

# UNIVERSITY OF CALIFORNIA, BERKELEY

BERKELEY • DAVIS • IRVINE • LOS ANGELES • MERCED • RIVERSIDE • SAN DIEGO • SAN FRANCISCO



SANTA BARBARA • SANTA CRUZ

## RESIDENTIAL AND STUDENT SERVICE PROGRAMS

### CAL DINING

2610 CHANNING WAY #2272

BERKELEY, CALIFORNIA 94720-2272

via hand delivery

December 14, 2015

Jeffrey Topacio

RE: Notice of Intent to Terminate

Dear Mr. Topacio:

In accordance with PPSM-65: Termination of Career Employees - Managers & Senior Professionals, Salary Grades I through VII, this is a Notice of Intent to Terminate you from University employment on December 23, 2015. You are not required to be at work or do any work, effective today.

Based upon a review of the facts we find your behavior to constitute gross misconduct. Your behavior was found to rise to the level of sexual harassment – i.e., your behavior was unwelcome conduct that was sexual in nature and negatively affected the employee who reported your behavior and their work environment.

The University of California is committed to creating and maintaining a community where all individuals who participate in University programs and activities can work and learn together in an atmosphere free of harassment, exploitation, or intimidation. Every member of the University community is required to refrain from conduct that is prohibited by the University of California Sexual Harassment and Sexual Violence Policy.

On October 2, 2015, CSS HR Supervisor Ellen Loyd was contacted by the Office for the Prevention of Harassment and Discrimination (OPHD) to conduct a fact finding related to a complaint received by that office concerning allegations of unprofessional behavior.

As detailed in the attached fact finding report, allegations of your behavior include bullying by intimidating and berating staff, creation of a hostile work environment and use of inappropriate sexual comments about your genitalia in the workplace. Witness interviews and statements have corroborated the allegations of your inappropriate behavior.

This behavior is unacceptable and cannot be tolerated. As a manager/ supervisor of Cal Dining, it is your responsibility to ensure such behavior does not occur; yet, you were found to behave in a manner which was in violation of the policy you were responsible to uphold. Your behavior has also negatively impacted the staff of Cal Dining's campus restaurants as well as the effective operation of the business.

120 Spraul Hall, Berkeley

Sincerely,

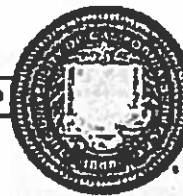
[illegible]

## Personnel File

**Attachments: Fact Finding Report with attachments; proof of service**

UNIVERSITY OF CALIFORNIA, BERKELEY

BERKELEY • DAVIS • IRVINE • LOS ANGELES • MERCED • RIVERSIDE • SAN DIEGO • SAN FRANCISCO



SANTA BARBARA • SANTA CRUZ

February 3, 2016

TO:

Cal Dining  
2610 Channing Way, #2272  
Berkeley, CA 94720-2272

RE: Reviewer Response to Notice of Intent to Terminate dated December 14, 2015.

Dear [REDACTED]

As Reviewer, I am providing my response to the Notice of Intent to Terminate dated December 14, 2015 for Jeffrey Topacio.

I met with Jeffrey Topacio on January 28, 2016.

I have reviewed the following documents:

- Notice of Intent to Terminate
- Fact Finding Report
- University of California, Berkeley Workplace Violence Prevention Policy
- University of California, Berkeley (Interim) Policy on Sexual Harassment and Sexual Violence
- Text Message from [REDACTED] to Jeffrey Topacio
- [REDACTED] Auto Repair Invoice
- Statement of [REDACTED]
- Statement of [REDACTED]

**Jeffrey Topacio's position:**

Mr. Topacio stated that he would like the [REDACTED] who work with him to be interviewed because he believes they will have a different perspective than the employees that were interviewed.

Mr. Topacio said that he would like me to consider the fact that only the staff at [REDACTED] have complained about him. None of the employees at the other two restaurants he manages on campus ever complained about him or expressed dissatisfaction with his management.

Mr. Topacio indicated that he is denying the allegation that he made the comment referencing the kitchen knife size to his genitalia and that comment was actually made by [REDACTED]. He also stated that it was [REDACTED] who actually called [REDACTED] the derogatory names. Seeking clarity and confirmation, I asked Mr. Topacio if indeed it was his statement that [REDACTED] made the knife reference and referred to [REDACTED] in the derogatory fashion. Mr. Topacio said that indeed that was his statement.

Mr. Topacio described his management style as firm and fair and denied ever raising his voice or being inappropriate with any of his staff members. He expressed the feeling that the complaints and allegations brought against him were due to a "personal vendetta" against him by [REDACTED] because he changed [REDACTED] work schedule. When asked why the schedule was changed, he answered that there was a business need and that [REDACTED] Mr. Topacio's [REDACTED], approved the change.

While Mr. Topacio denies that he made the knife reference and called [REDACTED] derogatory names, the inappropriate sexual comments and harassment allegations are supported by [REDACTED] and [REDACTED] statements. During Mr. Topacio's initial interview, he did not state that [REDACTED] made the inappropriate comments. He first made these allegations during our meeting. In addition, all the employees that were interviewed during the investigation supported the claim that Mr. Topacio berates, yells, and is harsh in his approach.

I don't believe further investigation is necessary, and I do not agree that [REDACTED] employees need to be interviewed to gain a more thorough perspective. I believe that all statements from Mr. Topacio's staff members support the allegations that he behaved in an unprofessional manner, violated UC Berkeley's Policy on Sexual Harassment and Sexual Violence and that his management style was such that it caused tension and a difficult work environment for his subordinates.

**Reviewer Decision:**

I uphold the department's intention to terminate Mr. Jeffrey Topacio. Based on my meeting with Mr. Topacio and the fact that he did not bring forward any new information to dispute the allegations in the notice of intent letter, the findings as presented in the fact finding report, and the statements from witnesses that corroborate many of the allegations brought against Mr. Topacio. Mr. Topacio's behavior and actions had a negative impact on many of his employees and over the morale of the team at [REDACTED]. Therefore, you may proceed with the termination.

Sincerely,

[REDACTED]

Attachments: Notice if Intent to Terminate dated December 14, 2015

CC:

[REDACTED]

# UNIVERSITY OF CALIFORNIA, BERKELEY

BERKELEY • DAVIS • IRVINE • LOS ANGELES • MERCED • RIVERSIDE • SAN DIEGO • SAN FRANCISCO



SANTA BARBARA • SANTA CRUZ

HOUSING AND DINING SERVICES  
2610 CHANNING WAY #2272  
BERKELEY, CALIFORNIA 94720-2272

February 4, 2016

Jeffrey Topacio  
[REDACTED]

RE: Termination

Dear Mr. Topacio,

I have heard back from Reviewer [REDACTED] regarding the Notice of Intent to Terminate dated December 14, 2015. Reviewer [REDACTED] supports the termination.

In accordance with PPSM 65, you are terminated from University employment effective February 4, 2016 for gross misconduct as described in the Notice of Intent to Terminate dated December 14, 2015.

Regarding your final paycheck [REDACTED] and vacation balance [REDACTED]

[REDACTED], you will receive a check mailed to your home.

You may contact Campus Shared Services at 510.664.9000 extension 3 regarding questions about your Benefits.

- Your medical, dental and vision insurance coverage will end on February 29, 2016 provided you have paid any required employee portion of these premiums.

You will receive a COBRA packet from CONEXIS within 4 weeks of your separation date.

Please note that you have the option to switch from your current medical plan to the Core Medical plan at the time of COBRA election.

- UC Retirement Savings Program information concerning any funds you may have in the Deferred Contribution Plan, the Tax-Deferred 403(b) Plan, and the 457(b) Deferred Compensation Plan, can be obtained by contacting Fidelity Retirement Services (formerly FITSCo) at 1-866-682-7787, press 0, Monday – Friday, 5 a.m. to 9 p.m., PT, or online at: <http://netbenefits.com>.
- If you are vested in the University of California Retirement Plan (UCRP) due to having five or more years of UCRP Service Credit, and you are under age 50, you may be eligible to elect inactive membership. If you are vested and age 50, or over, you may be eligible to elect retirement income or a lump-sum cash out. To discuss your retirement plan options with a benefits representative, please call RASC at 510-987-0900.

You may consult PPSM 70 for your appeal rights.

Sincerely,

cc:

Personnel File

Attachments: Reviewer decision dated February 3, 2016; Notice of Intent to Terminate dated December 14, 2015; proof of service