer) in his personal life resulted in his increased consumption of alcohol. [REDACTED] and he rarely drank until recently. He stated he has not drunk any alcohol since our first interview of March 15, 2018.

None of the employees interviewed has ever seen Moran consume alcohol or smell of alcohol at work.

Finding: While the allegation that Moran consumed alcohol on the evening of the January 9th retirement party is substantiated, the allegations that he drank shots of tequila in the parking lot, on District property, cannot be substantiated. The allegation that Moran consumes alcohol at work or on District property is not substantiated.

(b) Other use of alcohol: posing a threat to the safety of others.

The Complainant described two trips to Mexico with Moran and others from KJZZ, as well as a consultant to President Bustamante. The trips were taken to establish connections with two educational institutions for radio programming which were projects of the Friends of Public Radio Arizona, according to Paluzzi. All participants from Arizona consumed alcohol in the evening/night after meetings with the Mexican delegation. The Complainant and Paluzzi stated that these social activities after meetings are expected as part of the Mexican culture and are considered part of their work on behalf of the Friends. Other than the consultant, Ralph Romero, the Arizona participants are all employees of MCCCCD. There is no distinct line between work and socialization or between MCCCCD employment and work on the Friends' project. Although the drinking did not occur on District property, it may have occurred on District time because these District employees were conducting business for the District.

January 16-19 2018 trip to Hermosillo. On these dates, Moran, Paluzzi, Marizco, Hogan and Romero traveled to Hermosillo in a vehicle rented in Tempe to meet with a delegation from the Universidad Tecnologica de Hermosillo (UTH) . The UTH delegation consisted of their international and academic cooperation manager Ramon Aguilar, UTH's principal administration officer for recruiting Arturo Romo, and UTH rector Adalberto Abdala Calderon, as well as members of their staff. On the way to Tempe, the four from Tempe picked up Marizco in Tucson where his work is based.

The only two authorized drivers of the rental van were Paluzzi and Moran. Paluzzi said that Moran asked to drive because of [REDACTED]. Moran said that Paluzzi asked him to drive. Although Paluzzi's and Moran's version conflict, all witnesses agreed that Moran drove for the entire trip.

When they arrived in Hermosillo on the 16th, Ramon Aguilar took them to dinner at a restaurant. They all drank alcohol, paid for by the Friends of Public Radio Arizona, not using District funds, according to Paluzzi. Paluzzi saw Moran have a couple of beers and Moran did not seem intoxicated that night. Moran drove everyone except Marizco back to the hotel. Marizco got a ride from Aguilar.

The next night, January 17th, Moran, Paluzzi, Marizco, Hogan, and Aguilar went to a bar/restaurant. Since Aguilar was with them, arguably there was business discussed that related to the purpose of their trip to Hermosillo. Romero went out to dinner separately with friends, but joined them at the bar later. All drank between two and four beers the entire time except for Moran. [REDACTED] observed Moran drinking four rounds of double shots of tequila and a litre of beer with each double shot within a two-hour period. After the second set of drinks, Moran stood up shaking, nearly falling over, and yelled at a waitress for the bartender's phone number. When Moran ordered his third round, [REDACTED] told him to stop. [REDACTED] told him to control himself. Moran ordered a fourth round.

When Moran announced he was driving them back to the hotel, no one in the group stopped him from doing so. [REDACTED] didn't want to create an issue with Moran ([REDACTED] [REDACTED] [REDACTED]). [REDACTED] Paluzzi asked Moran for the keys and Moran replied, "I would never do anything to put you in direct harm." Paluzzi did not insist that Moran give him the keys because he didn't want to make a scene, not knowing how that might play out in the streets of Hermosillo. He made the decision to stand down, facing Moran who is taller than Paluzzi and feeling embarrassed by Moran's behavior in front of the President's consultant, Ralph Romero.

Moran drove them back to the hotel, but [REDACTED] felt "extremely unsafe" given Moran's behavior in the bar and the amount of alcohol he'd consumed. Although they arrived at their hotel without incident, Moran's heavy drinking and behavior at the bar was reckless and driving while intoxicated posed a threat to the physical safety of other District employees who were passengers in the vehicle. Then, all sat on the hotel patio having a beer. Moran at one point said he had to record for audible New York Times and Paluzzi observed him ordering more shots of tequila to take to his room.

In his interview, Moran minimized or couldn't remember the amount of alcohol he consumed on the 17th. He said he had a couple of shots, a Corona, and a diet coke at the bar. He then had one beer with the others on the hotel patio and went up to his room. His account conflicts with that of the other witnesses.

On the night of the 18th, after their meetings, Moran drove the Arizona group to a bar/restaurant about two or three miles away. [REDACTED] observed Moran ordering double shots of tequila and beers against the advice of [REDACTED]. [REDACTED] believes Moran had at least three rounds of double shots of tequila and beer. [REDACTED] recalled that he offered to drive them back to the hotel but Mark said no. Although Moran didn't seem drunk, [REDACTED] was worried that if something happened, Moran would be found to be under the influence of alcohol. [REDACTED] didn't think it was his place to tell Moran to stop drinking.

Moran's recollection of the 18th differs significantly. He said they worked during the day, then raced back to Tucson/Phoenix because Paluzzi had to catch a flight. They did not have dinner on the 18th. Moran may have had the date of the return trip confused with the 19th.

Paluzzi confirmed that every detail described in the March 2nd complaint was the way he remembered the events of the Hermosillo trip.

February 28-29, 2018 trip to Cananea, Mexico. On February 28, 2018, Moran, Paluzzi, Marizco, Romero, and Linda Pastori traveled to Cananea Mexico to engage in discussions with a college there about a possible partnership with KJZZ. They went because Ramon Aguilar had asked them to meet with the school in Cananea and it was important to demonstrate to them they that were important, according to [REDACTED]. Only Paluzzi and Pastori drove.

Prior to the trip, Paluzzi was concerned about Moran's behavior and spoke with President Bustamante about putting Moran on administrative leave. Paluzzi was concerned about having Moran travel with them. Maria Bellino conveyed his request to District HR but at that point there was not enough information to put Moran on leave. The travel restriction had not yet

been put in place, so Paluzzi made sure that only he and Pastori were the drivers on the trip to Cananea. Paluzzi believes he does not have the authority to put an employee on a no-travel restriction. Later, on March 2, 2018, Maria Bellino called Paluzzi to let him know that he could cancel Moran's travel authorization.

On February 28, 2018, they had dinner with the group from Tec Cananea. Pastori saw Moran go to the bathroom and the bar three times during dinner and she told Paluzzi what she saw.

On the way back to Tucson/Tempe on the 29th, they stopped at an historic bar in Naco Arizona, suggested by Marizco. It was a restroom stop, but Marizco had a beer and they saw Moran go into the bar to get shots of tequila. Paluzzi had a coke because he was driving. Neither Pastori or Romero had alcohol.

Paluzzi and Marizco said that drinking alcohol when meeting with the contacts in Mexico is expected and customary. Paluzzi maintains that no District funds are used because the trips to Hermosillo and Cananea are projects of the Friends of Public Radio Arizona. The Friends is a separate non-profit organization whose purpose is to raise funds to support public radio. The Friends have no policies on alcohol consumption. While alcohol consumption using Friends' monies may be justified when socializing with their contacts in Mexico, it is questionable whether drinking alcohol when not in the company of their Mexican contacts is a good use of donor funds and is a matter for the Friends' board to address.

Findings: While Moran's excessive consumption of alcohol and behavior at the bar in Hermosillo along with his insistence on driving the others back to the hotel posed a threat to their physical safety, he did not drive in a reckless manner. Therefore, the allegation that he was in violation of MCCCDA.R. 6.7(11) is not substantiated.

1. Hostile Work Environment/Sexual Harassment

a. For Complainant

Although the Complainant did not use the words "hostile" ■ described the work environment as being "toxic" in his March 2, 2018 email complaint addressed to VP Paluzzi and Maria Bellino. Before Paluzzi removed Moran's supervisory authority over the Complainant and other employees, the Complainant reported directly to Moran.

The Complainant stated that ■ was repeatedly being subjected to passive-aggressive behavior from Moran. For example, the Complainant ■

[REDACTED]

[REDACTED]

[REDACTED]” For the Complainant, this was troublesome because the email leaves a written record, whereas the verbal assurance from Moran did not. In the last month, the Complainant observed that Moran’s behavior has been “off the rails.” Shortly before the interviews for this investigation, the Complainant said that Moran called [REDACTED] and [REDACTED].

Further, the Complainant stated Moran was constantly trying [REDACTED]. On several occasions, Moran has shared things about his personal sex life that the Complainant found unwelcome and offensive. On Saturday, January 30 2018, Moran texted the Complainant with a comment about [REDACTED] that Complainant understood to be about Moran’s sexual relationship with [REDACTED]. On the return trip from Cananea, after Moran had had shots of tequila, he handed his personal cell phone to the Complainant and asked [REDACTED] to listen to a voice recording on the Whats App software to a conversation entitled “Hermosillo Bureau.” The Complainant at first thought it was from someone at the bureau or a potential applicant. The Complainant, who is [REDACTED], heard a woman with a distinctly Sonoran accent say, “Hola amor, como esta? Te extraño,” meaning: “Hello my love. How are you? I miss you.” Earlier messages in the string seen by the Complainant said “Hola sexy.” The Complainant handed the phone back to Moran and told him [REDACTED] was uncomfortable with him sharing this kind of information and not to do so again. In his interview, the Complainant said the next day (March 1) he told Moran he didn’t care who he was fucking on the side and to leave him out of his bullshit. [REDACTED] heard the remark and laughed. Moran apologized and admitted that he had had some tequila and wasn’t thinking straight.

Moran insists that he has no romantic relationships outside his marriage. He stated that the recording he shared with the Complainant was from a personal friend and he needed a translation but it was not clear enough for the Complainant to translate. He has no romantic relationship with the person and it is someone he went to college with. He said he later apologized to the Complainant for putting [REDACTED] in that position.

Moran also shared during his interview that he has been on [REDACTED], which he correlates with Paluzzi’s decision to promote Linda Pastori to General Manager of Sun Sounds and KBAQ in mid-September 2017. Paluzzi said he had not discussed Pastori’s promotion with his executive team and he announced it at a donor event in Mexico City on September 9 or 10 before he notified KJZZ staff. Moran said he felt slighted because he had been doing exactly the same thing as Pastori by getting Spot 127 up and moving. Moran

wants to be made General Manager of News. Moran stated in an email confirming the dates of his first [REDACTED] (September 20, 2017), saying that that was five days after Pastori's new appointment was announced. [REDACTED]. Moran feels that these [REDACTED].

Paluzzi recalls that Moran complained about Pastori's promotion to General Manager and about a month later (December 22 or 23) came into Paluzzi's office, shaking visibly saying "If you don't give me a promotion and pay raise of 10%, I will go to the governing board. You need to know I feel very insecure in my job." Paluzzi thought it was odd that Moran would demand a promotion to general manager and in the same meeting tell him he felt insecure in his job. At that time, Moran also told Paluzzi for the first time that he was on [REDACTED].

Moran also uses text messaging from his cell phone to communicate with Paluzzi and other station employees. Some of his messaging occurs after normal working hours and doesn't concern work related matters. The Complainant describes several instances of personal texting from Moran. Paluzzi calls Moran a compulsive texter and even Moran admits that he uses text messaging too much. In December 2017, Paluzzi blocked any text messaging from Moran because it was occurring so late at night and was getting "so bad." On one occasion, Moran even sent a FB message to Paluzzi's daughter in England on February 15, 2018 saying "something is very wrong with your father. Would you tell me what it is." Paluzzi's wife saw the message on FB and alerted her husband. The daughter told Moran not to contact her or her family again. Moran's response was, "please don't tell your father."

While some of these behaviors are not of a sexual nature, they indicate that Moran's behavior has been noticeably different since mid-September.

Findings: Moran shared information about his personal life with the Complainant, information which the Complainant believed was sexual in nature. The Complainant was offended and told Moran to stop. However, these two instances are isolated and therefore do not rise to the level of a hostile work environment for the Complainant

(b) For [REDACTED] female workers.

(i) Former intern/employee

On March 7, 2018, Al Macias was contacted by Mike Wong, internship coordinator at Arizona State University (ASU). Mike reported to Al that after a class discussion about the #MeToo movement, a student had approached her professor and told her that KJZZ was not the best

place to work and that she had been contacted by someone at KJZZ after her internship was completed. On March 13, 2018, Paluzzi received a letter dated March 12, 2018 informing him of an experience with KJZZ Associate General Manager Mark Moran. The letter described how the former intern had met Moran for breakfast on September 26, 2017, and Moran kissed her on the lips. Before parting ways in the parking garage, Moran kissed her several times on the lips and continued to kiss her down her neck. She also included numerous text messages between Moran and herself. She thought Moran's conduct was inappropriate. In the text messages, she expressed her fear about his kissing her.

In her interviews, she confirmed that she was the ASU student who had spoken to her professor. She reiterated what was stated in the letter and added that when they left the restaurant, Moran offered to drive her to her car which was a few hundred feet from where they were standing but in the parking garage. She got in the car, they drove to her car, she reached over to give him a hug and he began kissing her on the lips and neck. She thought he said, "give me a real one" after kissing her on the lips. At that point, she said she knew something was going on and wondered what he was asking for, stick her tongue down his throat? Eventually Moran said I think you should go or you had better go.

The text messages she included with the letter are not dated but appear from the context to have been sent shortly after September 26, 2017. In one message, Moran said, "Are you ok? I just want to be sure you are ok." She replied, "I do feel you crossed the line, Mark." In another message, Mark said, "I'll always be there if you need me but I will stay away if you want." She replied, "I care about you too and I want to hug you and everything, but when you said 'give me a real one' what did that mean?????" He corrected her in his response, "Another one. Not a real one." Moran also asked her if she still loved him in two different messages, and told her that he loved her. From the exchange of messages, it is apparent that Moran had more intense feelings for her than a father would have for a daughter.

She stated that after she told him not to contact her again in any medium, he said he wished they could talk but that was the last she's heard from him.

An employee was contacted by this former intern and was told a similar story although she described it as "sexual assault." The employee was also told that Moran insisted that she get in the car, locked the car door after she got in, and they drove to her car. These details were not conveyed by the former intern to this investigator during the interviews. The employee also stated that he was told by his supervisor around the end of October that Moran had called her late one night in a panic. Moran told the employee's supervisor that the intern initiated the physical contact and he was worried about being accused of sexual misconduct. The supervisor

told the employee not to say anything or else he would lose his job, or they would lose their jobs, because Moran was their boss. This employee told the intern to report the incident which she eventually did by way of a letter to Paluzzi dated March 12, 2018 (just within the 180 day reporting period for incidents of sexual harassment).

Moran's account of the events of September 26th is different. At first, Moran said he could not recall trying to contact former students, employees, or interns after they left KJZZ. When asked specifically about the former intern who had sent the letter, he admitted that she had made contact with him, he would mentor her and give her advice. He would respond to her texts but not initiate them. He denied telling her that he loved her and denied three times that he kissed her on the lips, and couldn't recall kissing her on the neck. Moran said she latched onto him in the parking garage, he kissed her on the forehead like he would a daughter, and told her he was not comfortable with all the hugging. These denials came even after he was shown copies of the text messages between them.

Her account is found credible based on: her demeanor; the similar description of events contained in her letter, her interview, and her conversation with another employee; the lack of an apparent motive to lie.

The former intern was a paid intern/employee at KJZZ between 9/5/13 through 8/7/15. She stated that nothing happened with Moran during the time of her internship. She also told the other employee the same thing. She and Moran worked together on editing and voice instruction at the station and saw each other once at an event in August of 2015. Moran stated that she got a fellowship to go to a conference in San Francisco and he saw her at the same conference on August 15, 2015. They hung out together and walked around Chinatown. The former intern said nothing happened. After that, Moran would occasionally comment on her social media posts and they went to breakfast a few weeks before September 26th.

At the time of the September 26th physical encounter, the former intern was no longer employed at KJZZ, nor was she a student at any of the MCCC colleges.

The sexual harassment policy and Title VII protect employees from sexual harassment by employers, co-workers, contractors, and vendors of the employee. Thus, the protections do not apply in the case of a former employee/intern. Although these protections do not apply to non-employees, Moran's conduct with a former intern, someone he had known since 2013, brings into question his ability to separate his personal life from his professional life, his self-control, and his judgment.

Findings: Moran made a false statement to this investigator by denying he kissed the former intern and told her he loved her, in violation of MCCCCD Policy A-4 (11). The allegation that Moran sexually harassed the former intern in violation of MCCCCD Policy A-4 (10) and MCCCCD A.R. 5.1.8 and 5.1.9, is not substantiated.

(ii) [REDACTED] Female Workers

Of the 40 employees interviewed, other than the former intern/employee mentioned above, none experienced or witnessed inappropriate behavior of a sexual nature that was persistent or pervasive by Moran. Fifteen of those interviewed were female.

Several female employees reported that Moran had made comments they thought were inappropriate or too personal. In the Fall of 2017, after Michael Arescas was fired from NPR for sexual harassment, Moran went directly to several young female reporters under his supervision and asked if he had ever sexually harassed them or done anything inappropriate. Some were upset by his question because they didn't know how to respond to a male supervisor with power over their jobs and livelihood; they felt they could not say yes. Some said they were intimidated. Several said they felt he was trying to cover himself in case anyone complained. Only one employee told him yes and explained that she thought his comment about being a male going down a waterslide (without crossing his legs) was an inappropriate dumb joke, given that they were in a sound booth together. Moran apologized. Another employee told him that having one-on-one conversations with female employees was not the right way to approach the issue and suggested that he meet with all staff and ask the same questions of everyone. Some of the male newsroom employees had heard about Moran's questioning and observed their female co-workers getting upset about it. One was observed crying at work around the time of Moran's questioning but the employee could not determine if it was because of Moran's questioning. Two of the females that Moran had questioned told Al Macias about the situation. Macias contacted Maria Bellino who said she would contact Moran. Moran confirmed in his interview that she did indeed talk with him.

A female employee described an incident which occurred in early fall of 2018 in which she ran into Moran in the hallway and he complimented her on her hair, then apologized, asking if it was ok if he said that. He then asked if it took her a long time to fix her hair and asked if he could touch it. She said no, and jokingly asked if his hands were clean. He asked why he couldn't touch her hair saying "what if I really want to, what if I just touched it anyway." He laughed it off, but she was offended.

About a week later, staff was having their photo taken in the grassy area near the parking garage. Employee #37 was talking with a co-worker. In the middle of their conversation, she asked the co-worker if she had lipstick on her teeth. Moran heard the conversation and asked why she would ask him (the co-worker) about lipstick on her teeth when she wouldn't let him touch her hair. Several people stared after hearing Moran, who then commented, "yeah she ripped me a new one." Later, Employee #37 went to his office to ask if she had said something unprofessional. She told him that asking her to touch her hair after repeatedly telling him "no" was inappropriate. She felt that touching someone's hair is much more intimate than asking if she had lipstick on her teeth.

A few months later, possibly January 2018, Moran approached Employee #37's desk while she was working, stood very close and asked "hey are you busy?" She said she was busy but he kept talking in a low volume, asking her about his tie. What concerned her was that he was standing so close while she was seated that his belt was at her eye level. Later, she told him that standing so close and where her eye level was, but he seemed oblivious to the fact that he was making her feel uncomfortable.

Employee #37 said she avoids situations where Moran might say something inappropriate but otherwise has been able to get her work done. Moran is a distraction, but has not had an adverse effect on her work environment. She does not feel threatened or intimidated.

One male employee observed Moran tell a female she looked nice and then immediately apologize by saying he shouldn't have said that. He's heard from several female colleagues that Moran says stupid things and makes off-color jokes, then follows it with an apology. He knows he says inappropriate things occasionally. His typical behavior was described as not thinking before he speaks. One employee stated his questions get too personal and are not the kind a male supervisor should make of a subordinate female employee. One described a time when Moran tried to hug her after working with him on a story but she refused and he told her she made him feel bad. One employee stated that Moran just wants to be everybody's friend. Moran does not seem to understand how to behave around females in a work setting.

Moran has also been heard making offensive remarks about LBGTQ people. A former employee stated that in a meeting with her and Al Macias, she brought up the need for a certain employee to take FMLA in the future and Moran made a derogatory remark about the spouse going out screwing and getting knocked up. Moran has been heard to make snide comments about having to be so PC (politically correct) all the time, in the context of reporting on transgender policies. Neither employees who heard these remarks reported them or

confronted Moran about them. But, both were subordinates of Moran's and offended by his remarks..

Some female co-workers described Moran as a sexist, with an "old school" mentality about women's role in the workplace but did not find it sexually harassing. A former employee was asked to be the science editor, a position she felt would be a path to failure because of her lack of experience in that area. Moran offered her a \$15,000 raise, handwritten on a piece of paper. When she turned it down, he told her to go home and talk to her husband, he would tell her to take it. Another employee described Moran as having a paternalistic attitude toward [REDACTED] female reporters. This issue is further discussed below under Gender Equity, much of which is due to Moran's hiring and management decisions.

The former executive director of Spot 127 stated she did not notice Moran paying special attention to any particular student. An instructor at Spot 127 West said that Moran hugged both male and female students a lot, but his description did not amount to offensive or inappropriate touching. Another instructor stated he has not noticed Moran paying special attention to [REDACTED] females.

Several female employees were uncomfortable with the self-defense class. While Moran is the person who told the employees about the opportunity to take the class, Paluzzi is the person who hired the instructor, his cousin from Florida, using Friends' money. None of the females blamed Moran for the problems they experienced in the classes. The class involved close body contact between males and female colleagues who work together, which most of the female employees found uncomfortable. Several opted not to take the class for that reason; one sent a photo to Moran of herself demonstrating a martial arts move to show that she had already taken a class. It was not intended to be sexual or flirtatious. Another stated that one of the young females was the object of the male instructor's special attention, teasing and criticism during the class, making her feel uncomfortable. Another stated that photos of employees in compromising positions were posted on social media. The issues with the class were not about Moran but were about the instruction and the instructor, who Paluzzi admitted was his cousin, a retired police officer and instructor.

Findings: Moran has a habit of making comments to subordinates that are not perceived by them as harassing but seen as thoughtless, sexist behavior. The comments were not sufficiently severe, persistent, or pervasive such that working conditions were altered for those who heard them. Thus, the allegation that Moran sexually harasses [REDACTED] females in violation of MCCCCD A.R. 5.1.8 and Policy A-4 (10) is not substantiated. Nevertheless, Moran

should be required to undergo sexual harassment training to understand that his comments may be seen as sexual harassment by those who are subordinate employees.