

EXHIBIT B<sub>(H)</sub>



# TEXAS SOUTHMOST COLLEGE

80 Fort Brown • Brownsville, Texas 78520 • (956) 295-3770 • Fax (956) 948-9459 • www.tsc.edu

May 18, 2018

U.S. Equal Employment Opportunity Commission  
San Antonio Field Office  
5410 Fredericksburg Rd, Suite 200  
San Antonio, TX 78229

Dear Sir/Madam,

Texas Southmost College submits this position statement and supporting documentation pursuant to the Texas Workforce Commission Civil Rights Division's request on December 4, 2017.

**Address each alleged discriminatory act and your position regarding it and provide copies of documents supporting your position and/or version of the events.**

Dr. Imeh Affiah was employed by Texas Southmost College on September 1, 2016. His title/position was Dean of Healthcare, Career, and Technical Education. Dr. Imeh Affiah was simultaneously given a Notice of Nonrenewal and Notice of Administrative Leave with Pay on February 22, 2017 (Attachment 1). He was placed on administrative leave with pay due to multiple pending investigations of misconduct against him. Dr. Affiah's wages and benefits were not affected during the period of administrative leave with pay. His contract was non-renewed effective September 1, 2017.


Dr. Affiah alleges that an administrator, Dr. Marti Flores, with the same salary scale as his, was given an opportunity to continue being paid the same salary while working at a lower level position. He claims that Dr. Flores was still in this position, in the same salary scale, the time he left the college. He claims he was treated differently when his contract was non-renewed. The facts are as follows:

- September 1, 2013 - Dr. Marti Flores was initially employed at Texas Southmost College as Dean of Healthcare, Career, and Technical Education at a fixed rate of pay of \$90,000 – Attachment 2
- September 1, 2014 - Dr. Marti Flores was promoted to Vice President of Instruction for Texas Southmost College with a fixed rate of pay of \$132,715 – Attachment 3
- August 8, 2016 - Dr. Marti Flores was advised by Mike Shannon, Interim President, that her contract as Vice President of Instruction would not be renewed – Attachment 4
  - Dr. Marti Flores' final rate of pay as Vice President of Instruction was \$135,369.00 – Attachment 5
- August 9, 2016 - Dr. Marti Flores applied for Instructor, Radiologic Technology – Attachment 6

*The College District prohibits discrimination, including harassment, against any employee on the basis of race, color, religion, gender, national origin, age, disability, or any other basis prohibited by law.*

- August 22, 2016 – Dr. Marti Flores was appointed as Instructor, Radiologic Technology with a salary for the period fixed at \$67,786.00. Attachment 7
- September 1, 2016 – Dr. Affiah was employed by TSC as Dean of Healthcare, Career, and Technical Education with a salary for the period fixed at \$88,992.00 – Attachment 8
- September 1, 2017 – Dr. Affiah's contract was non-renewed – Attachment 1

The facts show that Dr. Marti Flores and Dr. Affiah were never on the same pay scale (Attachment 9). He was a Divisional Dean and she was a Vice President of Instruction. The facts also show that Dr. Marti Flores was appointed as Instructor, Radiologic Technology with a lower salary.

 Provide a description of the organization; include the organization's legal name and address, the name, address, title, telephone number and email address of the person responsible for responding to the charge, the primary nature of the business, and the number of employees. A staffing or organizational chart is also useful in helping to focus the investigation.


Texas Southmost College  
80 Fort Brown  
Brownsville, Texas 78520  
Lissa Frausto, Chief Human Resources Officer  
(956) 295-3771  
lissa.frausto@tsc.edu  
Higher education/community college  
Number of employees: 520

**Provide any applicable practices, policies or procedures applicable to the allegations in the charge.**

DDA Legal & Local – Term Contracts  
DH Local – Employee Standards of Conduct  
DMAB Local – Non Renewal  
DOA Legal & Local – Employee Welfare, Freedom from Discrimination, Harassment, and Retaliation

**Identify any individuals other than the Charging Party who have been similarly affected by these practices, policies or procedures; describe the circumstances in which the practices, policies, or procedures have been applied.**

None.

 **Explain why individuals who were in a similar situation to the Charging Party were not similarly affected.**  
Not applicable.

**Identify official(s) who made decisions or took action relating to the matter(s) raised in the charge.**

Mike Shannon, Interim President  
Texas Southmost College  
80 Fort Brown  
Brownsville, Texas 78520  
(956) 295-3603

 **Be specific about date(s), action(s) and location(s) applicable to this case.**

Dr. Affiah accumulated a series of complaints filed against him for various reasons. The complaints accumulated over a very short period of time, and began soon after his employment started with TSC. These complaints were

resolved. In January 2017, complaints were filed against Dr. Atman, alleging he sexually harassed female employees (Attachment 10 & 11). Mike Shannon, who was the Interim President of TSC at the time, determined that it was in TSC's best interest to place Dr. Affiah on administrative leave with pay pending an investigation into these allegations. Mr. Shannon also decided to not renew Dr. Affiah's contract. The College tried several times to get Dr. Affiah to respond to the allegations against him. Dr. Affiah failed to cooperate in the investigative interviews, which were concluded without his participation (Attachment 12).



**Provide internal investigations of the alleged incidents or grievance hearing reports.**  
Not applicable.

Respectfully,

A handwritten signature in cursive script that reads 'L. Frausto'.

Lissa Frausto, MBA, SPHR  
Chief Human Resources Officer  
956-295-3771

June 18, 2018

Imeh U. Affiah  
375 Media Luna Road, # 2401  
Brownsville, Texas 78521

Mr. Cesar O. Ostolaza  
Federal Investigator  
U.S. EEOC  
San Antonio Field Office  
5410 Fredericksburg Road  
Suite 200, San Antonio  
Texas 78229

Re: Charge No. 451-2018-00221 (Imeh U. Affiah v. Texas Southmost College)

Dear Mr. Ostolaza,

I am hereby responding to Texas Southmost responses to my complaints filed with the U.S. Equal Employment Opportunity Commission, San Antonio Field Office.

- (1) **Allegation of an administrator, Dr. Marti Flores (Hispanic) who was treated differently from me (black) when her contract was not renewed constitutes racial discrimination.**

**FACTS**

Ms. Lissa Frausto, the orchestrator of these discriminatory acts (please review the supporting documents already provided), which culminated in non-renewal of my employment contract gives a full employment history of Dr. Flores without providing the pertinent information. I must point out that my allegation on this particular issue does not reflect my feelings towards Dr. Flores as a person. I do not have anything against Dr. Flores as a person or professional. I am just using her case to compare the discriminatory treatment that I received from Texas Southmost College. I do not care about Dr. Flores' salary history at Texas Southmost College. As the Dean of the division that Dr. Flores was working, I had full access to the detailed budget of the division. In each program the salaries of the faculty and staff was clearly shown. When I reviewed the budget, I saw Dr. Flores' salary at the time to be almost \$90,000. Her position was not defined. I ran into Mr. Mike Shannon (Interim President) who explicitly indicated to me that he fired Dr. Flores and that he felt all the key administrators including him should have been fired. **He further indicated that he was forced to take the interim role as the President and as soon as a new President is hired, he will be gone. This has turned out to be true.** I told him that I saw Dr. Flores but we did not have time to talk and that I was planning on having a meeting with her. Mr. Shannon asked me why I wanted to have a meeting with her. I indicated to him that I feel I can assist me in developing new programs in the division based on her expertise and experience. Then, Mr. Shannon indicated to me that Dr. Flores was there temporary looking for employment somewhere and that the Board of Trustees asked him to do so. When I arrived at Texas Southmost, one of the first thing that I was asked to do was to sign and approve the new faculty and

staff documents in my division. There was nothing on Dr. Flores. I had almost a two-hour meeting with Dr. Flores within my first week as the Dean. I must point out she was my prospective supervisor that interviewed me. During the meeting, she indicated to me that she will do everything within her power to help me to be successful and asked me not to hesitate in seeking her advice at any time. I asked her if she needed as a reference for a job because Mr. Shannon had indicated to me that she was there temporary looking for a job. She responded "No, Dr. Affiah this is my home and I am not going anywhere".

### Legal Analysis:

At the time of my starting as the Dean, Dr. Flores was in the same salary bracket as I was based on the information I received from the division budget (as indicated above). If I had known that I would be in this position now, I would have kept a copy of the document. So, the information provided by Ms. Frausto is false and fabricated. The proof of this can be seen on the income tax return and W-2 forms of Dr. Flores. To verify the validity of these documents when Ms. Frausto decides to provide them, I request the EEOC to seek IRS confirmation. There was no documentation of Dr. Flores application for the position as Ms. Frausto has fabricated. There was no advertisement for the position with the fabricated salary as Ms. Frausto has provided. There was no evidence of interviews and selection for this fabricated position by Ms. Frausto as is done for every other position. So, when I reviewed the documents for new employees in this division, I did not see anything belonging Dr. Flores. I signed documents for the other employees who were hired before the fabricated dates provided by Ms. Frausto for Dr. Flores. It is very astonishing that Ms. Frausto was unable to suggest or provide these documents and information on Dr. Flores during mediation. So, it is convenient that given enough time, she could fabricate, amend documents and information now to suit her purpose.

Based on the facts provided above, Dr. Flores (Hispanic) was given opportunity to earn a living (regardless of the compensation) after termination by Mr. Mike Shannon (white). I (black) was not afforded the same opportunity. This is racial discrimination. I must emphasize again this treatment as discriminatory. Dr. Flores was still earning salary slightly higher than mine (but at the same salary bracket) as the Dean at a fabricated position by Ms. Frausto as Clinical Coordinator. The W-2 form (ending December 2016) of Dr. Flores confirmed by the IRS will prove this to be true. Please I request the EEOC to ask the Attorney for Texas Southmost College to provide the income tax returns of Dr. Flores for 2016 and 2017. I also request verification and confirmation from the IRS.

**(2). Provide a description of the organization; include the organization's legal name and address, the name, address, title, telephone number and e-mail address of the person responsible for responding to the charge, the primary nature of the business, and the number of employees. A staffing or organizational chart is also useful in helping to focus the investigation.**

**FACTS:**

The information provided by Ms. Frausto failed to indicate the organizational chart. Ms. Frausto was the Director of Human Resources for Texas Southmost College when I was working there. She was never my supervisor or the other Deans. Prior to my arrival at Texas Southmost College, I discussed my salary on the phone with Ms. Frausto. During the conversation, she asked me where I came from and it was then that the racial hatred and bias started. This was very obvious when we were discussing my salary. She insisted that I should be paid \$72,000.00/ year despite my credentials and years of experience, which was more than any of the existing Dean. Also, this was contrary to the amount that was advertised at \$85,000.00/yr. (starting). When I pointed out the advertisement amount to her, she said that she was not responsible for that because she was not working at Texas Southmost College when the position was advertised. When I arrived at the school, I discovered from Dr. Flores that her statements were false and that she was had been working at the institution and was responsible for the advertisement. Ms. Frausto also told me on the phone that she would discuss my salary concerns with the interim President, Mr. Mike Shannon and would get back with me. The following day or so, when I called her again, Ms. Frausto indicated to me that Mr. Mike Shannon advised her to start my salary at the same rate with the other two Deans. After one month on the job, I realized that salary she quoted to me was less than the other two Deans. Since I had already signed document I could not do anything about it. When I approached the interim President on this discrepancy, he told me that I should not worry that it will be corrected during the next pay raise. The pay raise that I did not survive to get. I was never told that Ms. Frausto was my supervisor but she consistently treated me as her subordinate. The same treatment was not extended to other Deans, rather they were treated with respect and dignity. This started from day one and what I did to Ms. Frausto to deserve such treatment is nothing more than the color of my skin.

**From the information that Ms. Frausto has provided, which I am seeing for the first time, the starting salary for the Dean of this Division was \$90,000.00 in September 2013.** Every year, according to the school's policy there a pay raise calculated on a certain formula that Ms. Frausto refused to share with me when I requested. Compare my credentials and years of experience to the Dean at that time, mine is better by far. Fast forward to September 2016, my credentials has been the same plus additional professional continuing education for the past 15 years and my years of experience have increased but my starting salary was less than \$90,000.00. This another evidence of discrimination that I never realized not until now.

**Legal Analysis:**

Ms. Frausto was never my supervisor but she assumed that role. In all these documents and information, it is Ms. Frausto responsible for carrying out these **discriminatory acts**. From the fabrication of the documents and false accusations leading to my termination of appointment, Ms. Frausto is the chief architect for my deplorable condition now.

**(3). Identify any individual other than the charging Party who have been similarly affected by these practices, policies or procedures, describe the circumstances in which the practices, policies, or procedures have been applied**

**FACTS:**

Ms. Frausto in her response explicitly indicates her discriminatory practices, policies or procedures were only applicable to the only none Hispanic, none White but Black person who has ever taken administrative role at this college. I was the only black person that the former President, Dr. Tecero made a bold move to employ at Texas Southmost College at a key position after a lengthy interview. Ms. Frausto upon seeing me in person started creating a hostile working environment for me and spreading false information about me to Mr. Mike Shannon and others on campus. Unfortunately, none of these individuals is willing to testify on my behalf because they need their jobs. When I learned from someone in the community, Mr. John Fiest (a friend to Mike Shannon) that Ms. Frausto was spreading false information about me to others, I tried to meet with Mr. Mike Shannon to discuss my concerns but he never met with me. Mr. Fiest also tried to arrange for Mr. Mike Shannon to meet with me but was unsuccessful. (Please refer to supporting document already provided for further details)

**Legal Analysis:**

The response from Ms. Frausto on this issue is self-explanatory. Her or their practices, policies or procedures probably apply to certain racial group different from Hispanic or white.

**(4). Explain why individuals who were in a similar situation to the charging party were not similarly affected.**

**FACTS:**

Once again Ms. Frausto response clearly shows others were not the targets of these discriminatory treatments. I was the only black in such a position and as a result I was the obvious attack. Unfortunately, I did not realize at the beginning else I would have looked for employment somewhere else. Now it is difficult for me to get employment under this cloud of none renewal of contract or termination.



**Legal Analysis:**

This is another evidence that I was treated differently from others of other races. This is **discrimination**.

**(5). Identify official(s) who made decisions or took action relating to the matter(s) raised in the charge.****FACTS:**

It is true that Mr. Mike Shannon was the Interim President and he was my supervisor.

**Legal Analysis:**

Ms. Frausto claimed that series of complaints were filed against me and this was the basis of my termination. As a supervisor myself, I would have reviewed each complaint with the complainant and the defendant with documentation before any final decision. This is the policy in any workplace. Moreover, where was the warning after one or two complaints? What and where are the policies on complaints? A person who has clearly demonstrated her racial bias fabricates documents and provides no concrete evidence but destroys someone's life through job termination shows **discrimination**.

**(6). Be specific about date(s), action(s) and location(s) applicable to this case.****FACTS:**

Ms. Frausto has failed to provide the fabricated documents for the so-called series of complaints that she claimed culminated in my termination. She claimed the complaints were filed immediately I started working and were resolved. She was asked to be specific about date(s), action(s), and location(s). No evidence of complaints filed from Ms. Frausto. She could not provide even one. She could not provide what the complaints were all about. She could not the name(s) of people who filed the complaint(s). She could not provide the information on how these complaints were resolved without my knowledge of who, when and what the complaints were all about. She could not provide the information on the remedies that these complainants sought. This is a matter of sound policy.

Ms. Frausto did not have the information above, then proceeded to recommending my termination to Mr. Mike Shannon, who never heard my version of Ms. Frausto allegations.

**Regarding the alleged sexual harassment, she indicated in her response**

I do not have the documents indicated as attachments 10 & 11 to address this issue properly. I am not sure whether these are another fabricated documents by Ms. Frausto. She claims now **female employees** filed so-called sexual harassment charges even after I left Texas Southmost College. At first, I heard rumors of a young female work-study student whom she refused to identify. Unfortunately, according to the

rumors, it was not the young lady did not file any complaint against me. It was a racially bias, hateful instructor (Ms. Amaral) who saw me in the tutoring room reported me to the Human Resources and spread this false news about me throughout the campus. I must point out that this same instructor in her quest to find any negative information about me claimed that she googled me. From the google that she discovered that I was sued by someone or agency. She discussed this in a public forum with other employers (see document attached-AMARAL). Unfortunately for her, I have never been sued by anyone or agency.

I have attached copies of the documents (20 pages) containing detailed information on how my attorney then and the TSC handled the matter. Ms. Frausto claimed that I refused to cooperate with the college in this matter. That is completely false and the documents that I have attached prove contrary. She has been so determined in getting negative information and cannot get the simple facts straight. Please compare the documents that I have attached with the so-called confidential documents, Ms. Frausto has provided. This may probably be the most important evidence of fabrication by Ms. Frausto.

#### **Legal Analysis:**

MS. Frausto fabricated and claimed that series of complaints were filed against me. As a result, my appointment was terminated. Documents and details of these complaints were requested by the attorney who helped me prior to my filing this case with the EEOC. Ms. Frausto did not have any document to produce then. Now the EEOC has requested the same information and Ms. Frausto still does not have anything to show. She wants this agency to take her by her own words just like Mr. Mike Shannon did. Decision was made to terminate my appointment without and proof that I violated any law and policies of Texas Southmost College. Ms. Frausto presented me with alleged sexual harassment charge and without any investigation. At the same time presented me with a letter of termination. What happened to the phrase "innocent till proved guilty"? Is this the procedure on handling complaints or grievance in any place of employment? Can Ms. Frausto provide a copy of this procedure for handling Grievance or complaints because I never saw one? Ms. Frausto claimed that she unilaterally conducted investigation without my input except my initial response (see attachment) to the charge she sent me (see attachment). I do not have any idea of attachment 12 that she provided. If these are valid documents, why are they secrets? My employment status was determined and I was placed on administrative leave based on rumors and innuendos.

**This is another evidence of discriminatory treatment by Ms. Frausto.**

#### **(7). Provide internal investigations of the alleged incidents or grievance hearing reports.**

This response clearly shows another evidence to cover up discriminatory acts by Ms. Frausto. Ms. Frausto was not only the Director of the Human Resources but by policy a representative of the EEOC for Texas Southmost College. If these treatments were carried out by other individuals, she was the one that I should have reported to

first. She should have known better that these actions were discriminatory. In my case these actions clearly demonstrated racial discrimination as the only black administrator in the whole institution. As the Director of the Human Resources, she is not above the law. She appeared not to understand or able to carry out her own institutions policies, procedures and practices. She is unable provide simple documentation. Any document she decides to provide is filled with fabrications. In this response, she claims that documentation on this issue is not applicable and therefore not necessary.

### SUMMARY

I was the only black administrator out of 520 employees. There were only 2 other black employees at instructional level out of the 520 employees. There is no evidence that I did not carry out my job responsibilities effectively and efficiently. The interim President and some Board members complimented me on my job performance during the Board of Trustees' meeting. This termination and treatments were purely racially motivated orchestrated by Ms. Lissa Frausto. I have outlined the sequence of events that led to the respondent's retaliation against me and culminated in the termination of my employment in my supporting documents. I have also provided supporting narratives and documents to support allegations. The respondent, contrary, danced around casually and not addressing my charges and not providing the pertinent documents. She has accused me of certain things without any proof that I did anything inappropriate, illegal or against the laws and policies of Texas Southmost College that warranted my employment's termination. I sincerely plead with the agency to thoroughly review all these documents that I have provided and compare them to the responses by the defendant. It is up to this agency to determine the defendant's veracity in the whole information gathering process. I was clearly treated differently from other Deans and employees. I was subjected to humiliation and hostile working environment.

Finally, I sincerely plead with this agency to find the respondent liable for violating my rights and discriminating against me because of my race and the color my skin as I have clearly outlined.

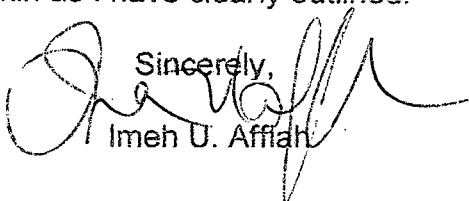
Sincerely,  
  
Imeh U. Affiah

EXHIBIT C<sub>(H)</sub>

**FROM DEFENDANTS' SUMMARY  
JUDGEMENT REPORTS**

faculty, and discrimination on the basis of race and ethnicity of an employee. (See Exhibit A).

9. Defendant had to invest substantial time and resources to investigate the complaints, concerns and conflicts raised against Plaintiff by multiple individuals during his six months of employment (prior to being placed on administrative leave with pay). Copies of the documentation and investigative findings from each of these matters that had to be addressed are attached hereto. (See Exhibits B-M). The individuals who expressed such complaints and concerns included administrative assistant Martha Espinoza, administrative assistant Joanna Cervantes, employee Maria Del Carmen Rodriguez, Co-Vice President of Instruction Donald Crouse, student Steven Martinez, employee Consuelo Villalon, Dean Angelica Fuentes, student tutor Martha Boeta and employee July Enriquez. (See Exhibit A). Additional concerns were brought to the attention of Defendant by Professor Dr. Charity Cavazos and Professor Dr. Catalina Amaral although Dr. Cavazos chose not to file a formal complaint. (See Exhibits J, K, O and P).

10. While all complaints, concerns and conflicts regarding Plaintiff that were brought to the attention of Defendant were significant and played a role in the decision to non-renew Plaintiff, of particular concern were the complaints regarding unwanted sexual harassment and discrimination. On January 30, 2017, Student Tutor Martha Boeta made a sexual harassment complaint against Plaintiff asserting that he had made comments to her at work such as "I like your accent", "I can smell your perfume from the other side of the hallway", "your voice is really sexy and I would like to meet with you one on one in a more relaxed environment". (See Exhibits A, I, and N). Boeta also complained that Plaintiff had gone into her classroom and was leaning over her in a way that was too close and made her feel uncomfortable with his hand on her shoulder making her feel nervous and afraid. (See Exhibits A, I, and N). This event was witnessed by professor Dr. Catalina Amaral. (See Exhibits A, I, J, N and P). The allegations

Lissa Frausto

## EXHIBIT H

**From:** Mike Shannon  
**Sent:** Monday, January 23, 2017 11:59 AM  
**To:** Lissa Frausto  
**Subject:** FW: Concern

Call me after you read thru this.

Mike

Mike Shannon  
Interim President  
Texas Southmost College

**From:** Angelica Fuentes  
**Sent:** Sunday, January 22, 2017 3:26 PM  
**To:** Mike Shannon <mike.shannon@tsc.edu>  
**Cc:** Donald Crouse <dona1d.crouse@tsc.edu>  
**Subject:** Concern

Mr. Shannon,

I would like to take this opportunity to share a concern I have regarding Dr. Imeh Affiah. On Friday, January 20<sup>th</sup>, at approximately 5:30 p.m., Mr. Ruben Reyes, Department Chair for the Mathematics and Natural Science Department, brought a concern to me. Dr. Catalina Amaral had told him that one of our science tutors, Martha Boeta, told her that Dr. Affiah had asked her questions regarding her relationship status, and it made her feel uncomfortable. He told her that he was looking for a "Latina." He often visits the USSR room, which is a science study room for student use. Martha is assigned to this room to tutor science students. She is a former TSC student, part time employee, and now is a student at UTRGV. I would like to add that Dr. Affiah does not have any affiliation to this room. Mr. Reyes and I have not spoken directly to Martha regarding these incidents. She spoke to Dr. Amaral. Dr. Amaral took this information to her department chair, and Mr. Reyes took this information to his Dean.

On January 10<sup>th</sup>, I had lunch with Dr. Amaral and Dr. Charity Cavazos. Dr. Cavazos was an adjunct instructor during the fall semester, but for spring, she has joined our faculty on a full-time basis. Over lunch, she told me that when she was an adjunct instructor, Dr. Affiah would go to the adjunct designated workplace and ask her questions about her teaching and science content. At this time, Dr. Cavazos did not know Dr. Affiah's position. She assumed he was an instructor who was challenging her expertise. He proceeded to ask her for her number to ask her out. She did not give him her number and told him that she was not interested. I believe she said that he eventually gave her his number. A few days later, Dr. Affiah asked her to go to his office. This is when Dr. Cavazos realized that Dr. Affiah was a TSC dean. She went with him to his office. Dr. Affiah closed the door and proceeded to tell her at that he had googled her and could not find more information about her. He also wanted to know who she was walking with the day before. Dr. Cavazos is a friend of Dr. Amaral's son. They were walking together through Set.B.. Dr. Affiah asked her if he was her boyfriend. Dr. Cavazos told him that she does not have a facebook or use any other social media. She also told him that she was friends with Dr. Amaral's son, but that was not his business. I asked Dr. Cavazos if she would like to go to Human Resources to file a complaint. Dr. Cavazos did not want to go to HR because she said that he stopped talking to her completely. For example, in the mornings, she may walk pass him and say "good morning." He ignores her completely. Dr. Cavazos said that as long as he does not ask any more inappropriate questions and does not evaluate her, she feels like she does not need to go to Human Resources.

I had made a decision to not take Dr. Cavazos' incident to HR because she clearly stated that she did not want to; however, now that a second incident has been brought to my attention, I feel compelled to take Martha and Dr. Cavazos' incidents to my supervisor. Numerous people have told me that Dr. Affiah has mentioned on several occasions that he is looking for a "Latina." He has told me that he was looking for a "Latina." When he first arrived at TSC, my husband and I asked him over for dinner as kind gesture since he was new to the area. He responded, "Will you have Latina waiting for me?" I felt that this was inappropriate. However, I did not think it was necessary to take this to Human Resources. Now I see a pattern. In addition to Dr. Cavazos and Martha, Dr. Tipton has told me about some encounters she has had with Dr. Affiah. Again, I explicitly asked her if she felt that it was inappropriate, she should go to Human Resources. She did not think it was necessary. Also, Mrs. Antonia Saldivar told me last week that Dr. Affiah was visiting Mary Rodriguez, Mrs. Saldivar's AAs, and calling her frequently. I do not know if he has told her anything inappropriate, but Mrs. Saldivar found it to be weird that he was visiting and calling Mary. I have not asked Mary about his visits.

I do not know if anything can be done about these incidents or even if they warrant any action. I will leave those decisions to my supervisor and Human Resources. I will continue to report any incidents that are brought to my attention.



**Angelica M. Fuentes, Ph.D.**

*Dean*

Division of College Preparatory Studies/  
Science, Technology, Engineering & Mathematics  
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EXHIBIT D<sub>(H)</sub>



COLLEGE

#1

80 Fort Brown • Brownsville, Texas 78520 • (956) 295-3770 • Fax (956) 948-9459 • www.tsc.edu

### NOTICE OF SEXUAL HARASSMENT (Excluding Sexual Violence) Complaint Form

Respondent (name): Imeh Affiah

Respondent College Email Address: imeh.affiah@tsc.edu

Respondent Phone Number: 337-962-8224 (cell) or 956-295-3753 (work)

Respondent Physical Address: 375 Media Luna, Apt 2401, Brownsville, TX 78521

Date Complaint Reported: January 30, 2017

Title IX Coordinator: Lissa Frausto, lissa.frausto@tsc.edu, 956-295-3771

Date Email Sent: 02/02/2017

Date CMRRR Notice Sent: 02/02/2017

I, the Title IX Coordinator, received a complaint regarding a possible Title IX violation that you may or may not have committed. I shall investigate the complaint. The complaint alleges the following:

You made an employee feel uncomfortable when you asked her to go into your office alone on or about Monday, January 23, 2017, closed the door, and told her you wanted to meet with her outside the office "in a more relaxed environment." She states she told you she did not want to meet with you outside of school and did not want to mix up work and personal business. She told you, "With all due respect, I am not interested." She states that you again made her feel uncomfortable when you went back to her work area on the same day and patted her gently on her shoulder as you walked by her chair.

Please carefully review the attached policy, procedures, and the complaint. You are expected to cooperate fully with the investigation and be responsive to my inquiries. You have five working days to respond to me in writing to the complaint. You may do so by responding to the email sent to your College account. Please attach any relevant documents or evidence. The College takes these matters seriously, and we want to assure you that the College will address this complaint promptly. Please be advised that the College will not tolerate any form of retaliation toward the Complainant. If you believe you know who the possible Complainant is, you are advised to not have any contact with him or her. Throughout the investigation and resolution process, each party has the right to choose and consult with an advisor. The advisor may be any person, including an attorney, who is not otherwise a party or witness involved in the investigation. Your advisor may accompany you for your meeting with myself or my designee to provide support and advice. If you would like to bring an advisor, please do so. Please notify me if your contact information is incorrect and update your TSC personnel file in Human Resources accordingly.

*The College District prohibits discrimination, including harassment, against any employee on the basis of race, color, religion, gender, national origin, age, disability, or any other basis prohibited by law.*

**Imeh Affiah**

---

**From:** Lissa Frausto  
**Sent:** Thursday, February 02, 2017 1:58 PM  
**To:** Imeh Affiah  
**Subject:** RE: Notice of Sexual Harassment Complaint

Thank you for your reply. I will place it on record. I will be contacting you soon to schedule a meeting. This is simply a notice. No determinations have been made. The investigation will begin shortly. Thank you. Lissa

---

**From:** Imeh Affiah  
**Sent:** Thursday, February 02, 2017 1:48 PM  
**To:** Lissa Frausto <Lissa.Frausto@tsc.edu>  
**Subject:** RE: Notice of Sexual Harassment Complaint

I have read through your complaint. First of all, I do not recall meeting any female in my office on January 23<sup>rd</sup>, 2017. Moreover, I do not recall asking any female here at TSC, employee or otherwise and at any time to meet with me anywhere outside the TSC campus. I have never sexually harassed anyone in my life. I will appreciate you identifying the complainant and I am prepared to legally defend myself. My attorney will contact you immediately. This is pure fabrication. Thanks.



**Dr. Imeh Affiah**  
*Dean-Health Care, Career and Technical Education*  
80 Fort Brown • Brownsville, Texas 78520  
(956) 295-3381 • [imeh.affiah@tsc.edu](mailto:imeh.affiah@tsc.edu)  
[www.tsc.edu](http://www.tsc.edu)

*"The quality of a person's life is in direct proportion to their commitment to excellence, regardless of their chosen field of endeavor"*     **Vincent T. Lombardi**

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**From:** Lissa Frausto  
**Sent:** Thursday, February 02, 2017 1:17 PM  
**To:** Imeh Affiah <[imeh.affiah@tsc.edu](mailto:imeh.affiah@tsc.edu)>  
**Subject:** Notice of Sexual Harassment Complaint

This notice will be mailed to your home address today, Certified Mail, Return Receipt Requested. I will contact you soon for an appointment to discuss this matter. Thank you for your time.



**Lissa Frausto, MBA, SPHR**  
*Executive Director of Human Resources*  
Office of Human Resources  
80 Fort Brown • Brownsville, Texas 78520  
(956) 295-3771 • [lissa.frausto@tsc.edu](mailto:lissa.frausto@tsc.edu)  
[www.tsc.edu](http://www.tsc.edu)

#2

# STAPLETON & STAPLETON

## Lawyers

March 3, 2017

**VIA FACSIMILE 956-504-5991**

Frank E. Perez

Frank E. Perez & Associates

300 Mexico Blvd.

Brownsville, TX 78523

Re: Imeh Affiah

Dear Mr. Perez:

As we discussed, this letter will outline why we urge the manner in which TSC is proceeding against Dr. Imeh Affiah violates the TSC Policy and Due Process:

1. The notice of February 2, 2017 fails to record the accuser. We are not apprised whether the accuser is a third person or the one who is actually claiming to have been contacted by Dr. Affiah. It makes a difference, because if the accuser is actually Dr. Catalina Amaral, there is reason to believe the information is unreliable—a matter we should be able to address. Dr. Amaral would have no first-hand information and had personal and improper reasons to make the accusation. Every accusation must have a threshold reliability before it should be considered and this accusation should be considered in that light. If the accuser is not Dr. Amaral, we need to know that also, because we can prepare a response. One potential accuser has already made statements that Dr. Amaral requested she make a false accusation and if we are informed of the identity of the accuser, we can respond accordingly. The identity of the accuser should be given in accordance with your 2/13/14 EMPLOYEE WELFARE (we will refer to this as the “Policy”) handbook as well which states, “An employee who believes that he or she has experienced prohibited conduct or believes that another employee has experienced prohibited conduct should immediately report the alleged acts.”
2. The complaint provided fails to meet the definition of “Sexual Harassment” as provided in your handbook. The first portion defining “sexual harassment” is not met by the accusation, nor does the accusation comply with the motive requirements in sections 1 and 2 on page 1 and 2 of the policy.
3. The prerequisite for an investigation under “Investigation of a Report” has not been met: “Upon receipt or notice of a report, the College District official shall determine whether the allegations, if proven, would constitute prohibited conduct as defined by this policy.” This step has not been taken. Under the Policy, there is no basis for this investigation to begin. We request that such a prerequisite, if it should be met, be in writing so we can respond.

4. Under that provision, according to the Policy, the College District official must make this determination. Also, according to the Policy, this person is Kim Sanchez. We have not yet heard from Kim Sanchez and object to an investigation to anyone not designated by the Policy.

This is where we are in the process. We object to any further proceedings unless these standards are first met. Beyond this, we then ask that all proceedings comply with the Policy. It is our position that if TSC fails to meet its own Policy requirements, it also violates Due Process and Due Course of Law under the United States and Texas Constitutions and involves in the wrongful taking of Dr. Affiah's liberty and property rights.

Sincerely,

A handwritten signature in black ink, appearing to be 'Ed Stapleton' and 'Sara Stapleton' joined together.

Ed Stapleton and Sara Stapleton

Doc #3

IMEH AFFIAH  
Plaintiff

VS.

CATALINA AMARAL M.D.  
Defendant

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§

IN THE DISTRICT COURT

197TH JUDICIAL DISTRICT

OF CAMERON COUNTY, TEXAS

### AFFIDAVIT OF MARTHA BOETA

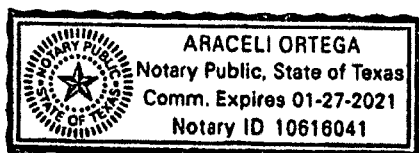
BEFORE ME, the undersigned authority, on this day personally appeared Martha Boeta, who by me duly sworn on her oath, deposed and said:

1. My name is Martha Boeta. I have personal knowledge of the facts and representations contained herein and all are true and correct.
2. I was a student tutor at Texas Southmost College (hereinafter "TSC") in Brownsville, Texas. I am 22 years old. My mentor at TSC was Catalina Amaral. I informed Catalina Amaral that Imeh Affiah had sexually harassed me by his conduct and with statements he made to me.
3. Imeh Affiah told me "I like your accent", "I can smell your perfume from the other side of the hallway", "your voice is really sexy and that I would like to meet with me one on one in a more relaxed environment". I told him "with all due respect, no". I had spoken with my parents about this and they told me I needed to say something.
4. At work, Imeh Affiah came into my classroom and was leaning over me in a way that was too close and making me feel uncomfortable. He had his hand on my shoulder and it made me nervous and afraid. During this time, Catalina Amaral walked in and saw Imeh Affiah leaning over me too closely. After Dr. Amaral walked in, Imeh Affiah immediately pulled away from me and left. After he left, I told Dr. Amaral that Imeh Affiah was asking me to go to his office and if I was dating anyone. I told Dr. Amaral that his questions and comments made me feel uncomfortable. I told Dr. Amaral that Imeh Affiah had been going by often and that I had already told him I was not interested. Dr. Amaral told me I should not be afraid to report sexually harassing behavior to the College even if it was from Imeh Affiah.
5. I reported Imeh Affiah's sexually harassing behavior to the College so the College could prevent this from happening to me or anyone else.

FURTHER AFFIANT SAYETH NOT.

Martha Boeta  
Martha Boeta

SUBSCRIBED AND SWORN to before me, on this the 27th day of June, 2017, to certify which witness my hand and seal of office.



Araceli Ortega  
Notary Public in and for the State of Texas  
My Commission Expires:

Doe #4

CAUSE NO 2017-DCL-02461

EXHIBIT O

IMEH AFFIAH  
Plaintiff

VS.

CATALINA AMARAL M.D.  
Defendant

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IN THE DISTRICT COURT

197TH JUDICIAL DISTRICT

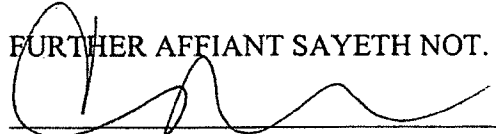
OF CAMERON COUNTY, TEXAS

**AFFIDAVIT OF CHARITY CAVAZOS**

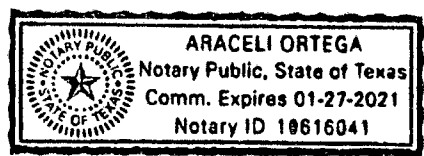
BEFORE ME, the undersigned authority, on this day personally appeared Charity Cavazos, who by me duly sworn on her oath, deposed and said:

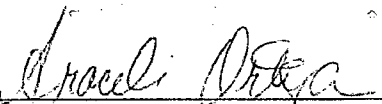
1. My name is Charity Cavazos. I have personal knowledge of the facts and representations contained herein and all are true and correct.
2. I am a professor at Texas Southmost College (hereinafter "TSC") in Brownsville, Texas. My mentor at TSC is Catalina Amaral. I informed Catalina Amaral that Imeh Affiah had sexually harassed me by his conduct and with statements he made to me.
3. Imeh Affiah told me he had "googled" me and could not find much information about me. While at work, he asked me questions about whether or not I had a boyfriend or a relationship with Dr. Amaral's son. Imeh Affiah called me into his office once and shut the door making me feel uncomfortable. During working hours he gave me his phone number and told me about how his fiance had died and he was looking for a Hispanic woman. His comments made me feel uncomfortable and were not proper in the workplace in my opinion. I told Catalina Amaral about these encounters and she told me that if Imeh Affiah's conduct made me feel uncomfortable I should report this to Human Resources. I was bothered by this conduct, behavior and his comments at work so I reported Imeh Affiah's sexual harassment of me to Catalina Amaral and Lisa Frausto from Human Resources. When Imeh Affiah confronted me about allegations of sexual harassment he had come into my office and shut the door. I told him what he wanted to hear so he would leave me in peace and leave my office.

FURTHER AFFIANT SAYETH NOT.

  
Charity Cavazos

SUBSCRIBED AND SWORN to before me, on this the 27th day of June, 2017, to certify which witness my hand and seal of office.



  
Notary Public in and for the State of Texas  
My Commission Expires:

faculty, and discrimination on the basis of race and ethnicity of an employee. (See Exhibit A).

9. Defendant had to invest substantial time and resources to investigate the complaints, concerns and conflicts raised against Plaintiff by multiple individuals during his six months of employment (prior to being placed on administrative leave with pay). Copies of the documentation and investigative findings from each of these matters that had to be addressed are attached hereto. (See Exhibits B-M). The individuals who expressed such complaints and concerns included administrative assistant Martha Espinoza, administrative assistant Joanna Cervantes, employee Maria Del Carmen Rodriguez, Co-Vice President of Instruction Donald Crouse, student Steven Martinez, employee Consuelo Villalon, Dean Angelica Fuentes, student tutor Martha Boeta and employee July Enriquez. (See Exhibit A). Additional concerns were brought to the attention of Defendant by Professor Dr. Charity Cavazos and Professor Dr. Catalina Amaral although Dr. Cavazos chose not to file a formal complaint. (See Exhibits J, K, O and P).

10. While all complaints, concerns and conflicts regarding Plaintiff that were brought to the attention of Defendant were significant and played a role in the decision to non-renew Plaintiff, of particular concern were the complaints regarding unwanted sexual harassment and discrimination. On January 30, 2017, Student Tutor Martha Boeta made a sexual harassment complaint against Plaintiff asserting that he had made comments to her at work such as "I like your accent", "I can smell your perfume from the other side of the hallway", "your voice is really sexy and I would like to meet with you one on one in a more relaxed environment". (See Exhibits A, I, and N). Boeta also complained that Plaintiff had gone into her classroom and was leaning over her in a way that was too close and made her feel uncomfortable with his hand on her shoulder making her feel nervous and afraid. (See Exhibits A, I, and N). This event was witnessed by professor Dr. Catalina Amaral. (See Exhibits A, I, J, N and P). The allegations



were found to have some merit. (See Exhibits A, I, and N).

11. Professor Dr. Charity Cavazos also had sexually harassing experiences with Plaintiff which she reported to her mentor, Dr. Catalina Amaral and Lissa Frausto from Human Resources on February 3, 2017 even though she did not pursue a formal complaint. (See Exhibits I and K).

She explained that at work, Plaintiff had told her he had "googled" her and could not find much information about her, asked her personal relationship questions (boyfriend), called her into his office once and shut the door making her feel uncomfortable, gave her his phone number, told her about how his fiance had died and that he was looking for a Hispanic woman. (See Exhibit O). The comments made Dr. Cavazos feel uncomfortable and bothered her so she reported his sexual harassment to Catalina Amaral and Lissa Frausto from Human Resources. (See Exhibit K and O).

12. On February 20, 2017, employee July Enriquez filed a discrimination and harassment complaint against Plaintiff that was found to have had merit. (See Exhibits A and L). Ms. Enriquez explained to Human Resources that Plaintiff had been calling her "Ms. Matamoros" for some time, told her in front of another employee that he was going to call immigration to come get her, and went to a sink to wash his hands immediately after shaking her hand and stating "you have cold blood. I will wash my hands after this." (See Exhibit L). On another occasion while Enriquez was getting a shot at the vaccination clinic for the school, Plaintiff told the nurse "Hey did you know this is Ms. Matamoros". (See Exhibit L). After the nurse asked Enriquez if she had ever taken a shot before, Plaintiff stated "Oh yes. Obviously she is from Matamoros. She got the shot in Matamoros." (See Exhibit L). During the investigation with Human Resources, Enriquez began to cry and explained that if she had seen Plaintiff "right now" she would feel bad, sad, afraid and frustrated. (See Exhibit L). In response to the question of how these incidents affected her she said "I love my job but it has affected me and my baby(family)..I have