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Superior Court of California
County of Fresno
By: C. York, Deputy

Attorneys for: NICHOLAS SCIARONI

SUPERIOR COURT OF CALIFORNIA

COUNTY OF FRESNO

NICHOLAS SCIARONI

Plaintiff,

v.

CALIFORNIA HEALTH SCIENCES
UNIVERSITY COLLEGE OF
OSTEOPATHIC MEDICINE, LLC; and
DOES 1 Through 50 inclusive,

Defendants.

Case No. 21CECG03678

**COMPLAINT FOR INJUNCTIVE AND
DECLARATORY RELIEF**

[Cal. Ed. Code § 94367]

COMES NOW, Plaintiff NICHOLAS SCIARONI, to submit the following Complaint against
Defendant CALIFORNIA HEALTH SCIENCES UNIVERSITY COLLEGE OF OSTEOPATHIC
MEDICINE, LLC as follows:

JURISDICTION AND VENUE ALLEGATIONS

1. Plaintiff NICHOLAS SCIARONI is a resident of Fresno County, California and is
hereinafter referred to as "Plaintiff." Plaintiff is presently enrolled as a medical student at California
Health Sciences University College of Osteopathic Medicine.

2. The injuries claimed to have been suffered in this action, and the damages incurred as
a result, are within the jurisdiction of the Superior Court of the State of California, Unlimited Civil
Division.

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10. On or about November 24, 2021, Plaintiff served Defendant a correspondence objecting the findings and lack of due process. (See Ex. "E.") In particular, Plaintiff objected that the Grievance 1 process did not allow him the opportunity to cross examine witnesses and the university's findings were devoid of any showing that Plaintiff denied anyone their equal access to the university's resources and opportunities. (See *Davis v. Monroe County Bd. Of Educ.*, (1999) 526 U.S. 629, 649-650.)

11. On or about December 3, 2021, Defendant sent Plaintiff a correspondence entitled "Response to Objections to Grievance 1 Hearing Procedures for Independent Review of Respondent's Notice of Decision (Grievance Process 1 – Race-based Harassment & Discrimination)." (See Ex. "F.") In this letter, Defendant acquiesced to Plaintiff's demand to cross-examine witnesses originally denied by the university's Grievance Process 1. The correspondence stated, in part:

Specifically, this letter serves as notice that during the already scheduled hearing the week of December 13-17, 2021, before independent hearing officer Mr. Benjamin Rosenbaum, the University will provide you with the opportunity to cross-examine witnesses that are relevant to facts in dispute where credibility of witnesses is critical to the outcome of the race-based harassment Grievance Process 1 decision . . .

12. On or about December 6, 2021, Plaintiff sent Defendant an email requesting information about the hearing officer retained by the university. Plaintiff requested said information because of the limited appeal rights under the Grievance Process 1. Plaintiff's appeal rights under the Grievance Process 1 were limited to "procedural errors or unfairness, including, but not limited to, bias of investigator . . . hearing officer." Defendant responded as follows:

The identity of the hearing officer – Mr. Benjamin Rosenbaum – was provided weeks ago. No additional information regarding Mr. Rosenbaum is in the University records relevant to your request. As a courtesy, I am attaching his resume for you here which should clear up any confusion.

1 Article 1 of the California Constitution.”

2 19. In violation of Education Code section 94367, subdivision (a), Defendant dismissed
3 Plaintiff from the university solely for speech protected under the United States and California
4 Constitutions. Defendant alleged, for example, that:

5 ***

6 1. **Finding 1:** You made derogatory remarks regarding people of
7 color, immigrants, based on ethnicity, and comments which are
8 anti-Semitic, which made other CHSU COM students
9 uncomfortable.

10 a. You did not expressly state “black people are inferior” or
11 that you “do not like people of color.” However, *you did make
12 statements and engaged in conduct on-campus and online
13 that led other students to become offended and believe that
14 you think African Americans are inferior and do not like
15 people of color. . . .*

16 b. You made verbal statements on campus to another
17 individual that “. . . immigrants are going to ruin the country”
18 and “this country is going to turn into a third world shit hole
19 full of mud houses, because of immigrants,” or similar words.
20 *These statements were heard by a classmate who was
21 offended and found the comments to be derogatory based on
22 race. . . .*

23 c. You made threatening comments about a classmate of color
24 that you were going to “give her the stick” next time you saw
25 her. You admitted making this comment. You made this
26 statement to another classmate, who you admit you later called
27 a “snitch” for informing the classmate of color about your
28 comment.

d. You encouraged your classmates to Google “White Family”
in an attempt to support you statements regarding a Jewish
Hollywood/media conspiracy. You admitted you asked your
classmates to Google “White Family.” You denied making
comments about a Jewish conspiracy but did admit referencing
Harvey Weinstein and Jeffrey Epstein – two Jewish
individuals. a credible witness recalled you referencing Jewish
people owning all of Hollywood/media and stating that all of
Hollywood are pedophiles, or similar words. . . .

e. You made statements to a Hmong guest speaker in class
regarding Hmong culture in a manner [sic] a presumptuous
manner. *Your statements made others feel uncomfortable.*

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f. In May 2017 you posted on social media that “Freedom is not free. Free men are not equal. Equal men are not free” and a meme stating “Equality is a false god.” These posts included your name and a photograph [sic] of your face.

g. You used the phrase “the realest Nicker since 2006” on you Instagram account. *Another student saw this, and became offended, associating the use of the term “Nicker” with the word “nigger,” an offensive term for African Americans. . .*

h. During a Zoom class session, you stated “I will not bow down as a white man,” or similar words, during a response to an ethical hypothetical presented to the class. *A classmate found this offensive.*

i. During a conversation with classmates, you stated that you would no longer watch the NFL because they were hiring too many black coaches as opposed to white coaches, or similar words. *This offended at least two classmates.*

j. During a class discussion about providing assistance to African American mothers with new infants, you posed the question to your class about what would happen if you created an organization for white infants, or similar words. *At least two of your classmates were offended by this comment.*

2. **Finding 2:** you made inappropriate comments regarding race on your YouTube channel . . .

(See Ex. “D” [Italics and Emphasis Added].)

20. Plaintiff alleges that all of the communication attributed to him in “Respondent’s Notice of Decision (Grievance Process 1 – Race-based Harassment & Discrimination) (i.e, Ex. “D”) is protected speech under the First Amendment to the United States Constitution or Section 2 of Article 1 of the California Constitution. (See Cal. Ed. Code § 94367 (a).)

21. Plaintiff alleges that all of the communication attributed to him in “Respondent’s Notice of Decision (Grievance Process 1 – Race-based Harassment & Discrimination)” (i.e., Ex. “D”) was neither severe nor pervasive to deny any student at CHSU COM from equal access to the university’s resources and opportunities. (*Davis v. Monroe County Bd. of Educ.*, supra, 526 U.S. 649-650.)

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4. For injunctive relief that requires Defendant to reinstate Plaintiff to the university with all benefits and privileges attached thereto.

5. For injunctive relief that requires Defendant to issue a public apology for violating his constitutional free speech rights.

6. For injunctive relief that requires Defendant and its employees to attend training regarding a student's constitutional right to free speech.

7. For costs of suit incurred herein.

8. For attorneys fees according to proof. (Cal. Ed. Code § 94367 (b).)

9. For such other and further relief as the Court may deem just and proper.

Dated: December 13, 2021

OVIEDO LAW GROUP, INC.

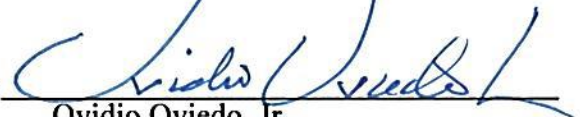
By: 
Ovidio Oviedo, Jr.,
Attorney for above-named.

EXHIBIT "A"



Secretary of State Certificate of Status

I, SHIRLEY N. WEBER, Ph.D., Secretary of State of the State of California, hereby certify:

Entity Name: CALIFORNIA HEALTH SCIENCES UNIVERSITY COLLEGE OF
OSTEOPATHIC MEDICINE, LLC
File Number: 201709310548
Registration Date: 04/03/2017
Entity Type: DOMESTIC LIMITED LIABILITY COMPANY
Jurisdiction: CALIFORNIA
Status: ACTIVE (GOOD STANDING)

As of December 12, 2021 (Certification Date), the entity is authorized to exercise all of its powers, rights and privileges in California.

This certificate relates to the status of the entity on the Secretary of State's records as of the Certification Date and does not reflect documents that are pending review or other events that may affect status.

No information is available from this office regarding the financial condition, status of licenses, if any, business activities or practices of the entity.



IN WITNESS WHEREOF, I execute this certificate and affix the Great Seal of the State of California this day of December 13, 2021.

A handwritten signature in black ink, appearing to read "S. N. Weber".

SHIRLEY N. WEBER, Ph.D.
Secretary of State

Certificate Verification Number: RMGM85R

To verify the issuance of this Certificate, use the Certificate Verification Number above with the Secretary of State Certification Verification Search available at bebizfile.sos.ca.gov/certification/index.



**Secretary of State
Articles of Organization
Limited Liability Company (LLC)**

LLC-1

201709310548

FILED
Secretary of State
State of California

APR 03 2017

IMPORTANT — Read Instructions before completing this form.

Filing Fee - \$70.00

Copy Fees - First plain copy free; Additional copies: First page \$1.00 & .50 for each attachment page; Certification Fee - \$5.00

Important! LLCs may have to pay an annual minimum \$800 tax to the California Franchise Tax Board. For more information, go to <https://www.ftb.ca.gov>.

100 This Space For Office Use Only

1. Limited Liability Company Name (See Instructions – Must contain an LLC ending such as LLC or L.L.C. "LLC" will be added, if not included.)

CALIFORNIA HEALTH SCIENCES UNIVERSITY COLLEGE OF MEDICINE, LLC

2. Business Addresses

a. Initial Street Address of Designated Office in California - Do not list a P.O. Box	City (no abbreviations)	State	Zip Code
120 N. Clovis Avenue	Clovis	CA	93612
b. Initial Mailing Address of LLC, if different than Item 2a	City (no abbreviations)	State	Zip Code
1396 W. Herndon Avenue, Suite 101	Fresno	CA	93711

Item 3a and 3b: If naming an individual, the agent must reside in California and Item 3a and 3b must be completed with the agent's name and complete California street address.

Item 3c: If naming a California Registered Corporate Agent, a current agent registration certificate must be on file with the California Secretary of State and Item 3c must be completed (leave Item 3a-3b blank).

3. Agent for Service of Process

a. California Agent's First Name (if agent is not a corporation)	Middle Name	Last Name	Suffix
John	A	Bezmalinovic	
b. Street Address (if agent is not a corporation) - Do not list a P.O. Box	City (no abbreviations)	State	Zip Code
1396 W. Herndon Avenue, Suite 101	Fresno	CA	93711
c. California Registered Corporate Agent's Name (if agent is a corporation) – Do not complete Item 3a or 3b			

4. Management (Select only one box)

The LLC will be managed by:

- One Manager More than One Manager All LLC Member(s)

5. Purpose Statement (Do not alter Purpose Statement)

The purpose of the limited liability company is to engage in any lawful act or activity for which a limited liability company may be organized under the California Revised Uniform Limited Liability Company Act.

6. The Information contained herein, including in any attachments, is true and correct.

Organizer sign here

John A. Bezmalinovic

Print your name here

EXHIBIT "B"

June 18, 2021

Via Email: sciaroni2267@chsu.edu

Nick Sciaroni
Student
sciaroni2267@chsu.edu

Re: Respondent's Notice of Complaint Under the University's Unlawful Discrimination, Harassment, Sexual Misconduct, and Title IX Policy (Grievance Process 1)

Dear Mr. Sciaroni,

The purpose of this letter is to notify you that you are a respondent in a report of alleged misconduct ("Complaint") involving you. California Health Sciences University ("CHSU" or "University") received this report on or around June 9, 2021.

The University has an obligation to determine whether the allegations in the report are true and, if so, to take appropriate preventative and corrective measures. This letter will explain the steps the University will be taking to address the report of alleged misconduct. The matter will be kept as confidential as possible.

The University's response to the Complaint is governed by the University's policy on Discrimination, Harassment, Sexual Misconduct, and Title IX Policy and Procedures ("Policy"). Under the Policy, the Complaint will be processed under Grievance Process 1. A copy of the Policy is available at <https://chsu.edu/title-ix/>. An electronic copy of the Policy is also enclosed with this letter.

This letter contains important information regarding the allegations of misconduct contained in the Complaint as well as your rights under Grievance Process 1. It is important that you carefully read this letter in full and raise any questions you have with me or a support person of your choice as soon as possible. It is also important that you regularly monitor your CHSU email account as that is the method of communication the University will use with you throughout the grievance process.

Allegations of Misconduct

The allegations are that you have engaged in the following conduct:

1. That you have made derogatory remarks about female classmates and/or women that make others uncomfortable, including that women are inferior to men. You have made the following comments or something to the same effect:
 - a. That intellect comes from the "Y" male chromosome.
 - b. That women are crazy.

- c. That your all-male team based learning ("TBL") group would perform better without any women, including posting on social media that the all-male group was going to be "high speed."
 - d. That if a man has a baby with a woman they never really know who the father is because women store semen of past sexual partners in their stomachs.
2. You have made derogatory remarks regarding people of color, immigrants, based on ethnicity, and comments which are anti-Semitic, which make others uncomfortable. You have made the following comments or something to the same effect:
 - a. That Black people are inferior.
 - b. That immigrants do not come back for check-ups.
 - c. You posted on social media "abuela go home."
 - d. You are on video posted to social media approaching students of color at Fresno State questioning them about their immigration status.
 - e. You have also encouraged your colleagues to Google "White family" in an attempt to support your statements that a Jewish conspiracy exists regarding control of the media and Hollywood.
 - f. You made statements to a Hmong guest speaker in the Physician's Role in Health Systems course regarding Hmong culture.
 - g. You posted on social media "equality is a false god."
3. You have made comments regarding sex, gender, and transgender status which others find offensive. You have made the following comments or something to the same effect:
 - a. That being transgender is a psychiatric illness and is a diagnosis that belongs in the DSM-V.
 - b. That there are only two genders, male and female, and gender is not a spectrum.
 - c. That men are being feminized, for example, because they drink too much soy milk.
 - d. That if men drink too much soy they will turn into women.
 - e. That everyone in Hollywood is a pedophile.
 - f. You use derogatory words when discussing homosexuals.
4. You have a YouTube channel on which you make inappropriate comments regarding race, including the following:
 - a. Referring to an African American gaming character as a sub-human.
 - b. Referring to former President Barack Obama as a "hybrid."
 - c. Approaching the Fresno State Muslim Student Association making comments regarding the hijab being anti-woman and comments regarding Sharia law being oppressive.

Investigation Procedures

I have assigned a qualified neutral investigator, Mr. Roy Santos, to investigate the allegations of misconduct. Mr. Santos is free from conflicts of interest or bias against you or those involved. Mr. Santos may be reached at rsantos@avattorneys.com or 559-445-1580.

The purpose of the investigation is to compile relevant information, including witness statements, documents and other evidence. The investigation is when all known and/or available evidence or information should be shared with the investigator. It is important that you preserve any evidence that is relevant to the investigation, including the identification and location of witnesses.

During the investigation, Mr. Santos will meet with you and other relevant witnesses and will gather relevant evidence and information. The investigator will make findings of facts regarding the allegations.

You will be provided advanced written notice regarding the date, time and location of your interview. The investigator may record the interview, and if so, it is the sole recording permitted. If you choose not to participate in the investigation, the investigator will complete the investigation without your input, and it may prevent the University from fully addressing the alleged misconduct that has been reported. Additionally, your failure to participate may not be used as grounds for appeal of the final outcome of the grievance process.

Your interview will take place either in a location on campus and/or via remote video conferencing software in compliance with public health guidelines. The University will provide you with the details related to your interview after it has been scheduled. If at any time you need technical assistance during your interview, you should contact me immediately at 559-282-8747.

Generally, the investigation will be completed within ninety (90) business days from the date of this letter. If more time is needed, I will let you know in writing, through a notice, sent to your CHSU email.

Advisory Support Person

You have the opportunity to have a support person of your choice. Your support person may be a colleague, friend, family member, attorney or other representative so long as the support person is not a witness to the allegations. Your support person may accompany you to any meetings throughout the grievance process, including investigation interviews, and may take reasonable breaks during any meeting during the grievance process to confer with you; however, your support person may not speak on your behalf or advise you on how to answer a question of the investigator or otherwise interfere with the investigation in any way. If you plan to bring a support person to a meeting, you are required to notify me at least three business days in advance and provide their name and contact information. The University may require you and your support person to execute non-disclosure agreements and/or FERPA waivers to participate in the process.

Supportive Measures

In order to ensure all parties are appropriately supported throughout the grievance process, the University has implemented the following supportive measures:

1. If you would like, Dr. JoAnna Jackson has offered to be your advisory support person. You can contact her at jjackson@chsu.edu or 559-712-4176.
2. Dr. Audrey Punnett, PhD., a licensed psychologist, is also available if you need support. To make an appointment please contact 559-225-8963.

Please contact me if you need additional supportive measures. If you need any reasonable accommodations for a disability during the grievance process, you may contact me or Dr. Susan at the COM Office of Student Affairs at sely@chsu.edu.

Additionally, you may find the following community resources helpful to you:

California Health Sciences University Resources

- COM Office of Student Affairs: sely@chsu.edu
- WellConnect Student Mental Health Services
 - (866) 640-4777
 - WellConnectForYou.com
 - Access Code: CHSU-STU

Informal Resolution

Informal resolution procedures are available in this case and are subject to certain criteria. If you are interested in voluntarily participating in an informal mediation or restorative justice process to resolve the Complaint you can request informal resolution by contacting me. You can learn more about the University's informal resolution option online at: <https://chsu.edu/title-ix/>. A paper or PDF copy is also enclosed with this letter.

Interference with the Grievance Process; False Statements; Retaliation

You and others involved in the investigation may not interfere with the integrity of the grievance process, including attempting to coerce, threaten or alter the statements of witnesses. Further, it is a violation of the Policy as well as codes of conduct applicable to employees and the student code of conduct, to knowingly make a false statement or knowingly submit false information to the University.

Threatening, coercing or attempting to alter the statements of witnesses, tamper with evidence or otherwise knowingly submitting false information during the grievance process may be subject to corrective measures, up to and including separation from employment or expulsion from the University.

You may not retaliate against anyone for participating in the grievance process. Similarly, you may not be retaliated against. If you feel you have been retaliated against, or if you are accused of retaliation, you should notify me immediately.

If you have questions regarding this correspondence or need further support, please contact me at 559-282-8747 or cromerobegley@chsu.edu.

Sincerely,

CALIFORNIA HEALTH SCIENCES UNIVERSITY

Carlita C. Romero-B

Carlita Romero-Begley, PHR, SHRM-CP
*Vice President of Human Resources
Title IX, Equity and Diversity Coordinator*

cc: COM Assistant Dean of Student Affairs, Dr. Susan Ely (via email)

Enclosures: Unlawful Discrimination, Harassment, Sexual Misconduct and Title IX Policy and Procedures

EXHIBIT "C"

September 27, 2021

Via Hand Delivery & Email: sciaroni2267@chsu.edu

Nick Sciaroni
Student
sciaroni2267@chsu.edu

Re: Re: Respondent's Amended Allegations Notice (Grievance Process 1)

Dear Mr. Sciaroni,

On June 17, 2021, you received a notice ("Notice") that you are respondent in a report of alleged misconduct ("Complaint") involving you brought by a University student. The purpose of this letter is to provide you with notice of new allegations made against you by witnesses during the ongoing investigation, which have been made after the date of the June 17, 2021 notice letter.

Below is a summary of the allegations which will now be investigated under the Grievance Process 1 under the University's Policy and Procedures for Claims of Unlawful Discrimination, Harassment and Title IX ("Policy"). Attached to this letter is a separate letter summarizing the allegations that will be investigated under Grievance Process 2.

Grievance Process 1 Allegations

- I. You have made derogatory remarks regarding people of color, immigrants, based on ethnicity, and comments which are anti-Semitic, which make others uncomfortable. You have made the following comments or something to the same effect:
 - a. That Black people are inferior.
 - b. That you do not like people of color.
 - c. Immigrants are going to ruin this country.
 - d. Making threatening comments about a female classmate of color such as, "oh she's going to get what's coming to her," or "I'm going to give it to her the next time I see her"
 - e. That immigrants do not come back for check-ups.
 - f. You posted on social media "abuela go home."
 - g. You are on video posted to social media approaching students of color at Fresno State questioning them about their immigration status.
 - h. You have also encouraged your colleagues to Google "White family" in an attempt to support your statements that a Jewish conspiracy exists regarding control of the media and Hollywood.

- i. You made statements to a Hmong guest speaker in the Physician's Role in Health Systems course regarding Hmong culture.
 - j. You posted on social media "equality is a false god."
 - k. Saying "the Realist Nicker since 2006" on your Instagram account which students perceived to be a racial slur.
 - l. Posting a caricature of a Jewish person on your social media.
 - m. Telling a classmate on zoom: "I won't bow down as a white man."
 - n. Telling a classmate that you didn't want to watch the NFL anymore because they were pushing to hire more African American coaches and you didn't think that they had merit to do so;
 - o. Posting on Facebook in response to someone saying their grandmother has been deported: "oh don't be sad because abuelita can't make dinner tonight" or words to that effect.
 - p. Saying you wonder what would happen if you started a white infants organization in response to a discussion about resources for minorities.
2. You have a YouTube channel on which you make inappropriate comments regarding race, including the following:
- a. Referring to an African American gaming character as a sub-human.
 - b. Referring to former President Barack Obama as a "hybrid" and saying that people who are of mixed race are a "sub-human hybrid species" that should not exist, that their mother's wombs have tried to abort them, and that mixed race people cannot be intelligent and are destined for a life of incompetence.
 - c. Approaching the Fresno State Muslim Student Association making comments regarding the hijab and comments regarding Sharia law being oppressive.

No Other Changes Applicable

Other than as described above, all other information in the June 17, 2021 Notice is still applicable. If you have questions regarding this correspondence or need further support, please contact me at 559-282-8747 or cromerobegley@chsu.edu.

Sincerely,

CALIFORNIA HEALTH SCIENCES UNIVERSITY



Carlita Romero-Begley, PHR, SHRM-CP
Vice President of Human Resources
Title IX, Equity and Diversity Coordinator

cc: Ms. Dr. JoAnna Jackson, Advisor (via email)
Ms. Zea Moullet (via email)

Enclosures: University's Policy and Procedures for Claims of Unlawful Discrimination, Harassment and Title IX Misconduct

Letter dated September 27, 2021 Regarding Respondent's Notice of Formal Title IX Complaint Under the University's Policy and Procedures for Claims of Unlawful Discrimination, Harassment and Title IX Misconduct (Grievance Processes 2)

EXHIBIT "D"

November 19, 2021

Via Email

Nick Sciaroni, Student Doctor
sciaroni2267@chsu.edu

Re: Respondent's Notice of Decision (Grievance Process 1 – Race-based Harassment & Discrimination)

Dear Mr. Sciaroni,

On June 17, 2021, you received a notice ("Notice") that you are respondent in a report of alleged misconduct involving you brought by a University student. On September 27, 2021, you received notice of new allegations made against you by witnesses during the ongoing investigation, which were made after June 17, 2021. As set forth in the letter provided to you on September 27, 2021, matters relating to allegations of race-based harassment and discrimination are being processed under Grievance Process 1 of the University's Policy and Procedures for Claims of Unlawful Discrimination, Harassment and Title IX ("Policy"). The Policy is accessible online at <https://chsu.edu/title-ix/>. A hard copy or PDF copy can be provided upon request.

The purpose of this letter is to provide you with the Notice of Decision under Grievance Process 1 for the claims of race-based harassment and discrimination set forth in the Amended Allegations Notice provided to you on September 27, 2021 (enclosed). You should read this letter carefully, as it sets forth the findings of fact, adjudication decision, your option to request a hearing, and right to appeal.

As set forth below in full, the University has determined you have violated the Policy, and the corrective action imposed is that you are dismissed from CHSU College of Osteopathic Medicine.

Investigation Findings

Following receipt of the Complaint, the University assigned a qualified neutral investigator, Mr. Roy Santos, to investigate the allegations of misconduct made against you. Mr. Santos met with you twice on October 22, 2021 and October 25, 2021, and provided you an additional opportunity to submit responses to questions in writing the week of November 8, 2021. Due to the COVID-19 pandemic, remote video conferencing software was used to facilitate your interviews with Mr. Santos. The University provided all technology required and you attended both interviews on campus with your attorney, Mr. JR Oviedo. No technical difficulties occurred with the use of the video conferencing platform. Mr. Santos also met with other relevant witnesses, and reviewed documents, information, and other evidence relevant to the Complaint.

Based upon the preponderance of the evidence standard, the investigator made the following findings of fact regarding the allegations set forth the Respondent's Amended Allegations Notice (Grievance Process 1) dated September 27, 2021:

1. **Finding 1:** You made derogatory remarks regarding people of color, immigrants, based on ethnicity, and comments which are anti-Semitic, which made other CHSU COM students uncomfortable. Specifically, facts supporting this finding are as follows –
 - a. You did not expressly state “black people are inferior” or that you “do not like people of color.” However, you did make statements and engaged in conduct on-campus and online that led other students to become offended and believe that you think African Americans are inferior and do not like people of color. For example, you made statements in class such as: (i) not wanting to watch the NFL because they are hiring too many black coaches as opposed to white coaches, or similar words; (ii) saying white power is the same as saying black power, or similar words; (iii) that Black Lives Matter is racist, or similar words; and (iv) commenting about starting a white infants organization during a class discussion about providing assistance to African American mothers with new infants, or similar words. Examples of your conduct include: (v) making a face and grumbling when a non-black classmate discussed that his sister is married to an African American; and (vi) various social media posts you made online which are offensive based on race or ethnicity that were seen by your classmates and, as a result, impacted the school environment, as described further below. You also maintained a YouTube channel that “favorited” various videos which contained discriminatory content, including: (vii) a video titled “Scrub me mama with a boogie beat 1941” which contained images of African Americans being lazy, sexually aggressive and with exaggerated stereotypical racist features; (viii) a video depicting an older Caucasian male beating up a younger African American male on a bus; (ix) a video tribute to an African American infant who was killed by his mother; and (x) various videos which appear to ridicule developmentally disabled individuals.
 - b. You made verbal statements on campus to another individual that “...immigrants are going to ruin the country” and “this country is going to turn into a third world shithole full of mud houses, because of immigrants,” or similar words. These statements were heard by a classmate who was offended and found the comments to be derogatory based on race. This finding is further supported by your social media posts which included: (i) a post of a meme of Pepe the Frog standing in front of a chain-link fence with the words U.S. Border above it and a caricature of a Mexican man and woman holding an infant standing behind the fence; and (ii) a social media post you admitted to that reads “he’s sad that abuela has to go back” in reference to an individual named “Alfredo” online. The Pepe the Frog meme has been designated a general hate symbol by the Anti-Defamation League and has become associated with racism and anti-Semitism. It is also associated with race and ethnicity in the post you made online. In the post with “Alfredo” you engaged in also told a woman named Yvette Fuentes that she needed to

- "go back." At least three of your OMS-II classmates saw these social media postings and were offended by them, and the social media posts are similar in content to the verbal statements you made on campus regarding immigrants.**
- c. You made threatening comments about a classmate of color that you were going to "give her the stick" next time you saw her. You admitted making this comment. You made this statement to another classmate, who you admit you later called a "snitch" for informing the classmate of color about your comment.**
 - d. You encouraged your classmates to Google "White Family" in an attempt to support your statements regarding a Jewish Hollywood/media conspiracy. You admitted you asked your classmates to Google "White Family." You denied making comments about a Jewish conspiracy but did admit referencing Harvey Weinstein and Jeffrey Epstein – two Jewish individuals. A credible witness recalled you referencing Jewish people owning all of Hollywood/media and stating that all of Hollywood are pedophiles, or similar words. Additionally, this finding is further supported by your social media post in September 2017 wherein you posted about Google search phrases "American inventor," "White couple," "White woman with children," "European history people," "European people art," "Happy American couple," "White man and white woman," "Happy white American man," "Happy white American woman," and "Happy white American child." In response to individuals asking you "WTF," which means "what the fuck," you responded with a black and white silhouette that depicts a stereotypical caricature of a Jewish person with heavily stereotyped facial features greedily rubbing his hands together. The caricature you posted is commonly known as the "Happy Merchant," and is designated as a hate symbol by the Anti-Defamation League and associated with white supremacy. This post was seen by a classmate who recognized it as anti-Semitic hate speech and was offended by the post.**
 - e. You made statements to a Hmong guest speaker in class regarding Hmong culture in a manner a presumptuous manner. Your statements made others uncomfortable.**
 - f. In May 2017 you posted on social media that "Freedom is not free. Free men are not equal. Equal men are not free" and a meme stating "Equality is a false god." These posts included your name and a phonograph of your face.**
 - g. You used the phrase "the realest Nicker since 2006" on your Instagram account. Another student saw this, and became offended, associating the use of the term "Nicker" with the word "nigger," an offensive term for African Americans. This student unfriended you on this platform as a result because he did not want to be associated with use of that term.**
 - h. During a Zoom class session, you stated "I will not bow down as a white man," or similar words, during a response to an ethical hypothetical presented to the class. A classmate found this offensive.**
 - i. During a conversation with classmates, you stated that you would no longer watch the NFL because they were hiring too many black coaches as opposed to white coaches, or similar words. This offended at least two classmates.**

- j. During a class discussion about providing assistance to African American mothers with new infants, you posed the question to your class about what would happen if you created an organization for white infants, or similar words. At least two of your classmates were offended by this comment.
2. The investigator found by a preponderance of the evidence that your comment in class regarding immigrants not coming back in for checkups was not inappropriately directed at all immigrants, but rather was in reference to an ethical fact patten discussed in class.
3. The investigator found by a preponderance of the evidence that you did not post a video to social media asking students of color at Fresno State to disclose their immigration status. There was a video posted where you engaged in debate with students regarding immigration, but the video did not depict inappropriate action on your part.
4. **Finding 2:** You made inappropriate comments regarding race on your YouTube channel, including the following:
 - a. During summer 2020 repeatedly referring to a mixed race individual as being genetically inferior or weak, if he was of pure race he would have a higher IQ, he should not exist, and in nature he wouldn't exist;
 - b. During summer 2020 referring to former President Barack Obama as a "hybrid" and saying that people who are of mixed race are a "hybrid species" that should not exist, that their mother's wombs have tried to abort them, and that mixed race people cannot be intelligent and are destined for a life of incompetence; and
 - c. Regarding the mixed-race comments described above in Section 4.a. and 4.b., you admitted to using the online ID of "Dreadspyke" associated with these comments. You admitted you made these comments, that they were inappropriate and that you knew they were likely to offend others if they heard them. This incident occurred during summer 2020, after your enrollment as a CHSU COM student. At least three students viewed these videos, knew you were the person making the comments and were offended by them. One of these classmates expressed concern about you becoming a physician given the comments you made about mixed race individuals. At least two additional students became aware of the comments you made and were also offended; these students did not watch the video because they did not want to be associated with viewing that type of race-based content.
 - d. Approaching the Fresno State Muslim Student Association ("MSA") making comments regarding the hijab and comments regarding Sharia law being oppressive. In the video shows the MSA holding an event on campus encouraging people to wear a hijab to understand the climate on campus for people who wear hijabs. You admitted to making the comments in the video. You explained you thought then event may be an insidious way for the members of the MSA to try to recruit people and to get people to accept repressive Sharia law because it was sponsored by a local mosque, and you wanted to confront them and see what their position was.

Adjudication Decision

Following the conclusion of the investigation, I have reviewed the findings of the neutral investigator and related evidence. In light of the investigator's findings listed above in factual findings sections numbered above as 1a. – 1.d, 1.f. – 1.j., and 4.a – 4.c.,¹ the University has determined that you have violated the Policy's prohibition on harassment based on race, color, or ancestry. This misconduct also violates CHSU's Code of Ethics, which requires respecting diversity and treating others with respect. This misconduct also violates the Student Conduct and Professionalism Policy which contains the Code of Professional Conduct (specifically: items 1 – harm, abuse, bullying, hazing of an individual; 2 – verbal bullying or threat of abuse to an individual; 5 – disruption of teaching or student functions at the University; 11 – behavior that demonstrates abusive or disrespectful conduct toward administration and students and community members of the University; 12 – Violation of any established rules, policies or procedures of CHSU; 16 – conduct which calls into question the student's fitness to practice medicine; 17 – disruptive behaviors that detract from learning by other students; and 18 – disrespectful behaviors toward a campus community member). Copies of the Policy, the CHSU Code of Ethics and the Student Conduct and Professionalism Policy are contained in the 2021-2022 Catalog and are also enclosed with this letter.

Your conduct was unprofessional and caused harm to CHSU students. You have exposed both yourself and the University to possible litigation and claims for illegal harassment and discrimination.

Further, given your role as a future physician your conduct is very concerning. The American Association of Colleges of Osteopathic Medicine ("AACOM") has acknowledged the importance of diversity, equity, and inclusion of diverse populations in both medical education and clinical care settings.² The American Medical Association ("AMA") Code of Medical Ethics also makes clear that a physician shall treat others with "compassion and respect for human dignity and rights."³ Your conduct as a student doctor has fallen far below these professional, ethical standards.

Of additional concern is that numerous students interviewed in the investigation expressed significant fear of you, including fear for their personal safety and fear that you may harm others at school. This has negatively impacted the educational environment for CHSU COM students, including students other than the complainant raising the allegations against you.

¹ Section 1.e. regarding the comment to the Hmong guest speaker and section 4.d. regarding the exchange with the Fresno State Muslim Student Association were not considered in making this decision.

² AACOM Member Consensus Statement on Diversity, Equity & Inclusion, October 2021, accessed on November 11, 2021 at https://www.aacom.org/docs/default-source/default-document-library/consensus-statement_final.pdf?sfvrsn=441c0597_2.

³ AMA Code of Ethics, June 2001, accessed on November 11, 2021 at <https://www.ama-assn.org/sites/ama-assn.org/files/corp/media-browser/principles-of-medical-ethics.pdf>.

The University is required to take steps to stop and prevent the recurrence of the misconduct you have engaged in. The following corrective action is being taken: You are dismissed from CHSU College of Osteopathic Medicine for the misconduct described in factual findings sections 1a. – 1.d, 1.f. – 1.j., and 4.a – 4.c.

Conclusion & Anti-Retaliation Notice

Ms. Carlita Romero-Begley will be in touch with you regarding next steps following this decision. The investigation process for these matters is now concluded. However, retaliation is still prohibited. You may not retaliate against anyone for participating in the grievance process. Similarly, you may not be retaliated against. If you feel you have been retaliated against, or if you are accused of retaliation, you should notify Ms. Romero-Begley immediately.

We appreciate your participation in the grievance process. If you have questions regarding this letter, please contact Ms. Romero-Begley at cromerobegley@chsu.edu.

Sincerely,



Mark Okamoto, PharmD
Dean of the College of Pharmacy & Chief Academic Officer
Professor of Clinical Sciences
Professor of Social & Economic Sciences
California Health Sciences University

cc: Ms. Carlita Romero-Begley, Title IX Coordinator & VP of Human Resources (via email)
Mr. JR Oviedo, Esq., Attorney for Nick Sciaroni (via email)

EXHIBIT "E"

J.R. Oviedo**
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Clovis, CA 93612
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Email: jro@oviedolawgroup.com

OVIEDO LAW GROUP, INC.
Attorneys and Counselors at Law

November 24, 2021

(SENT VIA E-MAIL AND U.S. MAIL)

Ms. Carlita Romero-Begley
Title IX Coordinator & VP of Human Resources
120 N. Clovis Avenue
Clovis, CA 93612

Re: Respondent's Notice of Decision (Grievance Process 1 – Race-Based Harassment & Discrimination)

Dear Ms. Romero-Begley:

On November 19, 2021, California Health Science University College of Osteopathic Medicine ("CHSU COM") served Student Doctor Nicholas Sciaroni its "Notice of Decision under the Grievance 1 process" ("Notice"). In particular, the Notice found as follows.

Finding 1: You made derogatory remarks regarding people of color, immigrants, based on ethnicity, and comments which are anti-Semitic, which made other CHSU COM students uncomfortable.

Finding 2: You made inappropriate comments regarding race on your YouTube channel . . .

From these findings, CHSU COM decided to dismiss Mr. Sciaroni from the University.

According to the University's Grievance 1 hearing procedures, Mr. Sciaroni is not entitled to an in-person hearing. However, because the university consolidated the Grievance 1 and 2 investigations, it has unilaterally agreed to hear Mr. Sciaroni's Grievance 1 complaint within the Grievance 2 process. The University outlined the procedure for the Grievance 1 Decision as follows:

Re: Respondent's Notice of Decision (Grievance Process 1 – Race-Based Harassment & Discrimination)

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... given the other sex-based allegations pending against you which already require a Grievance Process 2 hearing, in this unique situation the University has agreed to permit review of Dr. Okamoto's Grievance 1 decision by the independent hearing officer. This review will be conducted December 13-17, 2021, along with the Grievance Process 2 hearing. The hearing regarding Dr. Okamoto's decision will be informal, rules of evidence will not apply, and direct questioning of witnesses will not be permitted. The hearing officer will review the investigator's findings, Dr. Okamoto's decision, and relevant evidence. The hearing officer will be permitted to call witnesses at the hearing related to Dr. Okamoto's decision at the hearing officer's discretion.

The Grievance 1 Process Lacks Adequate Due Process Considering the Imposed Penalty

Despite offering Mr. Sciaroni an "independent" hearing officer to review Dr. Okamoto's decision, the University has failed to provide Mr. Sciaroni adequate due process. Where a student faces a severe sanction in a disciplinary proceeding and the university's decision depends on witness credibility, the accused student must be afforded an in-person hearing in which the student may cross-examine critical witnesses to ensure the adjudicator has the ability to observe the witnesses' demeanor and properly decide credibility. (*Boermeester v. Carry* (2020) 49 Cal.App. 5th 682,705; *Doe v. Occidental College* (2019) 40 Cal. App. 5th 208, 224.) "The notion that a single individual, acting in these overlapping and conflicting capacities, is capable of effectively implementing an accused student's right of cross-examination [] ignores the fundamental nature of cross-examination: adversarial questions at an in-person hearing at which a neutral fact finder can observe and assess the witness' credibility." (*Doe v. Allee* (2019) 30 Cal. App.5th 1036, 1068.) Moreover, "... 'cross-examination' implemented by a single individual acting as investigator, prosecutor, fact finder and sentencer, is incompatible with adversarial questioning designed to uncover the truth. It is simply the extension of the investigation and prosecution itself." (*Ibid.*) Accordingly, Mr. Sciaroni respectfully requests that the University allow the hearing officer during the Grievance 1 process *de novo* review and the opportunity for cross-examination.

Insufficient Evidence to Establish A Denial of Equal Access to Education

Mr. Sciaroni denies that he discriminated against anyone with an impermissible motive or acted with animus because of their race, religion, sex, gender, sexual orientation or identity while attending the University or elsewhere. Mr. Sciaroni asserts that he exercised his First Amendment rights

Re: Respondent's Notice of Decision (Grievance Process 1 – Race-Based Harassment & Discrimination)

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guaranteed under the Federal and State Constitutions when commenting in class or elsewhere¹. (See U.S. Const. Amend. I; Cal. Const. Art. I, § 9.) Mr. Sciaroni contends that any perceived offensive speech did not deny anyone at the University their equal access to the University's resources and opportunities. (*Davis v. Monroe County Bd. Of Educ.*, (1999) 526 U.S. 629, 631.) Conspicuously missing from the Grievance 1 decision is any reference to evidence supporting a finding that Mr. Sciaroni's alleged opinions, comments, beliefs or conduct denied anyone equal access or opportunities offered by the University. The Notice merely provides instances of unpopular expressions of opinion by Mr. Sciaroni that he refuted or others misinterpreted. Even if assumed true, Mr. Sciaroni's opinions alone are insufficient to warrant dismissal. For example, the University's evidence in support of "Finding 1" states:

You did not expressly state "black people are inferior" or that you "do not like people of color." However, you did make statements and engaged in conduct on-campus and online that led other students to become offended and believe that you think African Americans are inferior and do not like people of color.

In support the "Finding 2" the University stated in part:

. . . classmates expressed concern about you becoming a physician given the comments you made about mixed race individuals. At least two additional students became aware of the comments you made and were also offended; these students did not watch the video because they did not want to be associated with viewing that type of race-based content.

Equal access to education and free speech are compatible notions that the University must respect and defend as a recipient of federal funds. The Grievance 1 Notice, without providing the supporting evidence on which it relies, attributes statements to Mr. Sciaroni that is admittedly a cultural outlier. These statements, despite unpopular, are nevertheless protected speech and do not alone violate Titles VI or IX. Prohibited harassment under Titles VI and IX must include something beyond the mere expression of views, words, symbols or thoughts that some person finds offensive.

¹The First Amendment is neither "left-wing" or "right-wing". It can be used to push for social and political change, or to oppose change. The First Amendment is for everyone.

Re: Respondent's Notice of Decision (Grievance Process 1 – Race-Based Harassment & Discrimination)

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Evidence of Mr. Sciaroni's Social Media Postings Are Irrelevant and Should be Stricken From the Record

Student Doctor Eric Pendergrass unilaterally searched for and offered to the University Mr. Sciaroni's social media postings. In an e-mail to the University, Mr. Pendergrass wrote:

But like I said: a lot of it is just his personal social media, but knowing that informs a lot of what is said in person. And I know a lot of what is said in person is hearsay. I will say a LOT of them have been taken down, not sure how/why but they just don't exist. I do know that some students have downloaded them so they are still around. Also I know that personal beliefs and opinions are sacred and belong solely to the person. But this type of thinking [] is really scary.

I know ALL of this has been shared with the administration multiple times. So I doubt any of this stuff is new. I just don't think anyone cares, or worse some people think students are too sensitive. Regardless, all of this could really hurt the school; if not now, in the future when this person is practicing medicine with these beliefs.

Because Mr. Pendergrass and others sought out Mr. Sciaroni's social media and willingly exposed themselves to the perceived offensive speech, it is not relevant, and should not be considered, in determining whether Mr. Sciaroni denied anyone equal access to education. More directly, Mr. Pendergrass does not allege that Mr. Sciaroni has denied him or anyone else equal access to the University because of these postings. Instead, Mr. Pendergrass expresses his concern that Mr. Sciaroni's disfavored opinions could "hurt the school['s]" reputation. However, Congress did not intend for Titles VI or IX to protect the University's reputation and cannot form a basis or motive for Mr. Sciaroni's dismissal. Short of denying anyone equal access to their education, the University is punishing Mr. Sciaroni for his alleged unpopular comments, ideas and beliefs only.

The University Harbors Impermissible Motives in Its Decision to Dismiss Mr. Sciaroni

The University dismissed Mr. Sciaroni from continuing his medical education due to alleged discriminatory comments, beliefs and ideas. As explained by the University's attorney, Ms. Ashley Emerzian, Mr. Sciaroni's dismissal would preclude him from admission elsewhere and, thus, he should simply withdraw to avoid any adverse outcomes. Ironically, the University would offer Mr.

Re: Respondent's Notice of Decision (Grievance Process 1 – Race-Based Harassment & Discrimination)

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Sciaroni the opportunity to withdraw and preserve any chance for admission despite concluding:

. . . given your role as a future physician your conduct is very concerning. The American Association of Colleges of Osteopathic Medicine (“AACOM”) has acknowledged the importance of diversity, equity, and inclusion of diverse populations in both medical education and clinical care settings. The American Medical Association (“AMA”) Code of Medical Ethics also makes clear that a physician shall treat others with “compassion and respect for human dignity and rights.” Your conduct as a student doctor has fallen far below these professional, ethical standards.

Of additional concern is that numerous students interviewed in the investigation expressed significant fear of you, including fear for their personal safety and fear that you may harm others at the school. This has negatively impacted the educational environment for CHSU COM students, including students other than the complainant raising the allegations against you.

If the University sincerely believed that Mr. Sciaroni’s alleged comments and beliefs fell below professional/ethical standards or that he posed a “significant” threat to others, then the University could not condone his admission elsewhere. Yet, Ms. Emerzian’s offer for Mr. Sciaroni to withdraw from the University without negatively affecting his student record infers either the University is willing to push Mr. Sciaroni into another unsuspecting medical school despite his alleged danger to others; or, more likely here, the preponderance of the evidence did not show that Mr. Sciaroni’s alleged comments or beliefs effectively denied others equal access to the University’s resources and opportunities as required under Title VI and IX. Because Mr. Sciaroni’s alleged comments and beliefs nevertheless remain unpopular among certain individuals at the University, his exclusion from the school is the proverbial path of least resistance.

Considering the paucity of evidence to show Mr. Sciaroni’s ideas, beliefs or opinions denied anyone at the University equal access to education. It appears that the University’s interests lie in the preservation of political correctness rather than academic or individual freedom. The University should encourage academic discourse, diverse opinions and expressions of ideas among its students no matter popularity. By dismissing Mr. Sciaroni, the University has exercised the “heckler’s veto” in fear that failing to quash his unpopular ideas, opinions or beliefs could adversely affect its own

Re: Respondent's Notice of Decision (Grievance Process 1 – Race-Based Harassment & Discrimination)

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reputation.

Moreover, the Grievance 1 Notice concludes, in part:

You have exposed both yourself and the University to possible litigation and claims for illegal harassment and discrimination.

This statement is inflammatory, prejudicial and irrelevant to the Grievance 1 analysis and should be stricken. Nevertheless, it does provide insight into the University's actual motives in dismissing Mr. Sciaroni. Parenthetically, under Title IX, a private cause of action for "student-on-student" harassment is only actionable where the "harassment is so severe, pervasive, and objectively offensive that it effectively bars the victim's access to an educational opportunity or benefit." (*Davis, supra*, 526 U.S. at p. 633.) The Grievance 1 Notice fails to articulate when, how or where Mr. Sciaroni denied any student "access to an educational opportunity or benefit." It merely provides an amalgamation of diverse statements found offensive by a certain segment of the University. Thus, Mr. Sciaroni's alleged offensive comments and beliefs are not actionable as described in the Grievance 1 Notice.

Conclusion

Based on the above, we object to the procedures offered for the Grievance 1 hearing. The offered procedures violate fundamental fairness and due process by denying Mr. Sciaroni access to the evidence presented against him, deny him a right to cross examination and precludes the finder of fact from determining credibility. In short, the Grievance 1 process presently offered provides Mr. Sciaroni a hearing in a name only.

We, therefore, respectfully request that the University provide Mr. Sciaroni the due process commensurate with the imposed penalty of dismissal. Accordingly, we demand that the University Grievance 1 procedure include the following: (1) *De Novo* review of the Grievance 1 determination to dismiss him from the University; (2) Production of all documents the University relied upon in dismissing Mr. Sciaroni before the hearing date; and, (3) Allow for cross examination of complainants and witnesses to explore whether Mr. Sciaroni has denied them equal access to education and the basis for their alleged "significant fear" of him.

Also, we have attached and incorporate herein Mr. Sciaroni's "Response to Finding in Investigative Report" prepared by Investigator Mr. Roy Santos with additional evidence. (See Exhibit "A.")

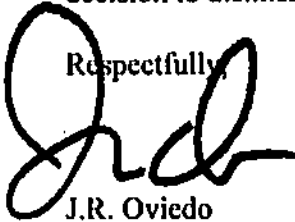
Re: Respondent's Notice of Decision (Grievance Process 1 – Race-Based Harassment & Discrimination)

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Lastly, Mr. Sciaroni respectfully requests that the University preserve all documents and written communications concerning: (a) the initial complaints against Mr. Sciaroni; (b) the investigation of Grievances 1 and 2; (c) the selection of the hearing officer for Grievances 1 and 2; and, (d) the decision to dismiss Mr. Sciaroni from the University.

Respectfully,



J.R. Oviedo

JRO/mtf

cc: Ashley Emerzian (E-Mail Only)

**** Licensed to practice in California and Washington, D.C.**

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EXHIBIT "F"

December 3, 2021

Via Email Only: sciaroni2267@chsu.edu

Nick Sciaroni
Student Doctor
sciaroni2267@chsu.edu

Re: Response to Objections to Grievance I Hearing Procedures for Independent Review of Respondent's Notice of Decision (Grievance Process I – Race-based Harassment & Discrimination)

Dear Mr. Sciaroni,

The purpose of this letter is to respond to the letter submitted on your behalf by your attorney, Mr. JR Oviedo, on November 24, 2021, regarding the Notice of Decision for the Grievance Process I – Race-Based Harassment & Discrimination.

Specifically, this letter serves as notice that during the already scheduled hearing the week of December 13-17, 2021, before independent hearing officer Mr. Benjamin Rosenbaum, the University will provide you with the opportunity to cross-examine witnesses that are relevant to facts in dispute where credibility of witnesses is critical to the outcome of the race-based harassment Grievance Process I decision, as explained further below.

Background Information

On June 9, 2021, the University received a concern that alleged you had engaged in race-based harassment from Mr. Eric Pendergrass, a CHSU COM OMSII student. Mr. Pendergrass also raised concerns that you had engaged in allegations of sex-based harassment. As set forth in the Notice of Complaint sent to you on June 18, 2021, the University's Discrimination, Harassment, Sexual Misconduct, and Title IX Policy and Procedures ("Policy") governed the University's response to these reports of alleged race-based and sex-based harassment. The June 18, 2021, Notice explained that the complaint was being processed under the Policy's Grievance Process I.

Under the Policy, the University retained an external investigator, Mr. Roy Santos, to investigate these allegations. The investigation began during summer 2021 and continued into the Fall 2021 semester. In the course of the investigation, a number of your classmates were interviewed, and additional concerns were raised regarding your alleged misconduct. This included additional complaints of race-based harassment, additional complaints of sex-based harassment and sexual touching, and concerns that you had engaged in other unprofessional conduct.

During Mr. Santos' investigation, the nature of the sex-based harassment allegations against you became more severe and pervasive. As a result, the University was required under federal law to notify complainants of the option of filing a Formal Complaint of Federal Title IX Sexual Harassment, as defined in the policy. Four complaints of Formal Federal Title IX Sexual Harassment were filed as follows: CHSU COM OMSII student Samantha Phillips on August 6, 2021, and August 27, 2021; CHSU COM OMSII student Mr. Pendergrass on September 10, 2021; and by me as the Title IX Coordinator on behalf of CHSU COM OMSII student Ms. Dina Shakran (collectively, "Formal Title IX Complaints"). You received notice of the Formal Title IX Complaints on September 27, 2021, which explained they were to be processed under Grievance Process 2, as set forth in the Policy. The investigation continued, and a draft Grievance Process 2 report was provided to you and all other parties on November 15, 2021. Following your submission of additional evidence on November 24 and 26, 2021, on December 2, 2021, the investigation phase was extended for good cause to allow Mr. Santos time to review the information and conduct additional interviews, as needed. As explained in my letter to you on December 2, 2021, the Grievance Process 2 hearing previously scheduled for December 13-17, 2021, will be rescheduled once the investigation process concludes.

With regard to allegations of race-based harassment, on September 27, 2021, you received a Notice of Amended Allegations (Grievance Process 1) setting forth the new allegations of race-based harassment shared with Mr. Santos by other witnesses. During our in-person meeting on September 27, 2021, I explained to you that these allegations would continue to be processed under Grievance Process 1 while the Formal Federal Title IX Complaints were subject to different procedures under Grievance Process 2.

You were interviewed by Mr. Santos with the presence of your support person and attorney, Mr. JR Oviedo, Esq., on October 22, 2021, and October 25, 2021. These interviews provided you an initial opportunity to respond to the allegations against you under both Grievance Process 1 (race-based) and Grievance Process 2 (Formal Title IX Complaints), as well as to additional allegations that you engaged in unprofessional conduct.

Under the Policy, the decision-maker for the Grievance Process 1 complaints of race-based harassment is the Assistant/Associate Dean for Student Affairs. Following Dr. Susan Ely's resignation in November 2021, Dr. Anne VanGarsse was appointed Interim Associate Dean for Student Affairs. You were notified that Dr. VanGarsse would be the decision-maker for Grievance Process 1 on November 4, 2021.

During your interview with Mr. Santos, you raised concerns you were being bullied and/or harassed. On November 9, 2021, I emailed you requesting a meeting regarding your concerns. You responded to my request for a meeting on November 15, 2021, via email with a written complaint alleging that you had been bullied, harassed, and retaliated against. Your complaint included allegations against Dr. VanGarsse and others in the COM administration. An investigation into your complaint was opened, and you received notice of that investigation on November 17, 2021. Out of an abundance of caution, because your complaint raised concerns related to Dr. VanGarsse and others in the COM administration, the University appointed Dr. Mark Okamoto, Dean of the College of Pharmacy, to serve as the Grievance Process 1 decision-maker instead of Dr. VanGarsse.

On November 19, 2021, Dr. Okamoto issued his decision on the Grievance Process 1 race-based complaints. Dr. Okamoto determined that you violated the Policy and dismissed you from the University, as set forth in full in his decision letter.

**Request for Hearing & Cross-Examination Regarding Race-Based Harassment
Under Grievance Process 1**

At various points in the process, your support person, Mr. JR Oviedo, Esq. has requested a hearing on your behalf. You also requested a hearing for Grievance Process 1 in your email to me on November 15, 2021.

The Policy does not provide a hearing for race-based harassment complaints under Grievance Process 1. Nevertheless, the University decided to grant your request for a hearing to provide you with an enhanced level of due process. On November 19, 2021, I provided you with Dr. Okamoto's decision via email. My email explained the Grievance Process 1 hearing would take place the week of December 13-17, 2021, with Mr. Rosenbaum as the hearing officer, and outlined general procedures for the Grievance Process 1 hearing. On November 24, 2021, Mr. Oviedo submitted a letter to me requesting that the hearing procedures include an "in-person" hearing with "cross-examination of witnesses."

During the hearing December 13-17, 2021, the University will provide you a live hearing with cross-examination of witnesses that is relevant to facts in dispute where credibility of witnesses is critical to the outcome of the race-based harassment Grievance Process 1 decision. Mr. Rosenbaum will serve as the finder of fact and will make credibility assessments. The hearing will be live, but witnesses will appear via video conferencing and will not be required to be in the same room with you or the hearing officer. You will not be permitted to question witnesses directly, but your support person Mr. Oviedo may question witnesses on your behalf.

Preparation for Live Hearing with Cross-Examination

To assist you in preparing for hearing, a DropBox portal has been created with the following information:

1. Dr. Okamoto's Decision Letter Dated November 19, 2021, which outlines in numbered order the findings of fact from Mr. Santos' investigation related to the race-based complaints of harassment against you;
2. A witness key, which lists the witnesses for each of the findings of fact contained in Dr. Okamoto's Decision Letter;
3. Documentary evidence relevant to the findings of fact contained in Dr. Okamoto's Decision Letter;
4. The responses you submitted on November 24, 2021, and November 26, 2021, that you asked the hearing officer to consider;
5. The Dreadspyke video referenced in Dr. Okamoto's Decision Letter (Findings paragraphs 4.a. – 4.c.); and
6. Audio files referenced in the documentary evidence at NS GI Hearing Documents 019.

You can access the DropBox portal for this matter as follows:

- Link: https://www.dropbox.com/sh/6yxq2itgiq6dos7/AAA0bgY_Pxpdxs8_tnwQwqqXa?dl=0
- Password: G1CHSU2021!

You are not permitted to share this password with anyone other than your support person, Mr. Oviedo. Importantly, neither you nor Mr. Oviedo is permitted to copy, download, duplicate, photograph, screen shot (or any other form of capturing the information) or distribute the evidence collected in this matter. If you do so, it is a violation of the University's expectations for conduct, and you could face disciplinary measures up to and including dismissal from the University.

If you would like, you are free to submit questions of witnesses you have in advance of the first day of the hearing on December 13, 2021, but you are not required to do so. If you do choose to submit questions, you can send them to me via email at cromerobegley@chsu.edu.

If you have any additional questions, please let me know.

Sincerely,

CALIFORNIA HEALTH SCIENCES UNIVERSITY



Carlita Romero-Begley, PHR, SHRM-CP
Vice President of Human Resources
Title IX, Equity and Diversity Coordinator

cc: Dr. Mark Okamoto, Dean of the College of Pharmacy (via email)
Ms. Zea Moullet, Director of Student Affairs and Enrollment (via email)
Mr. JR Oviedo, Esq., Attorney & Support Person for Nick Sciaroni (via email)
Mr. Roy Santos, Investigator (via email)
Mr. Benjamin Rosenbaum, Hearing Officer (via email)

EXHIBIT "G"

J.R. Oviedo**
401 Clovis Avenue, Suite *208*
Clovis, CA 93612
Telephone: (559) 226-6200
Facsimile: (559) 432-5543

Email: jro@oviedolawgroup.com

OVIEDO LAW GROUP, INC.

Attorneys and Counselors at Law

December 8, 2021

(SENT VIA E-MAIL AND U.S. MAIL)

Ms. Ashley Emerzian
Emerzian Shankar, Inc.
6559 N. Riverside Drive
Fresno, CA 93722

Ms. Carlita Romero-Begley
Title IX Coordinator & VP of Human Resources
120 N. Clovis Avenue
Clovis, CA 93612

Re: Appearance of Impropriety by the University

Dear Mmes. Emerzian and Romero-Begley:

The Grievance 1 procedure states as follows:

J. Appeal Rights Either the Complainant or Respondent may appeal the Notice of Decision or Notice of Student Hearing Decision in writing submitted to the Title IX coordinator within five (5) business days from the date of the notice based on one or both of the following criteria [] (2) procedural errors or unfairness, including, but not limited to, bias of investigator . . . hearing officer.

Without information about the hearing officer, as requested, we cannot make such arguments if viable.

Pursuant to the above, we sent an email to Ms. Emerzian requesting information about the hearing officer Benjamin C. Rosenbaum and his employer. Our purpose for the email was to learn relevant information that could potentially show bias or prejudice for or against the University or Mr. Sciaroni. The email stated:

Re: Appearance of Impropriety by the University

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Ashley:

Good morning, can you provide me information about the hearing officer and his firm Lozano Smith. I would like to know how many times the University has retained Lozano Smith for all matters, an approximation is fine. Additionally, the hearing officers experience in these matters (number of cases heard) along with a percentage of his findings for the complainant and for the respondent. Lastly, please preserve all correspondence concerning the retention of Lozano Smith.

In response to the email, Ms. Emerzian wrote:

The identity of the hearing officer – Mr. Benjamin Rosenbaum – was provided weeks ago. No additional information regarding Mr. Rosenbaum is in the University records relevant to your request. As a courtesy, I am attaching his resume for you here which should clear up any confusion.

Ms. Emerzian additionally responded:

Also as explained in my email to you this morning, the University does not have any additional information about the hearing officer responsive to your requests.

Again, the purpose of our request concerning the hearing officer was to learn whether any evidence existed that could potentially show bias, prejudice or conflicts of interests.

After receiving Mr. Rosenbaum's resume, we conducted a brief internet search concerning his employment history. On our review we discovered the following.

Mr. Rosenbaum graduated from U.C. Davis School of Law in 2008 and Lozano Smith employed him in the Fresno office from 2012 to 2016.

As part of our review, we learned that Lozano Smith employed counsel for the University, Ashley Emerzian, in the Fresno office during the same period. We also learned that, like Mr. Rosenbaum, Ms. Emerzian attended U.C. Davis School of Law at the same time.

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We learned that the Title IX Investigator, Mr. Roy Santos, worked at Lozano Smith in its Fresno office from 2014 to 2016.

Similarly, we learned that Lozano Smith employed the University's Human Resource Vice President, Carlita Romero-Begley from 2008 to 2019.

We requested information from the University concerning Mr. Rosenbaum's background to determine whether a possibility of bias, prejudice or conflicts of interest existed. In response, the University provided Mr. Rosenbaum's resume but did not reveal his prior professional (and possibly personal) relationships with Ms. Romero Begley, Mr. Santos and Ms. Emerzian.

The concept of "appearance of impropriety" is an ethical consideration, even though it is not included in the Rules of Professional Conduct. However, the American Bar Association Model Code of Professional Responsibility, canon 9, provides that "[a] lawyer should avoid even the appearance of impropriety."

Here, Lozano Smith employed the Title IX Coordinator (Carlita Romero-Begley), University Counsel (Ashley Emerzian), Title IX Investigator (Roy Santos) and Grievance 1 Hearing Officer (Benjamin C. Rosenbaum) during the same time.

NAME	EMPLOYER	POSITION	DATE OF EMPLOYMENT
Carlita Romero-Begley	Lozano Smith	Human Resources	2008-2019
Ashley Emerzian	Lozano Smith	Attorney	2013-2016
Benjamin C. Rosenbaum	Lozano Smith	Attorney	2012-2016
Roy Santos	Lozano Smith	Attorney	2014-2016

When making our inquiry regarding potential bias, prejudice or conflicts of interest, Ms. Emerzian responded:

You are mistaken regarding Lozano Smith's involvement here. No one from Lozano Smith is involved in any grievance processes related to [Mr. Sciaroni].

Re: Appearance of Impropriety by the University

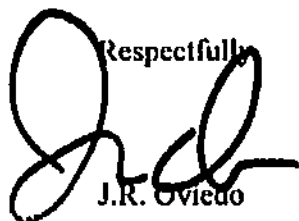
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Ms. Emerzian's answer, although technically true, is disingenuous considering that each of the above-named persons were colleagues at Lozano Smith. Ms. Emerzian's willful failure to disclose this "circle of friends" appears improper given our information request. Moreover, even if our request were not specific to the other persons, Ms. Emerzian should have disclosed any prior employment relations between persons involved in the Title IX investigation and hearing. Such information is relevant to potential conflicts of interests and bias. In short, the University should have voluntarily revealed the "circle of friends" given Mr. Sciaroni's penalty and due process rights.

Ms. Emerzian's failure to disclose this information places a cloud over the entire process. We, therefore, request that the University hire a new investigator to review Mr. Santos' investigation and conclusions and decide whether additional information is needed. We request that the University remove the hearing officer, Benjamin C. Rosenbaum. Given the above, we suggest that the University offer three possible independent hearing officers from which the University and Mr. Sciaroni may strike one person with the remaining person hearing the Grievance 1 and 2 complaints.

Respectfully,

A handwritten signature in black ink, appearing to read "J.R. Oviedo". The signature is stylized with large loops and a long horizontal stroke at the end.

J.R. Oviedo

JRO/mtf

**** Licensed to practice in California and Washington, D.C.**

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EXHIBIT "H"

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OVIEDO LAW GROUP, INC.
Attorneys and Counselors at Law

December 12, 2021

(SENT VIA E-MAIL ONLY)

Ms. Ashley Emerzian
Emerzian Shankar, Inc.
6559 N. Riverside Drive
Fresno, CA 93722

Ms. Carlita Romero-Begley
Title IX Coordinator & VP of Human Resources
120 N. Clovis Avenue
Clovis, CA 93612

Re: Appearance of Impropriety by the University

Dear Mmes. Emerzian and Romero-Begley:

I have received your email in response to my letter outlining the “appearance of impropriety” by you and the University. Although you claim that, *[t]he investigator and the hearing officer in this matter do not have [] any bias in favor of or against complainants or respondents generally.*” This self-serving statement is evidence of nothing. Our complaint stems from your failure to disclose your relationship with Mr. Rosenbaum when we inquired about his retention by the University as the hearing officer. Your prior relationship is/was relevant to our analysis of bias before, during and after the upcoming hearing. You should know this and, yet, you chose not to reveal the same.

Importantly, it was our investigation that revealed yours, Ms. Romero-Begley, Mr. Rosenbaum and Mr. Santos’ prior employment relationship. Considering there is an ongoing investigation concerning bias by the University’s administration against Mr. Sciaroni, your failure voluntarily to disclose your relationship to the Title IX coordinator, Title IX investigator and the Title IX hearing officer appears suspicious and intentional. Again, it is an appearance of impropriety that you must avoid and you did not.

You state, as part of your explanation for hiring your “circle of friends”:

Particularly in the Central Valley, as a group we attorneys value our strong professional connections to the region and our local collegiality. This is certainly not a violation of any rule of professional conduct, nor is it an appearance of impropriety.

“Collegiality” means, “companionship and cooperation between colleagues who share responsibility.” It is exactly your admitted “collegiality” that we want to avoid here.

Moreover, your explanation for hiring your “circle of friends,” you stated:

Education law is a niche area of practice and has a small number of attorneys practicing in the area here locally in what is already a small local bar.

Sexual and racial harassment is not unique to education law. Labor and employment attorneys frequently investigate, litigate and officiate over these issues. I am confident that attorneys from Libbert Cassidy, Litter Mendelson and the Hatmaker Law Group, to name a few in Fresno, were capable to investigate and hearing the Grievance 1 and 2 complaints against Mr. Sciaroni. Furthermore, since Mr. Santos interviewed witnesses via the internet, you could have looked outside the geographic region for qualified attorneys.

We renew our request that you remove Messrs. Santos and Rosenbaum from Mr. Sciaroni’s case. We expect that you have shared our prior letter and will share this letter with them so that they may decide their own appropriate action. We also ask that you share our request that they retain and preserve all writings relevant to their participation in Mr. Sciaroni’s Grievance 1 and 2 complaints.

Re: Appearance of Impropriety by the University

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We additionally renew our request that the University stay Mr. Sciaroni's Grievance 1 hearing pending the conclusion of the Grievance 2 investigation and that the matters again be consolidated and heard together.

Respectfully,

/s/ *J. R. OVIEDO*

J.R. Oviedo

JRO/mtf

**** Licensed to practice in California and Washington, D.C.**

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