

INVESTIGATIVE REPORT

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**INVESTIGATIVE REPORT
ROCHESTER POLICE ACCOUNTABILITY BOARD**

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I. ISSUES TO BE INVESTIGATED

- 1) Whether Shani Wilson sexually harassed Conor Dwyer Reynolds in violation of the City of Rochester's internal policies.
- 2) Whether Shani Wilson retaliated against Conor Dwyer Reynolds in violation of the City of Rochester's internal policies.
- 3) Whether Conor Dwyer Reynolds violated the terms of his leave in maintaining copies of confidential City records during his leave.
- 4) Whether Conor Dwyer Reynolds violated the City of Rochester's Code of Ethics and failed to follow the FOIL practice in the sharing of non-public, confidential information and records.
- 5) Whether Conor Dwyer Reynolds violated PAB Charter Section 18-7 by failing to complete required annual training.
- 6) Whether Conor Dwyer Reynolds violated City of Rochester's policies and practices by allowing employee paid time off to study for the bar exam.
- 7) Whether Conor Dwyer Reynolds subjected senior staff members to a work environment that violated the City of Rochester's internal policies.
- 8) Whether Conor Dwyer Reynolds attempted to demote PAB Witness 13's position in violation of the City of Rochester's internal policies.
- 9) Whether Conor Dwyer Reynolds retaliated against PAB Witness 1 in violation of the City of Rochester's internal policies.
- 10) Whether Conor Dwyer Reynolds retaliated against PAB Witness 3 in violation of the City of Rochester's internal policies.
- 11) Whether Conor Dwyer Reynolds retaliated against PAB Witness 5 in violation of the City of Rochester's internal policies.
- 12) Whether Conor Dwyer Reynolds engaged in race discrimination against PAB Witness 1, PAB Witness 5, and PAB Witness 3 in violation of the City of Rochester's internal policies.
- 13) Whether Conor Dwyer Reynolds violated the Workplace Violence policy in his interaction with PAB Witness 4 in violation of the City of Rochester's internal policies.

- 14) Whether Conor Dwyer Reynolds violated City of Rochester's policies and practices related to onboarding and demotions.
- 15) Whether Conor Dwyer Reynolds violated City of Rochester's policies and practices related to hiring.
- 16) Whether Conor Dwyer Reynolds allowed employees to work in capacities outside of their established job duties or levels.
- 17) Whether Conor Dwyer Reynolds established PAB policies that were duplicative and/or inconsistent with City of Rochester established policies.
- 18) Whether Witness 1 engaged in bullying or otherwise subjected staff to a work environment that violated the City of Rochester's internal policies.
- 19) Whether PAB Witness 11 subjected PAB Witness 1 to race discrimination in violation of the City of Rochester's internal policies.
- 20) Whether PAB Witness 1, PAB Witness 6, PAB Witness 5, PAB Witness 2, and PAB Witness 4 subjected PAB Witness 14 to sexual harassment in violation of the City of Rochester's internal policies.
- 21) Whether PAB senior staff members retaliated against PAB Witness 14 in violation of the City of Rochester's internal policies.¹
- 22) Whether PAB Witness 23 retaliated against PAB Witness 6, PAB Witness 5, PAB Witness 1, PAB Witness 2, and PAB Witness 4 in violation of the City of Rochester's internal policies.
- 23) Whether PAB Witness 4 sexually harassed PAB Witness 16 in violation of the City of Rochester's internal policies.
- 24) Whether PAB Witness 16 subjected PAB Witness 4 to a hostile work environment based on her sexual orientation in violation of the City of Rochester's internal policies.
- 25) Whether PAB Witness 16 engaged in sexual orientation discrimination against PAB Witness 4 in violation of the City of Rochester's internal policies.

¹ Witness 14 addressed additional retaliation allegations on June 29, 2022 that were beyond the scope of this investigation.

II. BACKGROUND AND OVERVIEW OF INVESTIGATIVE STEPS

In May 2022, Constangy, Brooks, Smith & Prophete LLP was retained by The City of Rochester City Council (“City Council”) to investigate complaints brought by PAB personnel. Some complaints were directly made to the City of Rochester, while others were submitted to the City’s Department of Human Resources, or internally to the PAB. The complaints alleged sexual harassment, race discrimination, hostile work environment, retaliation and other policy violations and covered a time frame up to and including May 2022. The investigation team was composed of attorneys Anjanette Cabrera, Taren Greenidge, John MacDonald and Erica Young (“Investigators”). Investigators met and aligned on all of the findings included in the Investigation Report. Further, the input of all Investigators was considered equally in assessing final determinations.

The findings of this investigation do not reach questions of law as to whether the alleged misconduct supports a violation of applicable state and federal laws, but instead addresses whether certain specified conduct violated the City of Rochester’s internal policies and practices.

The internal policies that are applicable to the findings of the investigation include: the City of Rochester Non-Discrimination Policy, the City of Rochester Whistleblower Policy, the City of Rochester Sexual Harassment Policy, the City of Rochester Workplace Violence Policy, the City of Rochester Employee Code of Ethics, and the PAB Charter. **(Exhibit A, City of Rochester Internal Policies)**

Independence was an important component of the Investigation. City Council allowed Investigators to conduct the Investigation as they determined to be necessary in order to thoroughly vet all allegations and potential policy violations observed. No party interfered with, or attempted to influence, the findings of the Investigation Report.

Investigators interviewed thirty-nine (39) witnesses to collect information related to the complaints.² More than twenty (20) of the thirty-nine (39) interviews required several sessions to complete the intake process. Several interviews required follow-up interviews that spanned over several days. In a few instances, it took as many as four sessions to collect all of the relevant information from a witness and total interview time lasted more than fifteen (15) cumulative hours. The following individuals were interviewed:

- Conor Dwyer Reynolds, Executive Director for the PAB, (“Dwyer Reynolds”)
- Shani Wilson, Former PAB Board President, (“Wilson”)
- PAB Witness 1
- PAB Witness 2
- PAB Witness 3
- PAB Witness 4
- PAB Witness 5

² To the extent that any Investigator had any prior interaction with anyone identified as a witness, accused, or accuser, that Investigator did not participate in the interview with that individual and had no contact with that individual throughout the course of the Investigation. There was one individual with whom it was alleged that one Investigator had an association. In an effort to ensure that there was no perceived conflict, a wholly separate third party company was utilized to interview that witness and collect any relevant documentation, and the Investigator had no contact with the witness during the course of the investigation.

- PAB Witness 6
- PAB Witness 7
- PAB Witness 8
- PAB Witness 9
- PAB Witness 10
- PAB Witness 11
- PAB Witness 12
- PAB Witness 13
- PAB Witness 14
- PAB Witness 15
- PAB Witness 16
- PAB Witness 17
- PAB Witness 18
- PAB Witness 19
- PAB Witness 20
- PAB Witness 21
- PAB Witness 22
- PAB Witness 23
- City of Rochester Witness 1
- City of Rochester Witness 2
- City of Rochester Witness 3
- City of Rochester Witness 4
- City of Rochester Witness 5
- Witness 1, Witness for Shani Wilson
- Witness 2, Witness for Shani Wilson
- Witness 3, Witness for Shani Wilson
- Witness 4, Witness for Shani Wilson
- Witness 5, Witness for Conor Dwyer Reynolds
- Witness 6, Witness for Conor Dwyer Reynolds
- Witness 7
- Witness 8
- Witness 9

Given the highly confidential nature of the Investigation, none of the witness interviews were recorded. Each interviewee was asked to keep the information discussed during the interview confidential and was told about the prohibitions of retaliation. Further, each witness was instructed to direct any concerns regarding retaliation to the City of Rochester Human Resources Department.

Most witnesses who were the subject of allegations were not interviewed in the initial stage of the investigation. This was done to allow Investigators to complete collection of available, relevant information before undertaking these interviews, and with the intent of ensuring Investigators would have as comprehensive an understanding of the allegations of the complaints as possible before the interviews. It was Investigators' belief that this approach would reduce the

likelihood that additional interview sessions would be required based on emerging information that was unknown to Investigators at the time of the initial interview.

If requested, witnesses were provided with a list of the allegations known to have been made against them in advance of their interviews. Investigators provided the information only after confirming an interview date and time with the witness. This timing of was a purposeful effort to minimize the risk of providing an inaccurate or incomplete list. This was of real concern given the complexity and scope of the Investigation; new claims were added as additional witnesses were interviewed.

The Investigation also included the review of thousands of pages of documents submitted by witnesses all of which were considered, even if not explicitly referenced in the Report. Investigators also collected full downloads of the e-mail inboxes for the City of Rochester accounts of Dwyer Reynolds and Wilson. Those documents were collected by the City's IT Department and through the use of keyword searches based on allegations made throughout the Investigation and provided to Investigators.

III. EXECUTIVE SUMMARY

The Rochester City Council ("City Council") retained the law firm of Constangy, Brooks, Smith & Prophete, LLP ("Constangy") to investigate internal complaints arising out of the Police Accountability Board ("PAB"). The complaints concerned primarily the management and leadership behaviors of Conor Dwyer Reynolds, PAB's Executive Director, and included a wide range of alleged policy and practice violations. The issues investigated included various personnel matters, complaints of discrimination and retaliation made against Dwyer Reynolds, a complaint of sexual harassment and retaliation made by Dwyer Reynolds against former PAB Board Chair Shani Wilson, and complaints of hostile work environment, sexual harassment, discrimination, and retaliation made by and against other employees.

The investigation was completed through forty witness interviews conducted in-person and online between May and October 2022. The investigation also included the review of thousands of pages of information submitted by witnesses and of relevant documents from the indexed City of Rochester e-mail boxes of Dwyer Reynolds and Wilson.

The conclusions of the investigation are as follows:

- **Dwyer Reynolds' claims of sexual harassment and retaliation against Wilson were not substantiated.** Witnesses, including an individual identified by Dwyer Reynolds, attested to the existence of a mutual romantic interest and attraction between Wilson and Dwyer Reynolds. Though some of the complained of conduct was clearly inappropriate, Investigators were unable to conclude that conduct by Wilson toward Dwyer Reynolds, was unwelcome or retaliatory. Further, the adverse action that Dwyer Reynolds identified as retaliation against him by Wilson was his placement on a leave absence from his position with the PAB. Although there is evidence that Wilson expressed her belief that Dwyer Reynolds should be removed from leadership, she had no role in the vote to remove him.

The Board's decision to place Dwyer Reynolds on paid leave pending this Investigation was the result of PAB staff complaints, including that that they were retaliated against by Dwyer Reynolds.

- **Dwyer Reynolds repeatedly disregarded City of Rochester policies, practices and directives regarding the handling of confidential information and documents.** During his active tenure, Dwyer Reynolds mishandled confidential records; a behavior that continued after he was placed on leave. He has retained copies of confidential City records he was directed to return in violation of the terms of his leave. Further, Dwyer Reynolds has justified his actions based on disingenuous interpretations of City policies and practices.
- **Dwyer Reynolds is unlikely to rectify his behaviors if returned to his position and his past violations will profoundly impact his continued tenure at the PAB.** The primary reason for these conclusions is Dwyer Reynolds' pattern of mishandling confidential City records and information, which is ongoing. He retained copies of confidential City records in violation of a directive he received in connection with his leave. Both during his active tenure and his leave of absence, he also has shown a blatant disregard for the importance of maintaining confidentiality. On at least eight separate occasions, Dwyer Reynolds violated the City's Code of Ethics and Freedom of Information Law ("FOIL") procedures by forwarding non-public information to a member of the media and a non-City employee. The communications included internal exchanges involving the former Chief of Police, members of the City Legal and HR Departments, and the former Mayor. City employees and the Executive Director of PAB must have a professional relationship in which the confidentiality of sensitive information and evidence is maintained. City employees will likely be less open and candid with Dwyer Reynolds once his prior treatment of internal communication becomes more widely known. Given this, it is unlikely that Reynolds can effectively fulfill his responsibilities moving forward. Exacerbating the situation, Dwyer Reynolds refuses to accept responsibility for these violations and, instead, defends his actions. He claims he did not violate the Code of Ethics and was not required to follow FOIL practices. Instead of following the established FOIL process, he unilaterally redacted portions of communications he deemed sensitive before sending them to the media and others. However, he had no authority to disclose them in any format and, on several occasions, he failed to redact confidential information.

Dwyer Reynolds ensured that he continued to have access to his City of Rochester email archive during his leave by requesting the return of a personal desktop computer that he kept in his PAB office. He used this computer to access his PAB City of Rochester e-mail archive while on leave, again in violation of directives given to him when he was placed on the paid leave of absence. Dwyer Reynolds admitted that he downloaded a file onto a personal zip drive before his leave and maintains that file currently. Dwyer Reynolds says his actions were necessary because he was ensuring a confidential file evidencing misconduct by another City employee was not destroyed. Based on his past behavior,

Dwyer Reynolds' ongoing access to highly confidential records and files potentially jeopardizes the mission of the PAB.

- **Claims of retaliation, hostile work environment, discrimination and other alleged policy violations by Dwyer Reynolds could not be substantiated.** There was insufficient evidence that violations of City of Rochester policies occurred.
- **Claims of sexual harassment, retaliation and discrimination made by and against other PAB employees could not be substantiated.** There was insufficient evidence that violations of City of Rochester policies occurred.

CONCLUSION

Dwyer Reynolds exhibited during his active tenure, and continues to demonstrate, poor leadership and inappropriate behaviors that make him unsuitable to serve as Executive Director of the PAB. The behaviors substantiated by Dwyer Reynolds' own admissions, witness interviews, documents and records show that he consistently disregarded City of Rochester policies and practices, engaged in inappropriate behaviors related to the handling of confidential documents and exercised poor judgment with respect to staff relations, personnel practices and other critical functions of his position. He has further demonstrated a pattern of rationalizing his behavior with policy interpretations that strain credulity. For example, after Dwyer Reynolds learned that a PAB employee who was hired as a Staff Attorney had not passed the New York State bar exam as required for the position, he granted that employee paid time off to study for the bar exam. During her time off, the employee was paid her regular pay with no deductions for any time off. Dwyer Reynolds first contended that he believed the City operated like a law firm which hires law school graduates in anticipation of their bar passage but admits he never asked anyone to confirm. Dwyer Reynolds later claimed he had authority to grant the paid time off pursuant to the City of Rochester's Tuition Assistance Program Policy which provides employees up to \$3,000 per fiscal year in tuition assistance to encourage employee participation in advanced training and education. The policy states: "All courses of instruction must be taken outside of your normal working hours, unless approval is granted by the Department Head." The policy makes no mention of paid time off or coverage for bar exam study. Dwyer Reynolds claims that the Tuition Assistance Program Policy gave him discretion to give the employee paid time off to take the bar exam. His interpretation is not supported by a plain reading of the policy.

Dwyer Reynolds claims that Wilson's alleged harassment of him impacted his leadership of the organization in that it reduced his ability to manage the staff. However, none of the claims concerning his interactions with staff, which he claims were impacted by Wilson's alleged sexual harassment and retaliation, were substantiated. Notably, Dwyer Reynolds has not claimed that his own policy violations are in any way related to or the result of Wilson's alleged misconduct toward him. He does not claim that Wilson's alleged mistreatment caused him to inappropriately disclose confidential information to the media and non-City employees or that Wilson forced him to grant the Staff Attorney paid time off to study for the bar exam.

Dwyer Reynolds' refusal to take responsibility for his actions and rationalizations of his behavior suggest he is unlikely to alter his conduct. Retaining him in PAB leadership creates ongoing legal risks including the potential disclosure of confidential records, mishandling of personnel matters, and disregard of City policies.

RECOMMENDATIONS

The Investigators recommend that immediate steps be taken to address the substantiated behaviors and potential legal risk through corrective action including, and not limited to, termination of Dwyer Reynolds' employment with the PAB.

Additionally, the Investigators recommend the following:

- the PAB leadership should engage an organizational consultant to provide guidance and direction to address work environment defects noted by multiple witnesses including but not limited to: interactions between junior and senior staff members, trust building, open communication, and handling interpersonal conflicts;
- PAB Witness 1 should be required to complete communications training; numerous employees reported being negatively impacted by her communication style;
- PAB Witness 3, [REDACTED] should be required to work in conjunction with City of Rochester HR on all HR related matters and should not be given discretion to act independently regarding the handling of internal complaints and investigations to ensure that all HR procedures and outcomes are consistent with City of Rochester policies; and
- Members of the PAB Board should receive training in the following areas:
 - compliance with the City of Rochester Code of Conduct and all training mandated by the PAB Charter;
 - mandatory performance evaluations of the Executive Director; and
 - the City of Rochester policies and practices including but not limited to discrimination, sexual harassment, retaliation, and accommodations so that they are prepared to address these issues in the future.
- The City of Rochester should add employment policies explicitly prohibiting bullying and requiring that all employees communicate with each other in a respectful and professional manner. These policies should identify an avenue for employees to report concerns about possible violations of these policies so that issues can be addressed before they escalate;
- The City of Rochester HR Department should review their practices and policies for ensuring that candidates for hire and promotion meet listed degree, certification, and licensure requirements (such as bar passage) for the relevant position;

- The City of Rochester HR Department should review all internal PAB personnel policies to ensure that they are not duplicative or inconsistent with City of Rochester policies;
- All future notices of suspension pending the completion of an investigation should clearly forbid the suspended employee from communicating with current or former City of Rochester employees while on leave, with standard carve outs for family members and other relationships requiring contact. This prohibition will help ensure that there is no tampering with the investigation.

IV. FACTUAL SUMMARY/BACKGROUND³

The Formation of the PAB

In 2019, the City of Rochester voted to amend its Constitution (the City Charter) to create the Police Accountability Board (“PAB”). The Rochester City Council sought to establish a civilian-controlled process to fairly investigate and make determinations respecting complaints of misconduct involving sworn officers to the Rochester Police Department.⁴ The PAB would investigate complaints of police misconduct, review and assess Rochester Police Department practices, policies and procedures and ensure public accountability and transparency of the actions of sworn officers of the Rochester Police Department.⁵

Under the Charter, PAB is run by nine unpaid, volunteer Board Members. The Board’s role is to oversee the agency’s operations, set the agency’s priorities, and serve on panels during the Board’s investigatory process. One Board Member is appointed by the Mayor. Four Board Member are appointed by City Council for each of the four City Districts (East, Northeast, Northwest, and South). The remaining four Board Members are selected by the PAB Alliance, a coalition of community members who helped create and continue to sustain PAB’s work.

The law requires Board Members to be city residents who “reflect the City’s diverse community.” Board Members generally serve three-year terms, though some members are serving out shorter preliminary terms. Currently, the Board consists of Reverend Dr. Rickey Harvey (Mayoral Seat), Dr. Robert Harrison, III M.D. (Council Seat- East), Larry Knox (Board Chair, Council Seat-Northeast), Rabbi Drorah Setel, J.D. (Council Seat- Northwest), Reverend Matthew Nickoloff (Council Seat-South), Arlene Brown (Vice Chair-Alliance Seat), Danielle Tucker (Alliance Seat), and Daniel Cadet (Alliance Seat). There is currently one vacant position on the Board.

³ The statements listed in this section are those upon which the Investigators were able to confirm through either documentation evidence or corroboration from multiple witnesses. For all details listed in this section for which there is not corroboration, it is so noted. Those sections are included to provide background and context for the factual findings.

⁴ Article XVIII Police Accountability Board Charter, § 18-7, Training and Outreach. [§ 1, L.L. No. 2-2019], at 15-17, <http://www.rocpab.org/who-we-are/legal-foundation/>.

⁵ *Id.*

Appointment of the Board and Hiring of the Executive Director

The first Board Members were appointed in 2019. Current Board members Dr. Ricky Harvey, Dr. Robert Harrison, Rabbi Drorah Setel, Rev. Matthew Nickoloff, and Danielle Tucker, as well as former Board Members, Ida Perez and Celia McIntosh, and former Board Chair, Shani Wilson were tasked with starting the work of the PAB but were not provided with any formal training. However, they were connected with City officials from the City Law Department and City Council to assist with their duties.

The Board was directed to hire an Executive Director who would be responsible for hiring PAB staff members and effectively running the Agency at the direction of the Board. The Board hired Conor Dwyer Reynolds as Executive Director on October 19, 2020. Although several Board members noted having expressed concerns at his hiring that Dwyer Reynolds lacked sufficient managerial experience, no requirements regarding training or the retaining of a leadership coach were established at the time he was hired.

Although there has been a longstanding debate about the independence of the PAB and oversight over the work conducted by the PAB, all PAB employees, including Dwyer Reynolds, are City of Rochester employees and are bound to follow all applicable policies and established practices.

Events Following the Hiring of Conor Dwyer Reynolds⁶

Days after Dwyer Reynolds was confirmed by City Council, Wilson and Dwyer Reynolds began having one-on-one meetings concerning PAB operations. On Thursday, October 22, 2020, approximately one week after Dwyer Reynolds was confirmed by City Council, he and Wilson went for a walk in a local cemetery. Both agree that during the walk [REDACTED] were discussed. Following that discussion, text messages were exchanged: **(Exhibit B, October 22, 2020 Text Messages between Wilson and Dwyer Reynolds)**. The messages indicate Dwyer Reynolds and Wilson were establishing a friendship from the earliest days of Dwyer Reynolds' employment.

About a month later, on November 19, 2022, Wilson and Dwyer Reynolds made plans to meet at his home. [REDACTED]

[REDACTED] This meeting was the first time that Wilson had been to Dwyer Reynolds' home. Both confirm that they sat and talked and listened to records during the interaction. They agree that at some point, there was a discussion about Wilson being romantically attracted to Dwyer Reynolds. Wilson alleges that Dwyer Reynolds agreed that he had a mutual interest in Wilson, a fact Dwyer Reynolds denies. Both agree they discussed putting aside any

personal feelings that might exist to focus on the work of the PAB.⁷ Dwyer Reynolds alleges that that evening Wilson pointed toward his bedroom area and propositioned him to engage in sexual intercourse. Wilson adamantly denies Dwyer Reynolds' account and told Investigators she did not proposition Dwyer Reynolds or suggest they engage in sexual intercourse.

Following Wilson's visit to Dwyer Reynolds' home, the two continued to work closely together on the work of the PAB. They often met in public venues as well as privately in Dwyer Reynolds' PAB office. Multiple witnesses (PAB Witness 4, PAB Witness 7, PAB Witness 5, PAB Witness 1, PAB Witness 12, PAB Witness 11, PAB Witness 2, PAB Witness 3 and PAB Witness 14) confirmed that the two often appeared to be engaging in a friendly manner and no witnesses reported having observed any conduct by Wilson they deemed inappropriate. Multiple witnesses (PAB Witness 12, PAB Witness 11, PAB Witness 10, PAB Witness 4, PAB Witness 7, PAB Witness 5, PAB Witness 1, PAB Witness 2, PAB Witness 14, PAB Witness 3, PAB Witness 6, PAB Witness 19, PAB Witness 21, PAB Witness 22) also stated that Dwyer Reynolds never appeared uncomfortable around Wilson and some of those witnesses stated that it was often Dwyer Reynolds who would invite Wilson to PAB meetings where her presence did not appear to be required. Multiple witnesses (PAB Witness 4, PAB Witness 5, PAB Witness 1, PAB Witness 3, PAB Witness 14 and PAB Witness 6) also reported observing Wilson visit the PAB office and Dwyer Reynolds calling her into his office for meetings where Dwyer Reynolds was seen closing the door so the two could meet privately.

Wilson and Dwyer Reynolds continued to collaborate on preparations to launch PAB as a functioning oversight agency during the remainder of 2021. The two met up at several events and venues including political fundraisers, coffee shops and eateries. Wilson alleges that she often invited Dwyer Reynolds to outings with her contacts in Rochester to help him get engaged in the community. Dwyer Reynolds told Investigators he felt these outings were mandatory and that he had to attend them in order to maintain a cordial relationship with Wilson free from hostility or retaliation. Review of the text message trail between Wilson and Dwyer Reynolds calls this contention into question.

Dwyer Reynolds Sends Internal Communications to Local Media

On January 10, 2021, Dwyer Reynolds sent a City of Rochester internal e-mail to Reporter⁸, a reporter at the Democrat & Chronicle. The e-mail was titled, "Capitol Siege Question" and contained an exchange between Dwyer Reynolds and then Rochester Police Department – Chief of Police, Cynthia Herriott. In the email to Herriott, Dwyer Reynolds asked whether any

⁷ Dwyer Reynolds states that only the feelings of Wilson were discussed. Both Wilson and Dwyer Reynolds provided corroborating witnesses to attest to what they had been told in real time about what occurred. One of the witnesses provided by Dwyer Reynolds did not corroborate Dwyer Reynolds' version of what occurred and instead stated that the witness had been told by Dwyer Reynolds that he and Wilson had discussed having mutual feelings for each other, directly contradicting Dwyer Reynolds' claim that he never expressed romantic feelings for Wilson.

⁸ This name has been withheld to protect confidentiality.

Rochester Police Department officers entered the Capitol building illegally on January 6, 2021. The exchange includes the Chief of Police's response to his inquiry.

On March 4, 2021, Dwyer Reynolds sent Reporter another internal e-mail containing information about a "use of force" police incident on Portland Avenue that had been sent by then City Council President Loretta Scott. The original e-mail contained a link to related, unredacted video footage from a police body camera. President Scott's e-mail stated that the footage should not be disseminated until it was redacted. The e-mail trail included questions asked by Dwyer Reynolds and President Scott's responses. Dwyer Reynolds forwarded the e-mail communication to Reporter but removed the link to the unredacted footage. In the e-mail to Reporter, he stated, "You requested to see the email chain showing (1) how the PAB received BWC footage regarding the Portland Avenue incident and (2) answers to questions posed by the PAB on that chain." The e-mail went on to state that Dwyer Reynolds had deleted sections of the email that contained links to the BWC footage because it was not redacted and he understood he could not reveal it to anyone outside of City government. Although Dwyer Reynolds redacted the footage, it was still a violation to send an internal communication discussing City business to a non-City employee.

On March 25, 2021, Dwyer Reynolds sent Reporter another internal e-mail. It contained an exchange between Dwyer Reynolds and Linda Kingsley ("Kingsley"), the then serving Legal Counsel to City Council. In the exchange with Kingsley, Dwyer Reynolds provided a list of documents that had not yet been received from the City Law Department. The e-mail to Reporter stated, "[REDACTED]-see below for an answer to your question about what thinks (sic) we still haven't received. I deleted the names of officers from the list for confidentiality reasons. We had a meeting on February 26 where we went request-by-request with Mayor Warren describing everything that hasn't been fulfilled."

New Staff is Hired at PAB and Dwyer Reynolds Sends Additional Internal Communications to External Parties

Dwyer Reynolds selected his first PAB staff member, PAB Witness 5, in April 2021. With PAB Witness 5's hiring, Dwyer Reynolds engaged in repeated discussions with City of Rochester HR and other officials regarding her starting pay and his feelings that PAB Witness 5 was not being properly compensated through her initial salary offer.

On April 29, 2021, Dwyer Reynolds forwarded an e-mail exchange he had with then City Council President Loretta Scott regarding his request that PAB Witness 5 be paid at a level higher than reflected by her initial offer. The email exchange included disclosure of confidential information including PAB Witness 5's salary in her last employment position. Dwyer Reynolds forwarded this email exchange to a non-City employee, Witness 5, on April 29, 2021 without redactions. In forwarding the message to Witness 5, Dwyer Reynolds wrote, "This is what we're dealing with...structural barriers to pay equity. I hope these facts convince the City to do the right thing." Witness 5 was not a City consultant, or executive coach to Dwyer Reynolds at the time of the e-mail exchange.

A week later, discussions about PAB Witness 5's pay occurred at a PAB meeting. The discussion resulted in Reporter making a May 6, 2021 email request for information about Dwyer Reynolds' discussions regarding employee compensation. Reporter's e-mail to Dwyer Reynolds and Wilson stated, "Hello all, I am formally requesting the emails with Mayor Warren and other city officials cited in tonight's PAB meeting. If you would like me to file a FOIL request, I am happy to do so." In response to that e-mail, Wilson stated, "That would be great." Two minutes after Wilson's response (and including Wilson's response in his reply) Dwyer Reynolds said he would send the information with the candidate's name redacted. He then sent three separate e-mails to Reporter which included Dwyer Reynolds' emails with City officials including the then Mayor, President of City Council and Director of Human Resources, and their replies. In two of the three e-mails Dwyer Reynolds redacted the name of the candidate but, in the third e-mail, the name of the candidate was not redacted. The information in the e-mails included the applicant's pay at her last place of employment and statements from the City officials regarding the handling of the new employee's salary offer, among other things. Dwyer Reynolds seemingly identified his mistake in failing to redact the candidate name and sent a follow-up e-mail to Reporter minutes later. In it, he identified the error and redacted PAB Witness 5's name. Dwyer Reynolds claims he had a conversation with Wilson about the fact he was providing this information to a member of the media, but Wilson recalled no such conversation. Wilson also did not recall ever giving Dwyer Reynolds any instruction about the FOIL process.

The City of Rochester maintains a FOIL records request process, mandated under the City Charter §18-1, requires all requests for information or documentation received from non-City employees to be processed by the Records Access Officers, two Municipal Attorneys designated by the Mayor. Only the two designated Records Access Officers may establish procedures governing access to records in accordance with FOIL. During this Investigation Dwyer Reynolds acknowledged being aware the City's FOIL process was handled by the City Law Department, but stated that he had concerns about its soundness based on the handling of prior FOIL requests including, those related to the Daniel Prude matter. In Dwyer Reynolds' estimation the City historically did not handle FOIL requests properly. He stated that his concerns were shared by the PAB Board and that he felt, as the Executive Director of the PAB, he was authorized and able to manage such requests and provide requested internal information without seeking approval from the City Law Department.

Dwyer Reynolds Continues to Send Internal Communications to the Media

On May 7, 2021, Dwyer Reynolds sent an e-mail to Reporter containing a communication he had with the then Chief of Police's regarding her response to Dwyer Reynolds' request that he and the PAB Board Members be able to attend an upcoming Rochester Police Department training. The PAB Board and former Corporation Counsel Tim Curtin were copied in the underlying trail.

Wilson Approves Dwyer Reynolds' Leave without Informing City of Rochester HR

In late January 2022, Dwyer Reynolds told Wilson that he wanted to take time off [REDACTED] [REDACTED] wyer Reynolds requested that Wilson not tell the Board the reason for his request, but instead frame his absence as him taking Paid Time Off [REDACTED]. Wilson honored Dwyer Reynolds' request and informed the Board that he was taking time off [REDACTED]. Following the leave, Dwyer Reynolds returned to work on a reduced schedule. Neither Dwyer Reynolds nor Wilson ever informed City of Rochester HR that Dwyer Reynolds would be out of the office for any period of time, [REDACTED] or that he would be working a reduced schedule on his return.

Additional Hires Were Made Including an Unqualified Staff Attorney

In January 2022, Dwyer Reynolds began the expansion of the PAB and hired 10 additional staff members, including PAB Employee 1, a law school graduate who had not passed the bar exam. PAB Employee 1 was hired on January 3, 2022 as a Staff Attorney. The Staff Attorney position requires bar passage in New York State as a minimum qualification. This requirement is reflected in the written job description. PAB Employee 1 passed the required preliminary review by City of Rochester HR which suggested that her application reflected all minimum job qualifications.

Staff Attorney Provided Paid Leave to Study for Bar Exam

In February 2022, Dwyer Reynolds granted PAB Employee 1 paid time off to study for and take the February bar exam. Dwyer Reynolds did not consult with or request permission from City of Rochester HR. He did not ask whether City policies permitted paid time off for employees to prepare for and take professional examinations. With Dwyer Reynolds' approval, PAB Employee 1 received her regular pay while on leave.

PAB Witness 1 is Hired, Complaints About PAB Witness 1 are Made

Dwyer Reynolds hired three (3) additional staff members in February, including PAB Witness 1 as [REDACTED]. Very shortly after she started, her position was changed to [REDACTED] and Dwyer Reynolds began to discuss his consideration to promote PAB Witness 1 [REDACTED] role. PAB Witness 1 began overseeing a Disciplinary Matrix project shortly after her hire which involved her managing three employees on the project including – Staff Attorneys PAB Witness 11 and PAB Employee 1 and Policy Analyst PAB Witness 13. The Disciplinary Matrix project had previously been overseen by Dwyer Reynolds and was transferred to PAB Witness 1 to manage. As part of PAB Witness 1's

management of the project, she began having regular meetings with PAB Witness 11 and PAB Witness 13.

On March 8, 2022, PAB Witness 11, PAB Employee 1, and PAB Witness 12 (another Staff Attorney) met with Dwyer Reynolds to express concerns about PAB Witness 1. During this meeting, PAB Witness 11 informed Dwyer Reynolds about issues she was having with PAB Witness 1 on the Disciplinary Matrix project. PAB Witness 11 said PAB Witness 1 was singling her out in meetings as being an underperforming worker, to the point where it felt degrading. PAB Witness 12 and PAB Employee 1 told Dwyer Reynolds that they witnessed this behavior and it made them uncomfortable. Dwyer Reynolds told PAB Witness 11, PAB Employee 1 and PAB Witness 12 that he was scheduling a meeting for the next day to discuss their concerns. Dwyer Reynolds then thanked them for coming to him to speak out and told them to never hesitate to reach out.

Dwyer Reynolds Initiates Creation of Investigation Policy

On March 9, 2022, Dwyer Reynolds informed PAB Witness 3, [REDACTED] [REDACTED] of PAB Witness 11's complaint and told her that they would need to conduct an internal investigation into PAB Witness 11's complaint. Dwyer said that a protocol for conducting internal investigations was needed before the staff attorneys' allegations could be investigated. Dwyer Reynolds alleges that he called the City of Rochester Office of Public Integrity ("OPI") and spoke to Witness 9, [REDACTED]. Dwyer states that Witness 9 told him the City of Rochester had no policy regarding how to conduct internal investigations. Witness 9 denies having any recollection of the alleged conversation and states that, if Dwyer Reynolds asked about the City's policies, she would have directed him to City of Rochester HR or the Director of OPI.

On March 18, 2022, Dwyer Reynolds held a Senior Staff Strategy Meeting attended by members of senior staff and Wilson. After the meeting, Wilson, PAB Witness 5, and PAB Witness 1 went for a walk to get to know each other better and discuss PAB matters. PAB Witness 5 left from walking with PAB Witness 1 and Wilson early to meet with Dwyer Reynolds. During PAB Witness 5 and Dwyer Reynolds' meeting, they discussed that the meeting did not go well. There are conflicting accounts on what specifically was discussed.

That same day, PAB Witness 12, PAB Witness 11, PAB Employee 1 and PAB Witness 13 discussed PAB Witness 1's behavior towards them. During that conversation, PAB Witness 11 said that there is a possibility that PAB Witness 1 acts the way that she does towards the staff attorneys because she is a Black woman in a male dominated field and likely feels that she needs to be tough to protect herself. That same day, PAB Witness 13 told PAB Witness 1 about PAB Witness 11's comment. PAB Witness 1 then told Dwyer Reynolds about PAB Witness 11's comments.

Dwyer Reynolds Shares his Intent to Discipline PAB Witness 1 Before an Investigation into the Complaint Against Her Begins

On the night of March 18, 2022, Dwyer Reynolds called Wilson to report PAB Witness 11's claim of bullying against PAB Witness 1. During that conversation Dwyer Reynolds told Wilson he wanted to discipline PAB Witness 1 for her behavior toward staff attorneys. Wilson responded by saying she was concerned Dwyer Reynolds was retaliating against PAB Witness 1 and that the Board shared her concerns. According to Wilson, she told Dwyer Reynolds: "if you do anything to Witness 1, you are going to have a lot to explain to the Board. You are going to have a lot of explaining to do." Dwyer Reynolds stated that it became clear to him from his conversation with Wilson that involving himself in the investigation of PAB Witness 1 would be perceived as retaliatory. In his view, this perception made it impossible for the investigation to be done properly and stripped him of his job duties.

Dwyer Reynolds and Wilson Attend Mayor's Ball

On March 19, 2022, Wilson and Dwyer Reynolds attended the Mayor's Ball. At least one witness alleges that Dwyer Reynolds was seen embracing Wilson with his hand placed on the small of Wilson's back during this event. Dwyer Reynolds alleges Wilson humiliated him at this event by having him retrieve her shoes from the car and wait outside the restroom for her for an extended period of time. However, Dwyer Reynolds initiated a text message conversation with Wilson the next day and stated, "Thanks for yesterday. Hope your feet are feeling better." Wilson responded by sending Dwyer Reynolds an inspirational quote to which Dwyer Reynolds responded, "!!!".

Dwyer Reynolds Formally Calls for Investigation into PAB Witness 11 and PAB Witness 1 Complaints

On March 29, 2022, twenty-one days after the original complaint was received, the PAB policy for conducting an internal investigation at PAB was in place. Dwyer Reynolds sent PAB Witness 3 an e-mail directing her to begin an investigation into PAB Witness 11's complaint that PAB Witness 1 bullied her and PAB Witness 1's complaint that PAB Witness 11 made racist remarks about her.

On March 30, 2022, PAB Witness 3 began an investigation into PAB Witness 1 and PAB Witness 11's complaints. PAB Witness 3 initiated her investigation with an interview with PAB Witness 11 on March 30, 2022. Based on PAB Witness 3's notes from the interview, PAB Witness 11 was not asked key questions such as whether she called PAB Witness 1 a bitch. However, PAB Witness 3 stated in her final investigation report that PAB Witness 11 admitted to calling PAB Witness 1 a bitch. On April 18, 2022, PAB Witness 3 interviewed PAB Witness 10 for 18 minutes, PAB Witness 12 for 6 minutes, PAB Employee 1 for 15 minutes, PAB Witness 15 for 5 minutes, and PAB Witness 13 for an unspecified amount of time. PAB Witness 3 did not interview PAB Witness 1 until May 9, 2022 and does not have any notes from any meetings with

other individuals between April 18, 2022 and May 9, 2022. PAB Witness 3 stated that PAB Witness 1 was not interviewed until May 9, 2022, because [REDACTED]. However, PAB Witness 1 was involved with staff meetings between April 27, 2022 and May 9, 2022.

PAB Witness 3's notes with interviewees lack sufficient detail to properly investigate the claims and the investigation otherwise appeared incomplete. PAB Witness 3's report ultimately concluded that PAB Witness 1 did not engage in bullying or any inappropriate behavior towards PAB Witness 11 and PAB Witness 11 engaged in conduct that constituted race discrimination. However, her findings included conclusions that were unsubstantiated by witness testimony and that included her personal opinions without supporting evidence. Because her internal investigation of the allegations were not properly conducted, the claims were added to this Investigation for a more thorough review.

With the Exception of Dwyer Reynolds, PAB Staff Attend Annual Training Mandated by PAB Charter

In April 2022, the staff began mandatory training, required by the PAB Charter. Dwyer Reynolds did not attend any of the full day trainings and excused several senior staff members from attending the training so that they could complete other work at his direction.

Dwyer Reynolds Modifies PAB Job Titles

On April 7, 2022, Dwyer Reynolds proposed to the Civil Service Commission that PAB job titles change to Accountability Inspector I through V. Positions at PAB can only be reclassified with the Civil Service Commission's approval. Dwyer Reynolds engaged in lengthy exchange with the City's Human Resources Department that required him to justify his proposals in detail. Dwyer Reynolds followed the proper outlined procedures and received all necessary approvals to implement his proposals. Staff members who were impacted by this change were not informed of the proposal or its approval until May 2022.

On April 8, 2022, Dwyer Reynolds proposed to PAB Employee 2 and PAB Witness 3 that they reclassify PAB Witness 13's role to a position that would result in a roughly \$500 per year salary reduction and a salary bracket change. Salary brackets are used by the City to determine pay and career progression for City employees. Dwyer Reynolds proposal would move PAB Witness 13's classification from Bracket 22, Step A (\$58,563) to Bracket 18, Step G (\$58,043). Dwyer Reynolds stated that he wanted to reclassify PAB Witness 13 to address pay equity reasons because PAB Witness 13's positional counterpart, PAB Employee 3, had more extensive experience. Dwyer Reynolds also contended he wished to keep additional Accountability Inspector II slots open for future hires, and believed the less than 1% change in PAB Witness 13's salary was sufficiently minimal to justify the change.

April PAB City Council Meeting

The week of April 11, 2022, Dwyer Reynolds received a letter from City Council that included a proposed agenda for the upcoming April 19, 2022, joint City Council PAB Meeting. The Agenda included the topics that the City Council wanted the PAB to discuss. Dwyer Reynolds did not share the agenda with senior staff but instead e-mailed the senior staff “talking points” for the meeting and directed that they share their outlines and/or speeches for the meeting with him.

On April 19, 2022, PAB senior staff and Dwyer Reynolds, attended the City Council PAB Meeting. PAB attendees made presentations to the City Council on various topics using the verbiage and outlines that Dwyer Reynolds had approved. Toward the end of the meeting, City Council stopped the senior staff from speaking and stated that the presentations failed to address any of the agenda items they sent to Dwyer Reynolds in advance of the meeting. Dwyer Reynolds told Investigators that as the leader of the PAB, he made a strategic decision about what would be discussed based on his understanding that the meetings were intended to be collaborative and give PAB an opportunity to inform City Council of PAB activities. He told the Investigators that the PAB Board understood his explanation and supported his decision.

Dwyer Reynolds’ Alleged Verbal Altercation with Employee

On April 19, 2022, Dwyer Reynolds directed PAB Witness 4 not to attend the training so that she could complete work at the office. PAB Witness 4 and Dwyer Reynolds had a conversation regarding reimbursements for another employee’s travel and accommodation expenses and an e-mail exchange with City Council regarding required approvals. At the direction of City of Rochester Employee 1, PAB Witness 4 sent an e-mail to President Melendez to receive his signature on a PAB reimbursement form for an employee traveling to Rochester to attend the mandatory CCSI training. City of Rochester Employee 2 responded to PAB Witness 4’s e-mail copying Dwyer Reynolds and other city officials, invoking anger from Dwyer Reynolds because of his belief that no other Department Head had to receive approvals from City Council or the Mayor on their Agency forms and his previous requests that City of Rochester Employee 2 not be involved with PAB matters. Dwyer Reynolds then came out of his office visibly agitated and raised his voice asking PAB Witness 4 who told her that President Melendez’s approval was needed. PAB Witness 4 informed Dwyer Reynolds that City of Rochester Employee 1 informed her to send the form to President Melendez for his signature. Dwyer Reynolds then pulled up a chair to her desk and called City of Rochester Employee 1 to confirm the information. After City of Rochester Employee 1 confirmed that she instructed PAB Witness 4 to send the form to the Mayor for his signature, Dwyer Reynolds yelled again and said that it was “bullshit” and that he was going to call Wilson to assist with addressing the situation. PAB Witness 4 went into her office and began crying. A few minutes later, PAB Witness 4 sent an e-mail to Dwyer Reynolds saying that she feels like she did something wrong. Dwyer Reynolds then returned to where PAB Witness 4 was seated and apologized for how he spoke to her, stating that he was not angry at her and was just frustrated because the City was treating him like a child and not allowing him to make his own decisions.

PAB Witness 1 Removed From the Disciplinary Matrix Project Six Weeks After Complaint Received

That same day, April 19, 2022, Dwyer Reynolds removed PAB Witness 1 from the Matrix Project and tasked PAB Witness 6 with supervising the staff attorneys assigned to the project.

Dwyer Reynolds Threatens to Report Wilson to PAB Board

Also, on April 19th, Wilson and Dwyer Reynolds met with a community member at Mercantile on Main. After the community member left the meeting, Wilson and Dwyer Reynolds got into an argument and Dwyer Reynolds told Wilson that he was going to report her behavior to the Board. By the end of the conversation, Wilson and Dwyer Reynolds agreed to talk further to work on their differences. The follow-up meeting never took place. Dwyer Reynolds told Investigators that Wilson cancelled the planned meeting on several occasions while Wilson has claimed that no firm date was ever confirmed.

Dwyer Reynolds Announces PAB Witness 14's Planned Job Change

On April 25, 2022, Dwyer Reynolds announced to the staff that PAB Witness 14's title would change from [REDACTED]

[REDACTED]. Dwyer Reynolds began working with PAB Witness 14 on a draft job description for her new role. He never informed City of Rochester HR or his internal PAB Director of Staff Support & Development to discuss this job change.

On April 26, 2022, PAB Witness 5 met with Dwyer Reynolds to report concerns that PAB Witness 14 was receiving responsibilities for which she was not qualified. She also told him that she needed additional resources and staff members for the Public Affairs Team in order to effectively do their work.

Dwyer Reynolds and PAB Staffer Have Second Alleged Verbal Altercation

Later that day, PAB Witness 4 and Dwyer Reynolds met at the new PAB office space and PAB Witness 4 gave Dwyer Reynolds a tour and explained the office layout that had been agreed on by members of senior staff. During the tour, Dwyer Reynolds made suggestions to change some of the assigned offices. PAB Witness 4 told Dwyer Reynolds that she would discuss the suggestions with the senior staff then rearrange the layout. Dwyer Reynolds became angry at PAB Witness 4's response and said that he is the Executive Director, and he gets to make those decisions. Dwyer Reynolds then said something to the effect that the Investigations Team is the focus of PAB and they needed to be in specific offices. PAB Witness 4 alleges that she felt afraid and uncomfortable because of how angry and aggressive Dwyer Reynolds was and because of

what he said. PAB Witness 4 later called PAB Witness 5 and informed her that Dwyer Reynolds yelled at her about the office layout that they previously chose and told her that Public Affairs is not the most important department of the PAB, investigations is the most important department of the PAB. PAB Witness 4 told PAB Witness 5 that Dwyer Reynolds' behavior was aggressive and intimidating. PAB Witness 4 also told PAB Witness 3 about what occurred.

PAB Senior Staff Met Privately to Discuss Concerns with Dwyer Reynolds' Leadership

On April 27, 2022, PAB Witness 6, PAB Witness 2, PAB Witness 1, PAB Witness 3, PAB Witness 4, PAB Witness 5, and PAB Witness 7⁹ ("senior staff") met to discuss their concerns with Dwyer Reynolds and the status of the PAB. During that meeting, they agreed to share their concerns with Dwyer Reynolds via e-mail on Friday, April 29, 2022 and to meet with him to discuss the concerns on May 4, 2022. That night, PAB Witness 1 called Wilson to inform her of the senior staff's concerns and said that staff did not want the Board to take any action but wanted to make them aware.

Board Members Meet for Dinner and Wilson Shares that Senior Staff Had Concerns with Dwyer Reynolds' Leadership

The evening of April 27th, PAB Witness 18 hosted a dinner at her house attended by PAB Witness 21, Wilson, PAB Witness 20, and PAB Witness 19. Wilson informed the group that the senior staff raised concerns about Dwyer Reynolds but did not want the Board to take action and did not want to discuss the details of the concerns.

Dwyer Reynolds is Informed of Senior Staff Concerns Via E-mail and Meets with Senior Staff to Discuss

On Friday, April 29, 2022, PAB Witness 3 sent an e-mail to Dwyer Reynolds on behalf of the senior staff outlining their list of concerns. (**Exhibit C, April 29, 2021 E-mail from PAB Witness 3 to Dwyer Reynolds**)

Throughout the weekend, Dwyer Reynolds spoke to several board members and contacted junior and senior staff members including PAB Witness 12, PAB Employee 1 and PAB Witness 11. Dwyer Reynolds spoke to PAB Witness 4, PAB Witness 23, PAB Witness 19, and PAB Witness 22.

On May 2, 2022, Dwyer Reynolds attempted to hold a meeting with senior staff to discuss their April 29, 2022 e-mail, but PAB Witness 3 suggested ending the meeting because not all of

⁹ PAB Witness 7 noted that although she attended the April 27th meeting with staff, she did not agree with all of the concerns included in the e-mail to Dwyer Reynolds summarizing the concerns.

the senior staff could attend the meeting in person. They agreed to end the meeting and meet as planned on May 4, 2022.

On May 4, 2022, Dwyer Reynolds met with senior staff to discuss their concerns. During the meeting, each senior staff member expressed their specific concerns. Following the meeting, Dwyer Reynolds sent an e-mail acknowledging that the senior staff concerns were accurate stating “Thank you all for being so open and honest with me this morning. There was very little to disagree with – and a whole lot to change.”

PAB Holds a Listening Session with Senior Staff

On May 5, 2022, the Board held a listening session via Zoom for the senior staff to share their concerns. At the end of the meeting, PAB Witness 23 wrote in the chat that the senior staff was a “Den of Vipers”. After the senior staff left the Zoom, the Board allowed Dwyer Reynolds time to speak to the Board. Dwyer Reynolds reported allegations against PAB Witness 1 indicating that she had engaged in misconduct and was attempting to take over the PAB and that Wilson subjected him to sexual harassment. That was the first time that Dwyer Reynolds shared his concerns about Wilson with the Board.

Dwyer Reynolds Meets with PAB Staff Members to Share His Allegations of Sexual Harassment

On May 6, 2022, Dwyer Reynolds met with PAB Witness 5 at Mercantile on Main and PAB Witness 2 and PAB Witness 14 in the office to read the statement he read to the Board during the May 5, 2022, listening session including his report that Wilson sexually harassed him.

PAB Witness 5 Shares Statement Questioning Whether Dwyer Reynolds was engaged in an Inappropriate Relationship with a PAB Staffer

During Dwyer Reynolds’ meeting with PAB Witness 5, PAB Witness 5 shared her feelings about the state of things at PAB. She also told him that someone had asked whether there was a possibility that Dwyer Reynolds was involved in a sexual relationship with PAB Witness 14 because they could not understand why he [REDACTED]

Dwyer Reynolds Reported Sexual Harassment against PAB Witness 14

That same day, PAB Witness 3 e-mailed City of Rochester Witness 2 to report Dwyer Reynolds’ sexual harassment allegations against Wilson and the senior staff’s concerns. PAB Witness 3 informed City of Rochester Witness 2 that she learned of the allegations and was reporting them as a mandatory reporter.

On May 8, 2022, the Board held a listening session with Dwyer Reynolds to hear his complaints. Dwyer Reynolds attended that session with his new executive coach, Witness 5. During the meeting, Dwyer Reynolds discussed ways in which he intended on working with Witness 5 to address all of the senior staff's concerns.

On May 9, 2022, PAB Witness 3 e-mailed City of Rochester Witness 2 and President Melendez to report hostile, toxic, and retaliatory work environments created by Dwyer Reynolds. The reported incidents included attempting to force a meeting with the senior staff on May 2, 2022, telling PAB Witness 3 that she should be careful so this does not blow up in her face, and meeting with staff members to discuss his allegations against Wilson and PAB Witness 1. **(Exhibit D, May 9, 2022 E-Mail from PAB Witness 3 to City of Rochester Witness 2 and President Melendez)**

Several Internal Complaints Filed with City of Rochester HR

On May 10, 2022, Dwyer Reynolds filed a sexual harassment complaint with the City of Rochester alleging that he and PAB Witness 14 had been subjected to sexually harassment by PAB Witness 5, PAB Witness 1, PAB Witness 6, PAB Witness 2, PAB Witness 3, and PAB Witness 4 due to them spreading a rumor about him having a sexual relationship with PAB Witness 14.

On May 11, 2022, PAB Witness 1 filed a Complaint with the City of Rochester against Dwyer Reynolds alleging race and sex discrimination and retaliation.

Dwyer Reynolds Placed on Leave

On May 12, 2022, after receiving reports that Dwyer Reynolds was engaging in perceived retaliation against staff who raised concerns, the PAB Board voted to place Dwyer Reynolds on leave effective May 12, 2022. Wilson was recused from voting. Dwyer Reynolds was provided with notification of his leave in a formal letter. **(Exhibit E, Dwyer Reynolds Notice of Leave)**

The letter outlined very specific rules that were to be followed during the leave, including: return of all City records and property and avoiding contact with his supervisor, subordinates and co-workers. Dwyer Reynolds was also told that his access to City of Rochester email and any other access rights that he may have to City technology systems or facilities would be immediately suspended and he was not allowed to access any City facility.

After he was placed on leave, Dwyer Reynolds requested he be provided with personal effects from his office, including his personal desktop computer which he previously utilized for City business and which contained a downloaded archive of his PAB e-mail. He was provided with the desktop computer, at his request, and used it to access his PAB e-mail records stored on the computer. Dwyer Reynolds alleges that he utilized his personal desktop computer starting in late 2020 to complete PAB work because his City issued laptop had stopped working for a period of time. City IT officials confirmed that Dwyer Reynolds had never reported any issues with his City issued laptop and the laptop had never been replaced. His City issued laptop was last connected to the City system in April 2022.

Multiple Legal Filings Ensue

On May 9, Dwyer Reynolds filed a DHR Complaint with the New York State Human Rights Department alleging sexual harassment and retaliation.

On May 17, 2022, PAB Witness 14 filed a DHR Complaint [REDACTED]

On May 30, 2022, PAB Witness 1 filed a Complaint with the New York State Human Rights Department [REDACTED]

On June 7, 2022, Dwyer Reynolds published an article on Medium outlining his complaints, entitled, “I Reported Sexual Harassment by My Boss. A Week Later, I Was Suspended”. (**Exhibit F, Medium Article**)

V. ALLEGATION ANALYSIS

1. Whether Shani Wilson sexually harassed Conor Dwyer Reynolds in violation of the City of Rochester’s internal policies.

I. Allegation

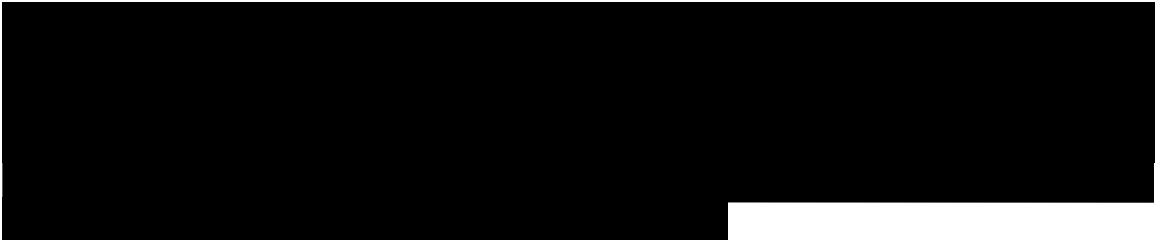
Dwyer Reynolds alleges that Wilson sexually harassed him by engaging in the following:

- (a) On October 22, 2020, Wilson and Dwyer Reynolds went for a walk in a local cemetery and Wilson asked him about his sexual orientation, made comments about finding him attractive, and referred to him as a unicorn because he is a bisexual male;
- (b) On November 19, 2020, Wilson visited Dwyer Reynolds’ home, told him that she was romantically interested in him, discussed her sexuality and dating history, and propositioned him for a romantic relationship;
- (c) Throughout his employment she regularly referenced having romantic feelings for him and insinuated that she was attracted to him and desired to act on those feelings;
- (d) Wilson spread rumors about Dwyer Reynolds’ sexual orientation with others;
- (e) Wilson encouraged Dwyer Reynolds to date men and attempted to set him up with another man;

- (f) Wilson urged Dwyer Reynolds to stop dating a female friend of Wilson’s with whom he had been on several dates and was engaged in a sexual relationship;
- (g) Wilson refused to respect boundaries that Dwyer Reynolds set up by:
 - a. texting him on December 3, 2020 and December 5, 2020, requesting that he come over to her house;
 - b. being “cruel” to him after December 5, 2020;
 - c. requesting to meet on December 17, 2020, because she has some things to say to him then berating him for being distant with her and hurting her feelings;
 - d. requesting that they meet on April 27, 2021;
 - e. expressing her romantic and sexual feelings for Dwyer Reynolds which made him feel uncomfortable; and
 - f. and on August 31, 2021, requesting to meet and discuss her feelings for him, her beliefs that he was a bad friend, and his disrespect towards her.
- (h) Wilson gave Dwyer Reynolds hugs where she would rub her body up against his without his consent that he felt were inappropriate;

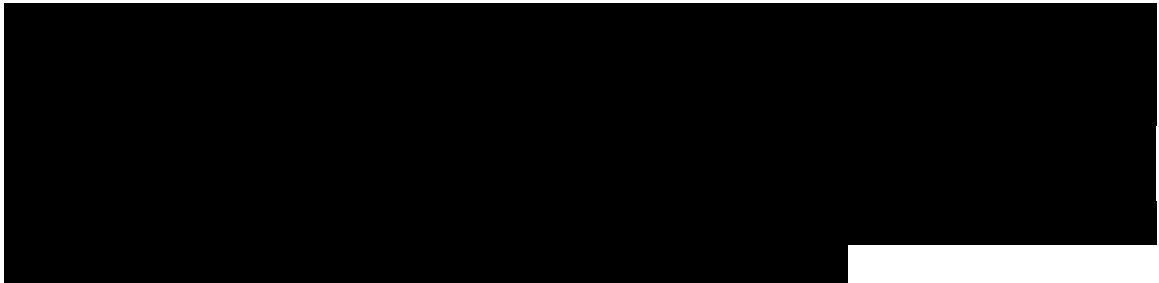
(i) 

II. Corroboration and Key Facts

a) 

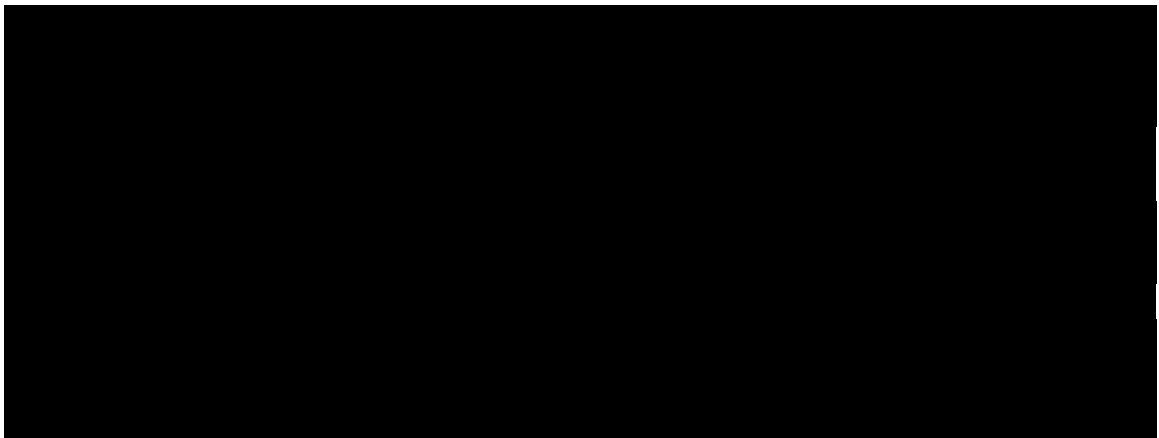
The claims that Wilson referred to Dwyer Reynolds as attractive or a unicorn could not be corroborated.

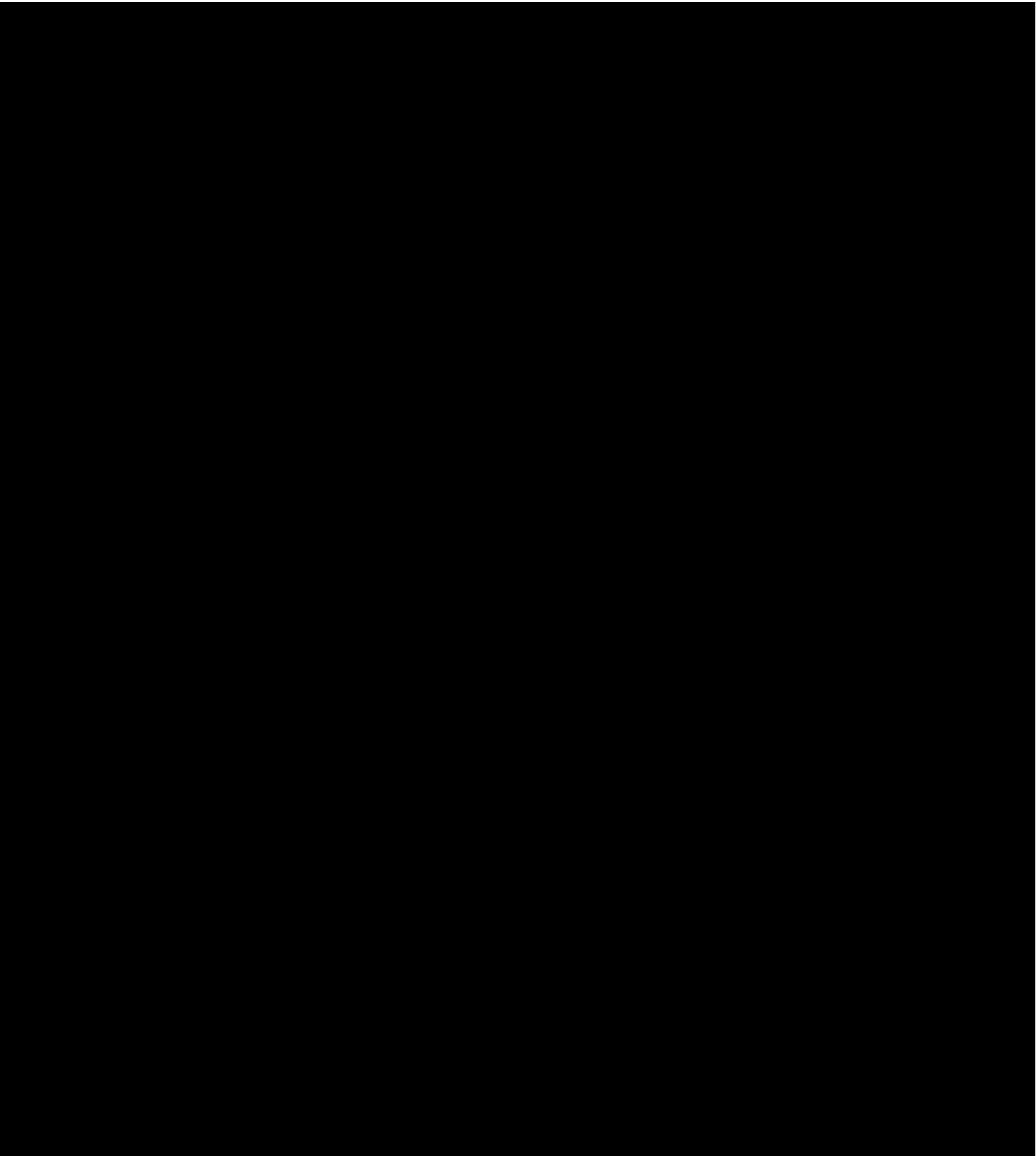
b)

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Because there were multiple witnesses on both sides, Investigators were unable to corroborate whether mutual feelings had been disclosed that evening and whether Wilson had attempted to proposition Dwyer Reynolds sexually. However, it was corroborated that at a minimum, Wilson had, based on her own admission, shared with Dwyer Reynolds that she had romantic feelings for him at his home on November 19, 2020.

c)

A large rectangular area of text is completely redacted with a solid black fill.



Based on the weight of the evidence, Dwyer Reynolds' claim that he was subjected to unwanted statements and behavior by Wilson could not be corroborated. Witness accounts from individuals who observed the interactions between Dwyer Reynolds and Wilson throughout Dwyer Reynolds' PAB tenure both in work and at social settings support a finding that there was a reciprocated attraction between Wilson and Dwyer Reynolds which

was observed, and in some instances discussed with others. Text messages exchanges between Dwyer Reynolds and Wilson further call into question his claims that the behavior was unwanted.

d)

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Based on Dwyer Reynolds' own disclosure of his sexual orientation to Board Members other than Wilson and to PAB staff members, there is no corroboration that Wilson spread rumors about his sexual orientation.

e) Wilson denied that she encouraged Dwyer Reynolds to date men. Dwyer Reynolds alleged that Wilson shared his contact information with a male community member who later reached out to him at the insistence of Wilson. Dwyer Reynolds presented no supporting documentary evidence for this claim.

This claim could not be corroborated.

f)



Based on the weight of the evidence, Investigators concluded that it is more likely than not that Wilson pressured Dwyer Reynolds to no longer romantically pursue Wilson's friend. This allegation is therefore corroborated.

g)

[REDACTED]

[REDACTED]

Neither party provided any documentary evidence to support their contentions regarding the setting of boundaries. Instead, what was clear in the documentation provided, including a full detail of the text messages exchanged between Dwyer Reynolds and Wilson, is that both parties invited the other to meet in person, regularly reached out to have one-on-one conversations regarding PAB happenings and to meet in non-PAB locations outside of business hours. Although Dwyer Reynolds contends that he felt forced to attend those outings for fear of retaliation or hostile treatment from Wilson, there is no evidence to support that.

This claim could not be corroborated.

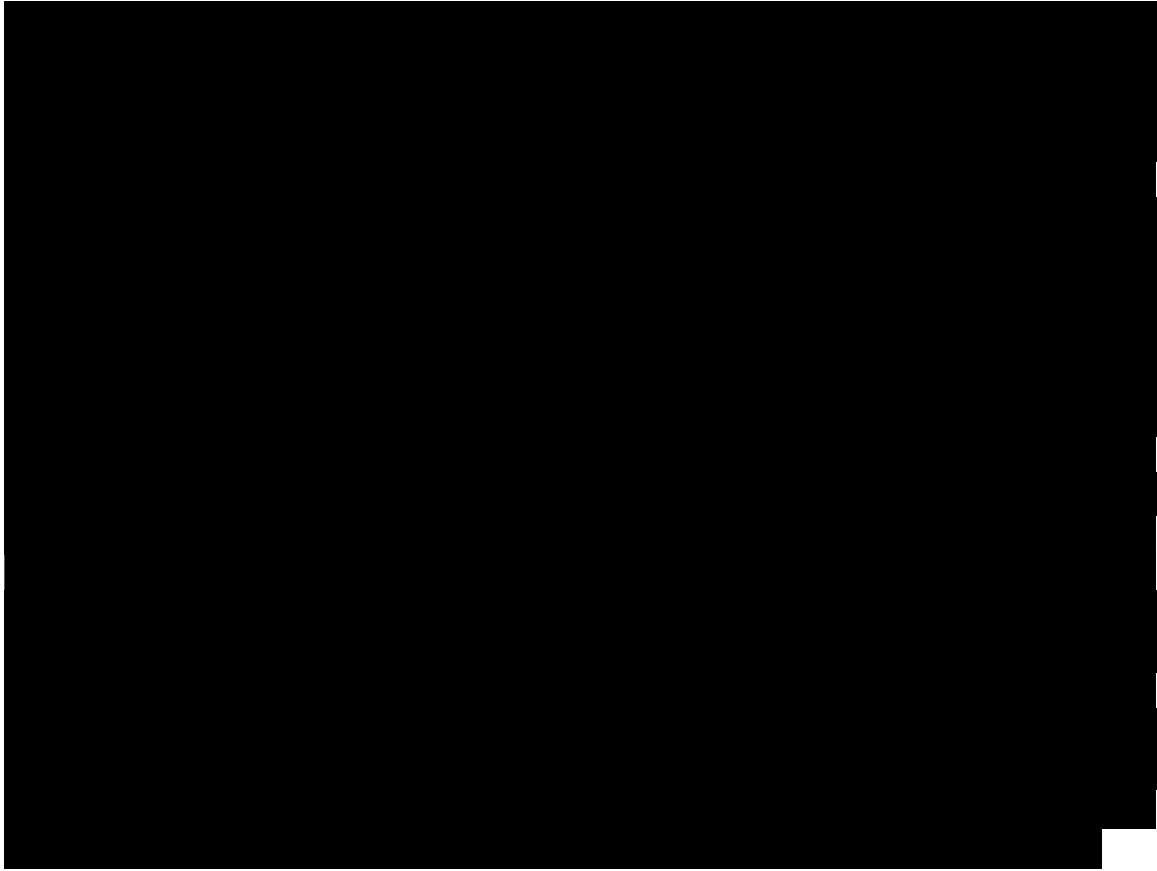
h)

[REDACTED]



The allegation that Wilson inappropriately touched Dwyer Reynolds could not be corroborated. There was, however, corroboration that Dwyer Reynolds was seen touching Wilson inappropriately on multiple occasions.

i)



Based on the weight of the evidence, this allegation could not be corroborated.

III. Finding

NOT SUBSTANTIATED

Dwyer Reynolds' allegation that Wilson pressured him to end a romantic relationship with her friend was corroborated. It was corroborated that Wilson and Dwyer Reynolds had mutual feelings for each other and had expressed their romantic interest but made a decision to not pursue their feelings for each other because of their work with PAB. Further, despite alleging that he was subjected to sexual harassment for over two years, Dwyer Reynolds did not report the alleged sexual harassment until after staff had lodged complaints against him. Although he alleges and Wilson admits that he threatened to bring forward a complaint against her before staff complaints arose, he chose not to do so. He acknowledges that he had close relationships with several PAB Board members, but he never reported his concerns to anyone. Although the timing of his complaint alone is not evidence of its truthfulness, it is certainly a factor that may be considered when assessing its validity.

The City of Rochester's sexual harassment policy defines sexual harassment as unwelcome and unwanted sexual advances or conduct of a sexual nature that makes an individual feel offended, humiliated, intimidated or threatened. The policy further states that sexual harassment

includes unwelcome conduct which is either of a sexual nature, or which is directed at an individual because of the individual's sex when:

- 1) Such conduct is made either explicitly or implicitly a term or condition of employment; or
- 2) Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting an individual's employment; or
- 3) Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile or offensive work environment, even if the complaining individual is not the intended target of the sexual harassment.

Given corroboration of an expressed mutual interest between Wilson and Dwyer Reynolds, there is no evidence that any of the behavior that Dwyer Reynolds complained about, even if true, was unwanted or unwelcome, which is required to make a finding under the City's policy. This does not excuse the fact that in acting in a managerial capacity, even if limited and in conjunction with the PAB Board as a whole, Wilson's conduct was wholly improper. Having expressed a romantic interest in an employee whose employment was managed by the PAB Board that she served as Chair was not appropriate conduct. Further, fraternizing at that employee's home while consuming alcohol and having discussions about sexual preferences and history is incredibly inappropriate. However, that behavior occurring on one occasion does not give rise to an intimidating, hostile or offensive work environment.

2. Whether Shani Wilson retaliated against Conor Dwyer Reynolds in violation of the City of Rochester's internal policies.

I. Allegation

Dwyer Reynolds alleges that Wilson subjected him to retaliation by engaging in the following:

- a) Wilson humiliated and ridiculed Dwyer Reynolds at work;
- b) Wilson refused to answer Dwyer Reynolds' e-mails;
- c) Wilson attempted to strong arm Dwyer Reynolds into going to mediation with her by refusing to work with him until they attended mediation;
- d) Wilson prevented Dwyer Reynolds from performing his job duties by forbidding him from taking action against PAB Witness 1 in March 2022; and
- e) After Dwyer Reynolds informed Wilson that he was going to inform the PAB Board about her harassing behavior, Wilson conspired with senior staff to bring forward false allegations against Dwyer Reynolds that led to his suspension.

II. Corroboration and Key Facts

- a) Wilson denied that she ever humiliated or ridiculed Dwyer Reynolds. PAB Witness 13 confirmed that Wilson attempted to ridicule Dwyer Reynolds. PAB Witness 13 stated that Wilson said she had to treat Dwyer Reynolds like a “submissive” and yell at him because he needed to be told what to do. Witness 6 similarly stated that Wilson told them that she had to act like a dominatrix and treat Dwyer Reynolds like a submissive which included humiliating him at work to get him to do what she wanted him to do. Wilson denied ever making those statements. Both PAB Witness 13 and Witness 6 confirmed they never observed Wilson treat Dwyer Reynolds as she had described. PAB Witness 3, PAB Witness 2, PAB Witness 7, PAB Witness 19, PAB Witness 21, PAB Witness 23, Witness 7, PAB Witness 22, PAB Witness 8, PAB Witness 11, PAB Witness 12, PAB Witness 14, PAB Witness 4, and Witness 8 stated that they never saw Wilson humiliate or ridicule Dwyer Reynolds at work. Multiple community member witnesses (including Witness 1 and Witness 4) stated that Wilson only spoke positively about Dwyer Reynolds and said she wanted more positive things for his career.

Based on the weight of the evidence and the fact that no witnesses corroborated having seen Wilson treat Dwyer Reynolds in an inferior manner, there is no corroboration for this claim.

- b) Wilson denied she refused to answer Dwyer Reynolds’ e-mails. Wilson stated that the only e-mail that she did not respond to from Dwyer Reynolds was one requesting she read the history of the City Council that Dwyer Reynolds wrote. Wilson said that she knew she and Dwyer Reynolds would eventually speak and they could discuss it then. Dwyer Reynolds did not provide any evidence that his e-mails to Wilson were ignored.

There is no corroboration for this claim.

- c) Wilson admitted that she suggested to Dwyer Reynolds that they attend mediation with a mutual friend and leadership coach, Kevin Beckford (“Beckford”) to clear the air and learn to work better together. Wilson stated that Dwyer Reynolds initially pushed back on the idea of mediation but eventually agreed to attend a session with her and Beckford. Dwyer Reynolds admitted to agreeing to attend the session, but stated that Wilson cancelled their mediation sessions at the last minute on three separate occasions. PAB Witness 21 and PAB Witness 1 confirmed that Wilson suggested that she and Dwyer Reynolds attend mediation. PAB Witness 21 stated that Wilson felt like Dwyer Reynolds did not respect her as a leader and that mediation would help them learn how to work together better.

It is corroborated that Wilson suggested that she and Dwyer Reynolds attend mediation, but there is no evidence that she refused to speak to him until the mediation occurred.

- d) Dwyer Reynolds alleges that on a phone call on March 18, 2022, Wilson forbid him from taking any action against PAB Witness 1 after PAB Witness 1 was accused of engaging in

inappropriate conduct and bullying other employees. Dwyer Reynolds alleges that Wilson told him, “if you do anything to [PAB Witness 1], you are going to have a lot of explaining to do the Board.” Dwyer Reynolds stated that he took Wilson’s comment to mean that he could not take any action against PAB Witness 1. Dwyer Reynolds said he told Wilson during that same conversation that she stripped him of his executive powers by not allowing him to discipline his employees, and that she was ruining the investigation into PAB Witness 1’s concerns against PAB Witness 1. Dwyer Reynolds stated that Wilson then told him to “fuck off” and hung up the phone. Dwyer Reynolds claims that Wilson’s conduct effectively stripped him of his power to discipline his employees and was an act of retaliation for his having rejected her advances. Wilson said that she was very concerned about Dwyer Reynolds’ implication that he was considering taking action against PAB Witness 1 without properly vetting the allegations against her. Wilson admits to making the comment that Dwyer Reynolds would have a lot of explaining to do if he took action against PAB Witness 1 as she felt his plan to take action against PAB Witness 1 was not based on a full vetting of the allegations and she wanted to ensure a fair process was followed.

Dwyer Reynolds admits that, before the investigation into PAB Witness 1’s conduct could begin, he instructed the PAB Director of Staff Support & Development, PAB Witness 3, to first create a policy on how to conduct internal investigations. He further admits that the policy was not completed until approximately March 29th. This is further evidenced by his own e-mail to the PAB Witness 3 on March 29th, where he stated, “With our rules for internal investigations firmly in place, I would like you to look into both of these incidents beginning tomorrow...Let’s talk as early as possible tomorrow...about a plan of action. I’d like interviews to start ASAP.” His reference was to both claims made against PAB Witness 1 as well as claims made by PAB Witness 1 against her accuser. If the investigation into the allegations against PAB Witness 1 did not start until March 29th, how then did he intend to take action against PAB Witness 1 during his conversation with Wilson on March 18th? His claim that he was stripped of his powers is perplexing as there was no appropriate adverse action he could have taken against PAB Witness 1 at that time, ten days before the policy he mandated be created to investigate the claims was even established. Further, even the comment he attributes to Wilson– that he would have to answer a lot of questions if he took action against PAB Witness 1 – is not retaliatory. Instead, it indicates that there would need to be an explanation why such action would be taken. Any action Dwyer Reynolds alleges he intended to take against PAB Witness 1 referenced during his call with Wilson on March 18th would have been premature.

Further, Dwyer Reynolds stated that he removed PAB Witness 1 from the Disciplinary Matrix project in mid-April (on or around April 19th) to protect the young women that he believes she was mistreating, in effect taking action against PAB Witness 1 based on the allegations made against her. He does not indicate that he suffered any adverse action from his decision to remove PAB Witness 1 from the project.

There is no corroboration for this claim.

- e) Dwyer Reynolds stated that he told Wilson on April 19, 2022, that he was going to report her sexual harassment to the Board and in retaliation Wilson conspired to have him placed on leave. Wilson admitted Dwyer Reynolds informed her that he was going to report the details of the incident that happened at his home in November 2020 to the Board, but denied that she conspired to have Dwyer Reynolds removed as Executive Director of the PAB. Wilson stated on April 19, 2022, she met with Dwyer Reynolds and a community member at Mercantile on Main to discuss the community member's potential candidacy for an open position at the PAB. Dwyer Reynolds stated that Wilson refused to introduce him to the community member when he arrived. Wilson stated that Dwyer Reynolds arrived to the meeting late and she did not want to abruptly pause the conversation in order to introduce Dwyer Reynolds. Wilson stated after the community member left the meeting, Dwyer Reynolds and Wilson got into an argument about Wilson not introducing him and how he viewed it as disrespectful. Wilson stated Dwyer Reynolds then told her that he was going to tell the Board about what happened at his house in November 2020 if her abusive behavior did not stop and that Wilson only wanted to go to mediation with him because she had romantic feelings for him. Wilson stated she told Dwyer Reynolds that he could tell the Board what he wanted and that she would tell the Board about his constant lack of communication, emotional manipulation, general rudeness, and meltdowns. Wilson stated that they ended the conversation agreeing to go to mediation led by Beckford that weekend. Dwyer Reynolds stated that Wilson cancelled the mediation on three separate occasions. Wilson denied that she ever cancelled the mediation and stated that neither she nor Dwyer Reynolds reached out to each other that weekend to follow-up on their mediation plans. Two witnesses (Witness 6 and Witness 2) confirmed that Wilson shared with them that Dwyer Reynolds informed her he was going to tell the PAB Board about their interaction at his home from November 2020.

Dwyer Reynolds alleges that PAB Witness 1 and Wilson formed a close friendship and that through that friendship, Wilson conspired with PAB Witness 1 to encourage PAB senior staff members to bring forward complaints about Dwyer Reynolds to the PAB Board. Both Wilson and PAB Witness 1 deny that allegation. Further, PAB Senior Staff members have varying accounts about who had the initial idea for PAB Senior Staff to meet on April 26th to discuss their concerns about Dwyer Reynolds. There is no evidence that PAB Witness 1 alone coordinated the meeting. Further, the senior staff that attended the meeting shared their own concerns and agreed to address those concerns with Dwyer Reynolds. It was not understood at the meeting that the information shared would ultimately be shared with the Board. Instead, that decision was made by PAB Witness 1 and PAB Witness 3 when they alleged that they feared retaliation from Dwyer Reynolds after he told PAB Witness 3 that she better hope the situation didn't "blow up in her face." Dwyer Reynolds denies ever making that statement. There is no evidence that Wilson encouraged PAB Witness 1 or PAB Witness 3 to share the employees' concerns with the Board.

Wilson stated on April 27, 2022, PAB Witness 1 contacted Wilson to inform her that the senior staff met and discussed concerns they had with Dwyer Reynolds. Wilson stated that

PAB Witness 1 said they did not want the Board to take any action but wanted Wilson to be aware of the concerns and their plan to send them to Dwyer Reynolds the next day. Wilson stated that PAB Witness 1 told her during that conversation that Dwyer Reynolds said he knows how to handle Wilson and how to work the Board when he needed to get things done.

Dwyer Reynolds stated that Wilson hosted secret board meetings to discuss him and conspire to get him removed. PAB Witness 21, Wilson, PAB Witness 18, PAB Witness 20, PAB Witness 23, PAB Witness 22 and PAB Witness 19 denied that they participated in any secret board meetings. Wilson stated that she, PAB Witness 18, PAB Witness 19, PAB Witness 21, and PAB Witness 20 attended a pre-planned dinner at PAB Witness 18's house on April 28, 2022. Wilson stated that PAB Witness 22 and PAB Witness 23 were both invited but did not attend. Wilson said she notified the Board members who were present that the staff had concerns about Dwyer Reynolds and planned on sharing them with him but they did not want the Board involved and it was not for Wilson to share the details of the concerns.

Wilson stated that PAB Witness 3 called her on April 29, 2022, to inform her that Dwyer Reynolds received the e-mail with the senior staff's concerns and was very upset. PAB Witness 3 stated that PAB Witness 1 suggested to her that day that they report the issues to the Board because they feared that Dwyer Reynolds would begin retaliating against them for addressing their workplace concerns.

On April 29, 2022, PAB Witness 3 e-mailed the senior staff to inform them that the Board would like to meet with anyone who felt comfortable talking to them about their concerns in a listening session.

PAB Witness 22 stated that Wilson called him on April 29, 2022 and said that Dwyer Reynolds "must go" and needs to leave the PAB. Wilson confirmed that she called PAB Witness 22 that weekend to discuss Dwyer Reynolds and the senior staff's concerns. PAB Witness 22 said he asked Wilson if she felt this way because of personal or professional reasons and Wilson said that it was both. Wilson said she cannot recall making that statement, but may have said it because she was upset. PAB Witness 22 stated Wilson then proceeded to tell him stories about Dwyer Reynolds attempting to demote a Black man and hire a White woman in his place to garner his support. Wilson stated that PAB Witness 22 said during that conversation that he did not believe the staff's concerns about Dwyer Reynolds. PAB Witness 22 said in his opinion he believes that Wilson used every power that she had to try and discredit Dwyer Reynolds before he could get to the Board with his allegations against her.

Wilson stated that she called PAB Witness 23 on April 29, 2022, to discuss the staff's concerns about Dwyer Reynolds and he said that it would be the end of the Agency if the situation "blew up". Dwyer Reynolds stated that he went to PAB Witness 23's house that day and he confirmed that he was aware of the staff's concerns. Dwyer Reynolds also stated that PAB Witness 23 told him that Wilson called him and said that the Board needed to hold an emergency meeting about continuing Dwyer Reynolds' employment at the PAB.

On May 5, 2022, senior staff members shared their concerns with the Board in a listening session. At the end of the same meeting, Dwyer Reynolds shared his allegations of sexual harassment against Wilson.

On May 9, 2022, PAB Witness 3 e-mailed City of Rochester Witness 2 and President Melendez to report concerns that Dwyer Reynolds created a hostile, toxic, and retaliatory work environment by attempting to force a meeting with the senior staff on May 2, 2022, retaliating against PAB Witness 3 by telling her that she should be careful so this does not blow up in her face, and meeting with staff members to discuss his allegations against Wilson and PAB Witness 1.

PAB Witness 21 and PAB Witness 18 stated that Wilson does not have the power to unilaterally remove Dwyer Reynolds from his position, as it would require a majority vote of the PAB Board.

Wilson recused herself from participating in all portions of Board meetings that discussed Dwyer Reynolds after he reported her alleged sexual harassment on May 5, 2022. The Board took a vote on May 12, 2022 to place Dwyer Reynolds on paid administrative leave and Wilson did not participate in that vote. A majority of the Board voted to place Dwyer Reynolds on leave.

Three witnesses allege that at various times starting in February 2022, Wilson referenced wanting Dwyer Reynolds to be removed from his position based on purported performance issues, and Wilson admitted that she may have said something to the effect of wanting Dwyer Reynolds removed to her close friends but never explicitly said those words. Wilson stated that she needed Dwyer Reynolds to work and wanted him to get the work of the PAB done. Wilson stated that she did not have the ability to force Dwyer Reynolds' removal by herself and that Dwyer Reynolds maintained personal relationships with Board members.

There is no evidence that Wilson forced any PAB employees to share concerns about Dwyer Reynolds with the Board. Further, there is no evidence that Wilson instructed anyone to lie or to make false complaints about Dwyer Reynolds. Additionally, while Wilson had conversations with Board Members about the PAB staff's concerns and may or may not have expressed her opinion that Dwyer Reynolds should be removed to PAB Witness 22, she did not participate in the vote to place Dwyer Reynolds on leave.

The allegation that Wilson corroborated with PAB Witness 1 to bring forward concerns about Dwyer Reynolds to have him removed from his position and placed on leave is not corroborated.

III. Finding

NOT SUBSTANTIATED

The City's sexual harassment retaliation policy reads: No person covered by this policy PAB Witness 8 be subject to adverse employment action including being discharged, disciplined, discriminated against, or otherwise subject to adverse employment action because the person reports an incident of sexual harassment, provides information, or otherwise assists in any investigation of a sexual harassment complaint.

There is no evidence that Dwyer Reynolds was placed on leave, the only purported adverse employment action that he alleges, because he made a complaint of sexual harassment. Instead, Dwyer Reynolds was placed on leave based on staff complaints made against him. There is no corroboration for his claim that Wilson conspired with PAB staff to bring forward their concerns.

3. Whether Conor Dwyer Reynolds violated the terms of his leave in maintaining copies of confidential City records during his leave.

I. Allegation

Prior to Dwyer Reynolds being placed on leave, he downloaded documents related to an investigation into a police officer pepper spraying a child onto a personal thumb drive which he confirmed remains in his possession while out on leave. Dwyer Reynolds failed to return the file in violation of the instructions he was provided as a term of his paid leave of absence.

Dwyer Reynolds also maintained copies of his PAB City of Rochester e-mail inbox on a personal computer that he had been using for City business in his PAB office. Dwyer Reynolds requested that his personal computer be returned to him following the start of his leave and used the device to access an archive of his PAB City of Rochester e-mail that was downloaded onto the computer.

II. Corroboration and Key Facts

- Dwyer Reynolds admitted that he downloaded the file to his personal thumb drive. Dwyer Reynolds stated that he feels like the City put him in a position where he had to download the files to prevent any tampering of the evidence. Dwyer Reynolds alleges that the downloaded files have evidence of misconduct by ██████████ City of Rochester Employee 2. He stated that despite his awareness that the leave letter that he received on May 12, 2022 requires that "All City records, City property issued to you or in your possession (laptop, tablet, mobile phone, keys, key fobs, ID badges, etc.) are to be returned immediately" he maintained a copy of the file because City of Rochester Employee 2 was ██████████ and he did not feel a sense of security that the file would not be tampered with if he turned it over to him.
- Dwyer Reynolds alleged that his City issued laptop stopped working at some point and while he waited for a new laptop to be issued, he began using a personal desktop computer in his PAB office to access City of Rochester files and e-mails. Dwyer Reynolds stated that when his leave began, he requested his personal computer be returned to him and he

accessed his e-mail archive from his PAB City of Rochester e-mail account that was already downloaded on the computer.

- The City of Rochester IT department confirmed that there was no record of Dwyer Reynolds ever having reported any issues with his City issued laptop, his laptop was never replaced, and Dwyer Reynolds continued to use the City issued laptop he was given at the start of his employment through April 2022.

III. Finding

SUBSTANTIATED

The terms included in the leave letter regarding the return of City records is very clear in that Dwyer Reynolds was required to return the City records in his possession. Dwyer Reynolds failed to return the zip drive and he requested the return of his personal computer which he knew had a copy of his PAB City of Rochester e-mail archive. Dwyer Reynolds' claim that he was concerned about the preservation of the file on the zip drive does not override the clear instruction that he was given regarding the return of City records. Dwyer Reynolds' behavior in this instance, along with his intentional and unauthorized disclosure of internal City communications to third parties identified above, reflects a pattern of blatant disregard of policies related to the confidentiality and handling of City records.

4. Whether Conor Dwyer Reynolds violated the City of Rochester's Code of Ethics and failed to follow the FOIL practice in the sharing of non-public, confidential information and records.

I. Allegation

Dwyer Reynolds shared non-public, confidential information with the media and non-City employees in violation of the City of Rochester's Code of Ethics and the City's FOIL process.

II. Corroboration and Key Facts

Review of Dwyer Reynolds' e-mails showed that he shared confidential information with non-City employees on multiple occasions including the following:

- On January 10, 2021, Dwyer Reynolds forwarded an e-mail to Reporter that included a statement from the then Police Chief regarding the siege on the U.S. Capitol.
- On March 4, 2021, Dwyer Reynolds forwarded Reporter the email chain showing how the PAB received BWC footage regarding the Portland Avenue incident and answers to questions posed by the PAB on that chain. Dwyer Reynolds stated that he was redacting the actual footage because as he understands it, he cannot reveal it to anyone outside of City government.

- On May 6, 2021, Dwyer Reynolds sent an e-mail to Reporter regarding the hiring of PAB Witness 5 and her salary negotiations with the City, that included PAB Witness 5's previous salary information and statements from Mayor Warren.
- On May 6, 2021, Dwyer Reynolds forwarded to Reporter the emails with Mayor Warren and other city officials cited during the May 6, 2021, PAB meeting. Reporter informed Dwyer Reynolds that he would be happy to file a FOIL request and Dwyer Reynolds responded saying "I'll send – Reporter, I'm to going to redact the candidate's name."
- On May 7, 2021, Dwyer Reynolds forwarded an e-mail to Reporter from Corporation Counsel, discussing their debate on whether the PAB has authority through the Charter to attend Rochester Police Department training and statements from the then Police Chief regarding PAB members' attendance at the training.
- On March 25, 2021, Dwyer Reynolds forwarded an email to Reporter from City of Rochester Witness 3 stating the list of things that the City has not fulfilled as requested by the PAB.

Dwyer Reynolds admitted to sharing the January 10, 2021, e-mail that included a statement by the Chief of Police of the Rochester Police Department related to a police investigation with Reporter while he was a news reporter because he was doing work on police issues and Dwyer Reynolds thought there should be transparency around police misconduct. Dwyer Reynolds also stated that there was nothing in the email that would suggest that it was non-public information.

Dwyer Reynolds stated that he thinks he can take actions in contradiction to the law department, as the law department is not authorized to make binding interpretations of City law for other divisions of the city that don't work for the administration, and the PAB could take a separate legal position on the meaning of the code of ethics than the one being promulgated by the City.

Dwyer Reynolds stated that he shared with the media information about Board meetings that the public was not invited to because he believes the meetings should have been public and nothing was discussed in the meetings that would justify the meeting being deemed classified as an executive session.

Dwyer Reynolds admitted that on March 4, 2021, he forwarded Reporter the email chain showing how the PAB received BWC footage regarding the Portland Avenue incident and answers to questions posed by the PAB on that chain. Dwyer Reynolds stated that he was redacting the actual footage because as he understands it, he cannot reveal it to anyone outside of City government.

Dwyer Reynolds admitted that on May 6, 2021, he shared PAB Witness 5's previous salary with Reporter in the e-mail. Dwyer Reynolds stated that he shared the information by accident and meant to redact the portion of the e-mail that contained her salary. He also stated that it was done by accident and he later followed-up with him instructing him to disregard the e-mail that included that information.

Dwyer Reynolds admitted that on May 6, 2021, he forwarded to Reporter e-mails with Mayor Warren and other City officials cited during the May 6, 2021, PAB meeting. Dwyer Reynolds stated that he spoke with Wilson about providing Reporter the e-mails without a FOIL request or at minimum, informed Reporter that he would speak to Wilson about it. Wilson denied recollection of this occurring. Dwyer Reynolds stated that based on practice, the Board did not suggest for someone to go through the FOIL process and Wilson had never previously asked for Dwyer Reynolds to make someone go through the FOIL process. Dwyer Reynolds stated that the Board despised the FOIL process.

Dwyer Reynolds admitted that on May 7, 2021, he forwarded an e-mail from former Corporation Counsel Tim Curtin, discussing their debate on whether the PAB had authority through the Charter to attend Rochester Police Department training and statements from the then Police Chief regarding PAB members' attendance at the training.

III. Finding

SUBSTANTIATED

Through Dwyer Reynolds' own admissions, he acknowledges that he repeatedly provided members of the media copies of internal e-mails that had been requested or that he believed they should have access to in providing transparency of the role. Dwyer Reynolds acted in blatant disregard of the City's Code of Ethics ¶7 which expressly states, "No City officer or employee may disclose non-public information or records concerning ny (sic) aspect of the government of the City, nor may he use such information to the advantage or benefit of himself or any other person." The City further maintains a process by which FOIL requests are to be made which mandates that all requests for information or documentation regarding City matters from external parties must be sent and handled through the City Law Department. Dwyer Reynolds did not have authority to simply ignore these established policies and to instead choose for himself what information would be provided.

5. Whether Conor Dwyer Reynolds violated PAB Charter Section 18-7 by failing to complete required annual training.¹¹

I. Allegation

There are allegations that Dwyer Reynolds did not attend the CCSI training in April 2022, and instead worked on other projects, in violation of the PAB Charter requirements that all staff attend annual training. There are also allegations that Dwyer Reynolds mandated that certain members of senior leadership leave the trainings on various days to work on other matters.

¹¹ It is also noted that the PAB Charter requires members of the PAB Board to undergo annual training, which does not appear to have occurred.

II. Corroboration and Key Facts

- Dwyer Reynolds stated that he did not attend the April 2022 CCSI Training because he created the training and is the subject matter expert. Dwyer Reynolds stated that he felt like he could not attend training because there was too much other work to be done for the PAB. PAB Witness 4, PAB Witness 5, and PAB Witness 3 confirmed that Dwyer Reynolds did not attend the training.
- PAB Witness 4 stated that Dwyer Reynolds told the senior staff that they did not have to complete training. Witnesses reported that several members of senior staff including PAB Witness 1, PAB Witness 5, and PAB Witness 6, did not attend all training sessions during the April 2022 CCSI Training. Dwyer Reynolds admitted that he allowed senior staff members to not attend the training because “they had to keep the ship sailing” and City Council was pressuring them to open their doors as quickly as possible. Dwyer Reynolds stated that he allowed senior staff members, such as PAB Witness 1, to attend the training when they expressed to him that they wanted to.

III. Finding

SUBSTANTIATED

The Charter is clear that all staff and the PAB Board must attend annual training in a number of areas. Dwyer Reynolds’ claim that he is the subject matter expert and therefore exempt from needing to attend the training is not supported by the plain language of the Charter. Dwyer Reynolds failure to attend training once again demonstrates a clear pattern of his blatant disregard of established rules and protocols, in this instance the Charter requirements.

6. Whether Conor Dwyer Reynolds violated City of Rochester’s policies and practices by allowing employee paid time off to study for the bar exam.

I. Allegation

There are allegations that Dwyer Reynolds provided PAB Employee 1, a PAB employee who had initially been hired as a Staff Attorney but had not passed the New York State bar exam, with unauthorized paid time off to study for the February 2022 bar exam.

II. Corroboration and Key Facts

- Dwyer Reynolds provided PAB Employee 1 with an unspecified amount of paid time off to study for the February 2022 bar exam, a requirement for her position that she failed to meet at the time she was hired in January 2022.
- Based on Dwyer Reynolds’ approval, PAB Employee 1 was paid her regular pay for the entire month of February although it was confirmed that she took time off to study for the NYS bar exam.

- City of Rochester Witness 3 stated that allowing an employee paid time off to study for the bar exam is misuse of government funds. City of Rochester Witness 2 similarly confirmed that allowing an employee time off while that employee continued to be paid their regular pay constituted fraud and would not be in alignment with the City’s pay practices.
- Dwyer Reynolds claims that PAB Employee 1 was granted time off based on the City’s Tuition Assistance Program.
- The City’s Tuition Assistance Program states that, “The City provides APT/Confidential employees with up to \$3,000 per fiscal year in assistance for tuition to encourage employees to participate in advanced training and education which will enhance their ability to perform within their present work assignments and/or prepare them for opportunities within occupational fields in City government.” The policy goes on to state that, “All approved courses of instruction must be taken outside of your normal working hours, unless approval is granted by Department Head.”
- Dwyer Reynolds alleges that the policy clearly permitted him to authorize PAB Employee 1 to study for the bar without taking time off and it was within the realm of reason to believe that engaging in work-related studying and/or training fell into the realms of work, rather than leisure.
- City of Rochester Witness 3 stated that the City’s Tuition Assistance Program only applied to individuals actually enrolled in a course of study.

III. Finding

SUBSTANTIATED

Dwyer Reynolds’ attempt to rely on the City’s Tuition Assistance Program is nonsensical. PAB Employee 1 was not in a course of study for which she was receiving tuition assistance from the City to attend. Dwyer Reynolds had no authority to instruct an employee that they could take paid time off while continuing to be paid as if they were working their regularly scheduled hours. Granting an employee permission to be paid for time that they did not work is a clear violation of City of Rochester’s pay practices.

7. Whether Conor Dwyer Reynolds subjected senior staff members to a work environment that violated the City of Rochester’s internal policies.

I. Allegation

Senior staff members allege that Dwyer Reynolds subjected them to a toxic work environment by engaging in the following behaviors:

- a) Dwyer Reynolds stopped holding senior staff meetings. His action eliminated meaningful opportunities for internal communication and collaboration between PAB’s departments;
- b) Dwyer Reynolds stopped sharing information necessary for senior staff members to effectively perform their jobs – including not sharing an agenda for a City Council PAB meeting on April 19, 2022, which the senior staff were expected to speak at, causing them to look bad and feel humiliated because they were not providing specific information that had been requested by City Council;
- c) Dwyer Reynolds excessively managed staff members’ speech and outputs by re-writing senior staff’s remarks for the April 19, 2022, City Council PAB meeting;
- d) Dwyer Reynolds engaged in unilateral and seemingly arbitrary decision-making that undermined senior staff members’ understanding of internal policies and trust in leadership;
- e) Dwyer Reynolds called staff after the May 5, 2022, listening session with the PAB Board to share his complaints regarding PAB Witness 1 and Wilson’s conduct opposed to with HR or the PAB Board;
- f) Dwyer Reynolds left senior staff with a general lack of understanding regarding roles and responsibilities and the absence of the autonomy and support needed to execute them.

II. Corroboration and Key Facts

- a) PAB Witness 2, PAB Witness 5, PAB Witness 1, PAB Witness 3, PAB Witness 7, and PAB Witness 4 confirmed that Dwyer Reynolds stopped holding staff meetings eliminating opportunities for collaboration. They stated that “all staff” and senior staff meetings were held at one point and then transitioned to just division meetings which did not allow for staff to have opportunities for collaboration and left them not knowing what other divisions were working on. PAB Witness 2, PAB Witness 5, PAB Witness 1, PAB Witness 3, PAB Witness 7, PAB Witness 15, and PAB Witness 4 confirmed that they felt siloed as a result of this change. Dwyer Reynolds stated that he stopped having senior staff meetings because he did not feel empowered to facilitate a safe, comfortable, positive space with PAB Witness 1 present because of PAB Witness 1’s bullying and inappropriate behavior and his inability to discipline her based on Wilson’s directive. Dwyer Reynolds admitted that his communication could have been better about the change from all staff meetings to division meetings and stated that he told the staff this during his meeting with them on May 4, 2022.
- b) PAB Witness 2, PAB Witness 6, PAB Witness 1, PAB Witness 5, and PAB Witness 7 confirmed that Dwyer Reynolds received an agenda from City Council for the April 19, 2022 meeting and did not share it with the senior staff. Dwyer Reynolds admitted that he received an agenda from City Council the week of April 11, 2022, that included the topics that PAB staff should discuss at the April 19, 2022 meeting, but he denied purposely withholding any information to make them look bad or humiliated. Dwyer Reynolds stated he made a strategic decision as the Executive Director about what information they were going to share with Council and stated that the PAB Board affirmed that they needed to use the time during the meeting to tell City Council what the PAB was working on at that

time. Dwyer Reynolds stated he then provided the senior staff with the necessary information to draft either a speech or an outline highlighting portions of the agenda he received from City Council.

- c) PAB Witness 6, PAB Witness 1, PAB Witness 4, PAB Witness 5, and PAB Witness 3 confirmed that Dwyer Reynolds re-wrote some of the senior staff's speeches for the April 19, 2022, City Council PAB Meeting. PAB Witness 2 and PAB Witness 5 stated that Dwyer Reynolds rewrote the senior staff's speeches to reflect what he wanted to speak about and not what City Council requested that they speak about. Dwyer Reynolds stated he knew from a prior conversation with PAB Witness 6 that he had anxiety about public speaking and so decided to write out his entire speech for the meeting. Dwyer Reynolds stated that he made suggestions to PAB Witness 6's outline because he felt like it was his responsibility as a supervisor to show him ways he could improve. Dwyer Reynolds stated he also provided feedback to PAB Witness 4 and PAB Employee 2 and they both thanked him for his suggestions.
- d) PAB Witness 1, PAB Witness 2, PAB Witness 3, PAB Witness 4, PAB Witness 7, and PAB Witness 5 confirmed that Dwyer Reynolds made unilateral decisions. PAB Witness 4 stated that in March, Dwyer Reynolds' leadership changed and became more authoritative. PAB Witness 4 stated it seemed like Dwyer Reynolds was handling too much but once he began delegating more, things began to improve. PAB Witness 4 said that she shared this feedback with Dwyer Reynolds in March 2022. PAB Witness 3 stated that Dwyer Reynolds made unilateral decisions. Dwyer Reynolds denied making arbitrary decisions and instead pointed to his role as Executive Director which entitled him to make decisions on behalf of the PAB.
- e) Dwyer Reynolds is alleged to have attempted to call PAB Witness 12, PAB Employee 1, and PAB Witness 11 on May 6, 2022 on their personal cell phones from his personal cell phone to request their personal e-mail addresses to schedule a Zoom call with them. PAB Witness 3 stated that PAB Witness 12, PAB Witness 11, and PAB Employee 1 did not answer the calls. PAB Employee 1, PAB Witness 11 and PAB Witness 12 confirmed to PAB Witness 3 through written statements that Dwyer Reynolds called them on May 6, 2022. Dwyer Reynolds stated that his intent for contacting PAB Witness 12, PAB Witness 11 and PAB Employee 1 was to see if they had been interviewed or contacted by PAB Witness 3 regarding the PAB Witness 1/PAB Witness 11 Investigation. Dwyer Reynolds stated that he was terrified that PAB Witness 1 would be continuing to behave in the way she was towards the staff and that they were still being subjected to that behavior so he had a duty to do something about it even though the Board might suspend or terminate him.

There are also allegations that Dwyer Reynolds contacted other staff members on May 6, 2022 to share his statement containing his allegations against Wilson and PAB Witness 1 that he shared with the Board on May 5, 2022. Dwyer Reynolds admitted that he met with PAB Witness 14, PAB Witness 2 and PAB Witness 5 to discuss his allegations.

PAB Witness 5 stated that Dwyer Reynolds called her on May 6, 2022 and requested that they meet for lunch at Mercantile. Dwyer Reynolds confirmed that he called PAB Witness 5 to request a meeting with her on May 6, 2022 at Mercantile on Main to explain to her why things had been the way they were at PAB. PAB Witness 5 stated that at the lunch, Dwyer Reynolds read her a statement about all the things that Wilson had done to him, including sexual harassment. PAB Witness 5 stated that at the lunch, Dwyer Reynolds brought up personal information that she had previously shared with him in confidence regarding her [REDACTED]. PAB Witness 5 stated that Dwyer Reynolds told her that he was being sexually harassed by Wilson and said, [REDACTED]

PAB Witness 2 stated that on May 6, 2022, Dwyer Reynolds came to his office with PAB Witness 14 and read him the statement that he read to the PAB Board the previous day. PAB Witness 2 stated that the statement discussed Dwyer Reynolds' sexual harassment allegations against Wilson, and staff members' complaints against PAB Witness 1's bullying and Dwyer Reynolds wanting to take disciplinary action against PAB Witness 1 but being directed by Wilson not to. PAB Witness 2 stated that Dwyer Reynolds implied that Wilson and PAB Witness 1 were conspiring against him because of Wilson's sexual harassment and Wilson's attempt to prevent Dwyer Reynolds from taking disciplinary action against PAB Witness 1 for bullying. PAB Witness 2 stated that he thought Dwyer Reynolds shared this information with PAB Witness 2 in response to his complaint that he did not share information with PAB Witness 2 in his capacity as [REDACTED] to the PAB. PAB Witness 2 stated that he informed Dwyer Reynolds that he cannot give him [REDACTED] but could advise him as [REDACTED]. PAB Witness 2 stated that Dwyer Reynolds implied that he reported concerns about PAB Witness 1 to PAB Witness 3 weeks prior and no action has been taken. PAB Witness 2 stated that he was aghast by the information that Dwyer Reynolds shared. PAB Witness 2 said he advised Dwyer Reynolds that he could share details about his allegations with other staff. PAB Witness 14 stated that during that meeting, PAB Witness 2 told Dwyer Reynolds that he believed him and wished that he would have come forward sooner. PAB Witness 14 stated that PAB Witness 2 was concerned about how these allegations would impact the

PAB if it got out to the media and said that it looks bad that Dwyer Reynolds came out with the allegations now.

- f) There were allegations that Dwyer Reynolds attempted to pit certain divisions against each other, by referencing the investigations team as the most important at the PAB to cause friction amongst employees. Dwyer Reynolds denies that he ever engaged in such conduct and no evidence was submitted to support the claim.

III. Finding

NOT SUBSTANTIATED

The City of Rochester does not have a written policy requiring employees to maintain a professional and respectful work environment. The only policies that cover general workplace conduct are the City's non-discrimination and sexual harassment policies. Neither are relevant here as there are no allegations alleging that the conduct was based on a protected category (i.e. race, gender, etc.). Therefore, no specific policy violation could be substantiated. It is clear that Dwyer Reynolds' leadership style and decision-making negatively impacted the work environment of staff. Dwyer Reynolds admitted that the staff's expressed concerns about his communication and other conduct were legitimate and he indicated he was developing a plan to address the concerns that were brought to his attention in response. This was a positive response.

However, Dwyer Reynolds' subsequent decision to share his allegations against [REDACTED] and Wilson with staff can be interpreted as an attempt to counter the recent staff criticisms of his own conduct and garner support among staff members. At a minimum his actions evidenced poor judgment. His conduct also unnecessarily caused tension among staff. Certainly staff could reasonably believe that whether they publically supported Dwyer Reynolds' claims could impact his decisions concerning their pay, advancement or continued employment with the PAB. His conduct also potentially compromised the investigation of his claims. While such behavior is not appropriate for a senior manager, it is not an actionable offense under the City of Rochester's existing policies.

8. Whether Conor Dwyer Reynolds attempted to demote PAB Witness 13's position in violation of the City of Rochester's internal policies.

I. Allegation

PAB Witness 13 alleges that Dwyer Reynolds attempted to demote them from Bracket 22, Step A to Bracket 18, Step G which would have resulted in a \$500 pay decrease.

II. Corroboration and Key Facts

- Dwyer Reynolds admitted to attempting to reclassify PAB Witness 13's position to a lower bracket in April 2022. PAB Witness 1, PAB Witness 3, PAB Witness 5, PAB Witness 7, and PAB Witness 4 confirmed that Dwyer Reynolds attempted to demote PAB Witness 13

on April 8, 2022. Dwyer Reynolds stated that he wanted to bring in another candidate who had more experience than PAB Witness 13 at the same level which PAB Witness 13 was hired and to demote PAB Witness 13 one step lower to ensure pay equity. Dwyer Reynolds stated that PAB Witness 13 and others made a strong argument that it would not be appropriate to demote PAB Witness 13 because of the other employee's hiring so Dwyer Reynolds ultimately decided not to demote him.

- PAB Witness 13 stated they sent a letter to Dwyer Reynolds, and other senior staff, outlining the work they have done for the PAB and expressing their disappointment with the demotion. PAB Witness 13 stated Dwyer Reynolds thanked them for the concern and said they would look at it and get back to them. PAB Witness 13 stated they were told that their salary was being reduced because of pay equity. PAB Witness 13 stated that the other policy data analyst hired at this time was hired as [REDACTED] and is a [REDACTED]. PAB Witness 13 stated that they were further told that their salary was being reduced to ensure her experience was being afforded when she came in. Shortly after PAB Witness 13's letter, they were informed that they would be moved to Accountability Inspector 2 and their pay would be increased to \$61,000.

III. Finding

NOT SUBSTANTIATED.

There is no corroboration that any policies were violated in the consideration of demoting PAB Witness 13's position. Further, after the review was completed, PAB Witness 13 actually received a pay raise further evidencing that no adverse action was taken.

9. Whether Conor Dwyer Reynolds retaliated against PAB Witness 1 in violation of the City of Rochester's internal policies.

I. Allegation

PAB Witness 1 alleges that Dwyer Reynolds retaliated against her. PAB Witness 1 alleges that in March 2022, during a Senior Staff Strategy Meeting attended by PAB Witness 1, PAB Witness 6, PAB Witness 4, PAB Witness 5, PAB Witness 2, PAB Witness 3, Wilson, PAB Witness 7, PAB Witness 14, Wilson, and Dwyer Reynolds, she played a large role in facilitating the meeting and crafting the deliverables for the group. PAB Witness 1 alleges that following the meeting, Dwyer Reynolds felt threatened by her leadership because it made him look bad and that he began to exclude her from meetings and meaningful assignments going forward and also stopped considering her for the [REDACTED] position, a promotion from [REDACTED]. PAB Witness 1 also states that she filed a complaint regarding Dwyer Reynolds with the Office of Public Integrity on April 27, 2022 and May 4, 2022 and believes that some or all of his conduct against her might be in retaliation for having filed those complaints.¹² PAB Witness 1

¹² There is no evidence that Dwyer Reynolds was ever made aware of those complaints as they were never internally investigated.

also filed an internal complaint with the City of Rochester against Dwyer Reynolds on May 11, 2022 and a DHR Complaint alleging same on May 30, 2022. Specifically, PAB Witness 1 alleges that Dwyer Reynolds engaged in the following as retaliation:

- a) stopped having senior staff meetings in March 2022,
- b) removed her supervisory position with staff attorneys and the Matrix Project that she had been working on since her start with the PAB in April 2022,
- c) removed her from the senior leadership team in March 2022,
- d) stopped considering her for the [REDACTED] position, and
- e) assigned her to strictly writing policies after she was removed from the Matrix project in April 2022.

II. Corroboration and Key Facts

PAB Witness 5 stated that she told Dwyer Reynolds after the March senior staff meeting that he was shown out by PAB Witness 1 in the meeting. PAB Witness 5 stated that she told Dwyer Reynolds that he and PAB Witness 1 should discuss strategy and related things before coming into meetings because it seemed that the top two people in the Agency were on very different pages.

PAB Witness 5 confirmed that Dwyer Reynolds told her after the March 18, 2022 meeting that he believed PAB Witness 1 was plotting to steal his job. PAB Witness 21, PAB Witness 14 and Wilson confirmed that Dwyer Reynolds stated that he believed that PAB Witness 1 was plotting to steal his job.

- a) Dwyer Reynolds admitted that he stopped holding senior staff meetings after the March 18, 2022, Senior Staff Strategy Meeting but he denies that it was retaliatory. PAB Witness 5, PAB Witness 6, PAB Witness 4, PAB Witness 3, PAB Witness 14, PAB Witness 2, and PAB Witness 7 confirmed that Dwyer Reynolds stopped holding senior staff meetings. Dwyer Reynolds stated that after the March 18, 2022 meeting, it was clear to him that there was not any mutual respect between PAB Witness 1 and other staff members, so he needed to divide the staff members and develop a new meeting structure. Dwyer Reynolds said he then moved to holding divisional meetings. Given the complaints from PAB staff about PAB Witness 1's communication style in meetings, there is a basis to believe that the changing of these meetings was not rooted in retaliation.
- b) PAB Witness 3 stated that Dwyer Reynolds removed PAB Witness 1 from working on the Disciplinary Matrix project on April 19, 2022, to shield PAB Witness 11 from PAB Witness 1's bullying and assigned PAB Witness 6 to work on it instead. PAB Witness 2 stated that PAB Witness 1 began working on the Disciplinary Matrix project, but Dwyer Reynolds later assigned it to the policy group.
 - a. Dwyer Reynolds confirmed that he removed PAB Witness 1 from the Disciplinary Matrix Project. Dwyer Reynolds stated that he removed PAB Witness 1 from the Disciplinary Matrix Project because of the complaint made by the staff attorneys she was supervising on the project on March 8, 2022, regarding the creation of a

hostile work environment. Dwyer Reynolds also stated that PAB Witness 1 was shifting into her [REDACTED] which went into effect March 10, 2022, and he needed to ensure that the staff attorneys were not supervised by PAB Witness 1 so placed PAB Witness 6 in charge of supervising them because he was good at supervising people. Dwyer Reynolds stated that he cannot recall the day that he removed PAB Witness 1 from the Matrix Project but said it is possible that he removed her on April 19, 2022. Although Dwyer Reynolds claims that he removed PAB Witness 1 from the Disciplinary Matrix project because of the complaints made about her, she was not removed from the project until approximately 6 weeks after the initial complaint was made so it seems unlikely that was the cause. However, there is no corroboration that this switch was related to her complaints against Dwyer Reynolds as none had been made at the time, she was removed from managing the project.

- b. PAB Witness 6 confirmed that PAB Witness 1 was removed from the Disciplinary Matrix Project and stated that he believes Dwyer Reynolds removed her in retaliation. PAB Witness 6 stated that his belief is based on his knowledge that Dwyer Reynolds thought PAB Witness 1 was trying to take his job, when PAB Witness 1 spoke up in a meeting she was no longer invited to senior staff meetings, and because Dwyer Reynolds brought him in to oversee what PAB Witness 1 was doing on the Disciplinary Matrix Project. PAB Witness 6 stated that these actions led him to believe that Dwyer Reynolds did not value PAB Witness 1's opinion and was trying to isolate her.
- c) PAB Witness 1 stated that Dwyer Reynolds removed her from the senior staff designation. Dwyer Reynolds stated that the "senior staff" designation was informal and replaced by rulemaking, but that PAB Witness 1 was not removed from decision making. Dwyer Reynolds stated that he intentionally made sure to involve PAB Witness 1 in staff meetings during his final week before being placed on leave because of PAB Witness 1's complaints and his desire to give supervisors a voice in proportion to their role in the Agency. PAB Witness 21 and PAB Witness 2 confirmed that PAB Witness 1 was removed from the senior leadership team. PAB Witness 21 stated that on May 8, 2022, during a meeting with Dwyer Reynolds and the PAB Board, Dwyer Reynolds admitted that he stopped including PAB Witness 1 on e-mails and stopped inviting her to meetings.
- d) Dwyer Reynolds admitted that he was considering PAB Witness 1 for the [REDACTED] [REDACTED] and had discussions with her about it in February 2022. Dwyer Reynolds stated that he did not see anything on PAB Witness 1's resume that showed [REDACTED] [REDACTED] but was encouraged by Wilson to consider her and believed that the PAB should be a place for people to grow, however, he ultimately was not impressed with her work, was concerned by her bullying behavior with staff members, and believed she had a more restrictive vision on where PAB should go with its powers. PAB Witness 3, PAB Witness 2, PAB Witness 14, PAB Witness 5, and Wilson confirmed that Dwyer Reynolds was considering PAB Witness 1 for the [REDACTED] in March 2022 but did not discuss it after that. Dwyer Reynolds never discussed his purported concerns about

PAB Witness 1's work product or restrictive vision for the PAB with her directly. However, there is no corroboration that his refusal to continue to consider her was retaliatory.

- e) PAB Witness 1 filed a complaint against Dwyer Reynolds with the City of Rochester on May 11, 2022, alleging that Dwyer Reynolds discriminated against her because of race and sex and retaliated against her. PAB Witness 1 sent City of Rochester Witness 2 an e-mail on May 13, 2022, saying “[T]here has already been some retaliation. For almost two (2) weeks Mr. Reynolds has failed to give me a meaningful assignment, instead referring all substantive legal tasks to my colleague PAB Witness 2. I have busied myself with following up on outstanding research and directly inviting heads of departments to contact me with any needs. It is my understanding that there may be temporary change in leadership, while investigations are pending – as such this matter will likely be resolved soon. Please nonetheless note his reaction as a continuation of his hostile/retaliatory conduct towards me.” PAB Witness 3 confirmed that Dwyer Reynolds moved PAB Witness 1 to writing policies. PAB Witness 3 stated that on one occurrence, Dwyer Reynolds assigned both PAB Witness 2 and PAB Witness 1 to draft a social media policy and never provided any feedback to PAB Witness 1 on it. PAB Witness 3 stated that she was told by PAB Witness 2 that Dwyer Reynolds had to re-write PAB Witness 1's policy. PAB Witness 2 confirmed that Dwyer Reynolds instructed both him and PAB Witness 1 to draft a social media policy. While it may have been true that Dwyer Reynolds did not give PAB Witness 1 any substantive work, multiple PAB staff confirmed that Dwyer Reynolds failed to provide them with sufficient work to complete the 40 hours of work per week they were being compensated to perform. There is no evidence that Dwyer Reynolds' failure to assign work to PAB Witness 1 was retaliatory.

III. Finding

NOT SUBSTANTIATED

Although it is clear that Dwyer Reynolds' opinion about PAB Witness 1 changed drastically from the start of her employment, where he began telling multiple employees about his consideration for her to receive a promotion, it is not clear that this conduct was retaliatory. Although witnesses confirmed their personal sentiments that Dwyer Reynolds was threatened by PAB Witness 1's leadership, even if true, Dwyer Reynolds acting in fear that PAB Witness 1 would outperform him is not in and of itself evidence of retaliation.

10. Whether Conor Dwyer Reynolds retaliated against PAB Witness 3 in violation of the City of Rochester's internal policies.

I. Allegation

PAB Witness 3 alleges that Dwyer Reynolds retaliated against her. Specifically, she alleges that after the senior staff raised their concerns with Dwyer Reynolds on May 2, 2022, and during

a one-on-one conversation between PAB Witness 3 and Dwyer Reynolds, Dwyer Reynolds told PAB Witness 3 that she better hope that this doesn't blow up in her face, referring to her working with senior staff to express their concerns with Dwyer Reynolds' leadership. PAB Witness 3 perceived Dwyer Reynolds' comment as him threatening her job.

II. Corroboration and Key Facts

- Dwyer Reynolds denied that he retaliated against PAB Witness 3, said that she better hope this does not blow up in her face, or threatened her job in any way. Dwyer Reynolds stated during his conversation with PAB Witness 3 on May 2, 2022, he reaffirmed that she needed to move forward with the investigation regarding the staff attorneys and PAB Witness 1 because it was undermining the integrity of the workplace to have four staff members believing that the work environment at the PAB was hurtful and not wanting to come into work as a result of that.
- There were no witnesses present when the statement was allegedly made and thus no corroboration that it occurred.
- PAB Witness 3 stated that she e-mailed City of Rochester Witness 2 on May 6, 2022 stating she wanted to schedule some time with City of Rochester Witness 2 to discuss a serious employee relations matter involving Dwyer Reynolds, his leadership, and recent claims of sexual harassment made by him because she felt like the interactions between senior staff and Dwyer Reynolds were becoming more than she could handle and needed guidance on how to best proceed. PAB Witness 3 stated that on May 9, 2022, during a Zoom meeting with City of Rochester Witness 2, she shared that she felt threatened by Reynolds' statement that he "hopes this doesn't blow up in her face". PAB Witness 3 stated that City of Rochester Witness 2 told her that she should tell the senior staff to keep the information confidential and City of Rochester Witness 2 suggested that PAB Witness 3 report her and the staff's concerns to President Melendez. PAB Witness 3 stated that she also sent President Melendez and City of Rochester Witness 2 an e-mail on May 9, 2022, reporting the same concerns.
- PAB Witness 3 stated that between May 9, 2022, and May 13, 2022, when Dwyer Reynolds was placed on leave, she was in fear daily that Dwyer Reynolds was going to come into her office and tell her that she was fired.
- PAB Witness 3 stated that she did not file a complaint because of her previous personal experience of filing complaints against White men that usually go unheard and negatively impacting her reputation.

III. Finding

NOT SUBSTANTIATED

There was no corroboration that Dwyer Reynolds made the statement as alleged or engaged in any other conduct to threaten PAB Witness 3 's employment.

11. Whether Conor Dwyer Reynolds retaliated against PAB Witness 5 in violation of the City of Rochester's internal policies.

I. Allegation

PAB Witness 5, [REDACTED] alleges that Reynolds retaliated against her by threatening to change the [REDACTED] space in the new office to an area that did not have TVs and screens after she expressed concerns about a lack of resources being provided to her department.

II. Corroboration and Key Facts

- PAB Witness 5 further stated that the proposed move did not impact her team's ability to effectively do their job but was simply inconvenient because they were further from the entrance to the office space. PAB Witness 5 also confirmed that Dwyer Reynolds ultimately approved for her team to sit in the space they had requested.
- Dwyer Reynolds denied that he retaliated against PAB Witness 5. Dwyer Reynolds stated that PAB Witness 5 had been asking for more resources for [REDACTED] some time and he consistently added more staff to her team. However, Dwyer Reynolds stated that everyone wanted more resources and as Executive Director he decided who got them. Dwyer Reynolds stated that PAB Witness 5' team [REDACTED]
- PAB Witness 3 and PAB Witness 4 confirmed that Dwyer Reynolds temporarily moved the [REDACTED] but ultimately allowed [REDACTED] to sit in the originally designated area. Dwyer Reynolds stated that he simply needed to think more about the layout for the new office that PAB Witness 4 showed him because there was conflict regarding which teams would sit where.

III. Finding

NOT SUBSTANTIATED

There is no evidence that retaliation occurred. First, the temporary consideration of not allowing [REDACTED] to sit in the area of the office that they selected when the team was ultimately allowed to utilize the exact space they requested is not sufficient evidence of adverse action. Second, PAB Witness 5 admits that the temporary move did not negatively impact [REDACTED] and instead was a temporary inconvenience.

12. Whether Conor Dwyer Reynolds engaged in race discrimination against PAB Witness 1, PAB Witness 5, Shani Wilson and PAB Witness 3 in violation of the City of Rochester’s internal policies.

I. Allegation

PAB Witness 1 alleges that Dwyer Reynolds discriminated against black women at the PAB. PAB Witness 1 claims that Reynolds stopped giving her substantive work after she participated in a listening session with the Board on May 5, 2022, where senior staff brought concerns about Dwyer Reynolds’ leadership, made comments purported to inaccurately characterize PAB Witness 1 as an angry black woman, made false accusations against Wilson, threatened PAB Witness 3 on May 2, 2022, saying “you better hope this does not all blow up in your face” referencing her involvement in the senior staff’s complaints against him, on April 26, 2022, removed resources from PAB Witness 5’ [REDACTED] and said that [REDACTED] was not important and that [REDACTED] and beginning on May 5, 2022, attempted to discredit and disparage Wilson’s reputation.

II. Corroboration and Key Facts

- The individual actions of Dwyer Reynolds used as support for this allegation have been addressed in other portions of this Report and none were substantiated.
- Dwyer Reynolds denied engaging in race discrimination against anyone or inaccurately characterizing PAB Witness 1 as an angry Black woman. Dwyer Reynolds stated that he never used the term angry Black woman in a discussion about PAB Witness 1.
- PAB Witness 3 and PAB Witness 1 stated that Dwyer Reynolds engaged in race discrimination against PAB Witness 1, PAB Witness 5, and PAB Witness 3. PAB Witness 5, PAB Witness 2, PAB Witness 14, PAB Witness 21, PAB Witness 13, PAB Witness 22, PAB Witness 18 and PAB Witness 4 stated that Dwyer Reynolds did not engage in race discrimination. PAB Witness 5 stated that if anything, Dwyer Reynolds was discriminatory against White people. PAB Witness 5 stated that Dwyer Reynolds tried to gain people of color’s loyalty by making sure that they were in powerful positions and well paid. PAB Witness 5 stated that she believes that Dwyer Reynolds tried to buy allies by seeming like he was providing great opportunities to people of color in a White savior type of way. PAB Witness 22 stated that they all saw Dwyer Reynolds advocate on behalf of Black women. PAB Witness 4 stated that she observed a pattern of Dwyer Reynolds being threatened by Black women but cannot say that it rose to the level of race discrimination.

III. Finding

NOT SUBSTANTIATED

PAB Witness 5, one of the individuals that PAB Witness 1 alleges was discriminated against, denies that Dwyer Reynolds engaged in race discrimination. There is no evidence corroborating that Dwyer Reynolds took specific actions based on race.

13. Whether Conor Dwyer Reynolds violated the Workplace Violence policy in his interaction with PAB Witness 4 in violation of the City of Rochester's internal policies.

I. Allegation

It is alleged that on two separate occasions Dwyer Reynolds engaged in violent behavior against PAB Witness 4. Those allegations include:

- (a) There are allegations that on April 19, 2022, while in the PAB office, Dwyer Reynolds was upset about an e-mail that PAB Witness 4 sent requesting City Council President Miguel Melendez's signature for a PAB Matter and verbally attacked PAB Witness 4 by getting in her face, yelling at her, and aggressively demanding that she answer all of his questions regarding the e-mail. PAB Witness 4 alleges that Dwyer Reynolds' actions made her cry and feel afraid.
- (b) On April 26, 2022, PAB Witness 4 gave Dwyer Reynolds a tour of the new office space and explained the layout that the Chiefs agreed on. During the tour, Dwyer Reynolds made suggestions to change people's assigned offices. PAB Witness 4 told Dwyer Reynolds that she would discuss the suggestions with the senior staff then rearrange the layout. PAB Witness 4 alleges that Dwyer Reynolds became angry at PAB Witness 4's response and began yelling at her in an aggressive way saying that he is the Executive Director, and he gets to make those decisions. Dwyer Reynolds then said that the Investigations Team is the most important team of the PAB and they needed to be in specific offices. PAB Witness 4 reported that she felt unsafe and threatened by Dwyer Reynolds' actions.

II. Corroboration and Key Facts

- PAB Witness 4 stated that on April 19, 2022, she sent an e-mail to President Melendez to receive a signature on a PAB form. PAB Witness 4 stated that City Council Chief of Staff,
- City of Rochester Employee 2, responded to the e-mail copying Dwyer Reynolds and other city officials, invoking anger from Dwyer Reynolds. PAB Witness 4 stated that Dwyer Reynolds came out of his office visibly agitated and raised his voice at PAB Witness 4 asking her who told her that President Melendez needed to sign the document when he is the Agency head. PAB Witness 4 informed Dwyer Reynolds that City of Rochester Employee 1 informed her to send the form to President Melendez for his signature. PAB Witness 4 stated Dwyer Reynolds then pulled up a chair to her desk and called City of

Rochester Employee 1 to confirm the information in a demeaning way. After City of Rochester Employee 1 confirmed the information, Dwyer Reynolds continued yelling saying that it was bullshit and that he was going to call Wilson to handle the situation. PAB Witness 4 stated that Dwyer Reynolds made her feel like she did something wrong and she became afraid. PAB Witness 4 stated that she went into her office and began crying. PAB Witness 4 stated that a few minutes later, Dwyer Reynolds came into her office and apologized for how he spoke to her stating that he was not angry at her and was just frustrated because the City treats him like a child and does not allow him to make his own decisions.

- Dwyer Reynolds denied that he yelled at PAB Witness 4. Dwyer Reynolds stated he was upset at the city and yelled “Got damn it” in the office but was not directing it at PAB Witness 4. Dwyer Reynolds stated that she told PAB Witness 4 if she ever felt like he was upset with her for something that she should come to tell him. Dwyer Reynolds also stated that he apologized to PAB Witness 4.
- Dwyer Reynolds denied being angry or upset with PAB Witness 4 during the office walk through on April 26, 2022.
- PAB Witness 4 stated a few days after the April 26, 2022 interaction with Dwyer Reynolds, she told him during a one-on-one meeting initiated by Dwyer Reynolds that she felt uncomfortable with the way that he spoke to her. PAB Witness 4 stated that Dwyer Reynolds told her that he wanted her to feel empowered to stop him in his tracks if he ever came at her in way like that again and apologized for his behavior.
- PAB Witness 4 stated that she reported both incidents with Dwyer Reynolds to PAB Witness 3 in her capacity as Director of Staff Support & Development of the PAB but there is no evidence of PAB Witness 3 taking any action regarding either incident.
- No witnesses were present for either conversation.

III. Finding

NOT SUBSTANTIATED

There is no evidence to corroborate the allegations as made. Given that there were no witnesses to either conversation, it was not possible to corroborate what occurred.

14. Whether Conor Dwyer Reynolds violated City of Rochester’s policies and practices related to onboarding and demotions.

I. Allegation

Senior staff allege that Dwyer Reynolds violated PAB and City of Rochester policies and practices by (a) changing job titles to allow PAB Employee 1 to retain her staff attorney position with the PAB before passing the bar exam; and (b) opening job applications for a limited period of time to get to his desired candidate.

II. Corroboration and Key Facts

- b) Dwyer Reynolds stated that he changed job titles in May 2022 to increase diversity at the PAB and create a simpler and clearer ladder for promotion within the Agency. For example, Dwyer Reynolds stated that some position requirements changed from a degree requirement to having a degree requirement or equivalent experience. Dwyer Reynolds stated with this structure, PAB could be a training ground for less experienced employees. Dwyer Reynolds confirmed that he had followed proper procedure for requesting and receiving approval of this change through the Civil Service Commission.
- Dwyer Reynolds admitted to changing job titles to allow staff members, such as PAB Employee 1, to retain her position before she passed the bar exam. PAB Witness 2, PAB Witness 1, PAB Witness 5, PAB Witness 3, PAB Witness 14, PAB Witness 4 confirmed that Dwyer Reynolds changed job titles so that less qualified people could work at the PAB.
 - PAB Witness 3 stated that PAB Employee 1 was hired as a staff attorney before being admitted to the New York Bar. PAB Witness 3 stated that PAB Employee 1 was classified as a staff attorney and her signature line stated that she was a staff attorney. PAB Witness 3 stated that she brought concerns around PAB Employee 1's classification to Dwyer Reynolds, and he suggested that they just remove her signature line but still allow her to work and be paid as a staff attorney. PAB Witness 2, PAB Witness 4 and PAB Witness 7 confirmed that PAB Employee 1 was held out as an attorney without being admitted to any state bar. PAB Witness 15 and PAB Witness 12 denied that PAB Employee 1 was held out as a staff attorney and stated that everyone was aware that she was waiting to take the bar exam. **(Exhibit G, E-Mail from Dwyer Reynolds Discussing PAB Employee 1's Title)**
 - PAB Witness 2 stated that the change would make things more equitable although he does not agree with the decision. PAB Witness 2 stated that he thought this decision should have come to the legal department to weigh in on and that there were better ways to retain PAB Employee 1 without changing everyone's title.
- c) Dwyer Reynolds admitted to opening job applications for a limited period to review the application of his desired candidates. PAB Witness 2, PAB Witness 14, PAB Witness 3, PAB Witness 1, and PAB Witness 4 confirmed that Dwyer Reynolds opened job applications to get to a desired applicant. PAB Witness 14 stated that when the job application was opened, they would also hold interviews for the new wave of qualified candidates. PAB Witness 2 stated that PAB Witness 1 told him that Dwyer Reynolds opened the job application for the [REDACTED] role so that PAB Witness 8 could apply. PAB Witness 2 stated that he would have been expected to be consulted about this as [REDACTED] but was not.

III. Finding

NOT SUBSTANTIATED

Dwyer Reynolds followed the Civil Service Commission process to change job titles from Staff Attorneys to Accountability Inspectors. He received the necessary approvals and although there may have been other options for how to retain applicants who did not meet the minimum requirements of their positions, he did not violate any City policies in making the change. Similarly, there is no evidence that he violated City policies in the opening of job applications for a limited period of time as that process was handled by the City of Rochester HR department and they posted and closed all open positions.

15. Whether Conor Dwyer Reynolds violated City of Rochester's policies and practices related to hiring.

I. Allegation

It is alleged that Dwyer Reynolds violated PAB and City of Rochester policies and practices by: (a) instructing PAB Witness 8 to revise his resume to meet the minimum qualifications for the [REDACTED] before submitting his application through City of Rochester HR; b) allowing PAB Witness 14 to conduct interviews for positions above her grade level; and (c) allowing PAB Employee 2 to conduct interviews before his employment began with the City of Rochester.

II. Corroboration and Key Facts

- a) PAB Witness 8 was contacted by PAB Witness 3 via e-mail on March 3, 2022, to schedule an interview for the [REDACTED] position. He declined the interview via e-mail stating that he was not qualified for the position because he had not been admitted to the New York State bar, a qualification for the position. The minimum requirements for the [REDACTED] position included: three (3) years of experience as an attorney admitted to the New York state bar and a minimum of one (1) year of experience supervising other attorneys. PAB Witness 8 stated he instead wanted to be considered for two different open positions – the [REDACTED] [REDACTED] PAB Witness 3 forwarded PAB Witness 8's e-mail to Dwyer Reynolds who responded on March 10, 2022, saying that an interview should be scheduled with PAB Witness 8 for the positions that he inquired about. PAB Witness 8 was eventually interviewed and selected to be hired for the [REDACTED] position, the same position he previously reported being unqualified for via e-mail. On March 18, 2022, Dwyer Reynolds sent an e-mail to PAB Witness 3 telling her that PAB Witness 6 wanted to extend an offer to PAB Witness 8 for the [REDACTED] position and requested that PAB Witness 3 reach out to PAB Witness 8 asking him for references and to update his resume to reflect that he had "three years of legal experience, one of which involved the supervision of attorneys". PAB Witness 8 stated that he made clear in his interview and on his resume that had been provided to the PAB for consideration, that he

did not have the experience he was asked to add to his resume. PAB Witness 6 confirmed that PAB Witness 8 did not have the experience that Dwyer Reynolds was asking him to add to his resume before submitting his application through the City of Rochester HR. PAB Witness 3 followed Dwyer Reynolds directive and contacted PAB Witness 8 asking him to modify his resume the way Dwyer Reynolds requested. PAB Witness 8 stated that he believed the request was asking him to be untruthful on his resume and so he refused to amend his resume as requested. He said he ultimately submitted his application for the position without making the change to his resume. He was later hired and began work with the PAB in May 2022, after the position minimum qualifications were changed in April 2022.

Dwyer Reynolds denied requesting PAB Witness 8 to add false information to his resume to meet the minimum qualifications for the position. Dwyer Reynolds stated that PAB Witness 8 had previous experience supervising attorneys but his resume did not accurately reflect that so he suggested to PAB Witness 8 that he add that information in. Dwyer Reynolds stated that PAB Witness 8 was hired as an [REDACTED] and met all of the minimum qualifications for that role.

- b) Dwyer Reynolds admitted that he allowed PAB Witness 14 to conduct interviews. Dwyer Reynolds stated that the City of Rochester has often touted the use of non-employees – including those with little or no experience in the relevant field – in the employee interview process. Dwyer Reynolds provided an example from March 2022, when the City announced the creation of a Civilian Public Safety Interview Panel, a group of nine to twelve community members – who did not need any background in criminal justice – who would be responsible for interviewing prospective police officer candidates regarding their views on contemporary policing, culture and race, and familiarity with the Rochester community among other topics of importance to the community.
- c) Dwyer Reynolds admitted that he allowed PAB Employee 2 to conduct interviews before he started working with the PAB. PAB Witness 3 stated and PAB Witness 4 confirmed that PAB Employee 2 was offered the [REDACTED] role in March and was scheduled to begin his employment on May 2, 2022. PAB Witness 3 stated that prior to May 2, 2022, PAB Employee 2 was allowed to sit in on interviews and make hiring decisions. PAB Witness 3 stated that PAB Employee 2 sat in on interviews for three candidates for various policy positions. PAB Witness 3 stated that she told Dwyer Reynolds that it was not proper for PAB Employee 2 to make hiring decisions prior to his start of employment because he would gain access to people’s salaries, employment history and other confidential information. PAB Witness 3 stated that Reynolds disregarded her concerns.

City of Rochester Witness 1 stated that PAB Employee 2 would have needed to be paid for his participation in interviews because he was an interim employee. City of Rochester Witness 1 stated that it is not common or recommended that non-employees participate in interviews.

III. Finding

NOT SUBSTANTIATED

Although PAB Witness 8 was not hired until after the position requirements were changed, Dwyer Reynolds' instruction that he be hired before that change was approved was improper. Because PAB Witness 8 did not start working at the PAB until the position title was changed, no violation was established. Additionally, Dwyer Reynolds allowing PAB Employee 2 to participate in interviews and to access confidential application files before he was officially hired as an employee once again demonstrates a general disregard for protection of confidential records.

16. Whether Conor Dwyer Reynolds allowed employees to work in capacities outside of their established job duties or levels.

I. Allegation

Dwyer Reynolds allowed or directed PAB Witness 14 to act in a capacity outside of her proper qualification or established job duties by participating in the following behaviors: (a) PAB Witness 14 sat in on interviews and provided feedback, including conducting interviews on her own; (b) PAB Witness 14 was expected to get a clerk to assist with her job duties; (c) PAB Witness 14 did the day to day management of the senior staff; (d) Dwyer Reynolds was not happy with how PAB Witness 4 did the floor plan for the new building so Dwyer Reynolds said that PAB Witness 14 would take it over; (e) PAB Witness 14 was giving orders to other employees, including directives to carry out; (f) PAB Witness 14 was approving all of the timecards for Dwyer Reynolds' staff; (g) PAB Witness 14 was responding to Dwyer Reynolds' e-mails as if it was him; (h) Dwyer Reynolds made plans to promote PAB Witness 14 [REDACTED] and allowed her to assist in drafting her own job description without seeking approval or input from HR.

II. Corroboration and Key Facts

- a) Dwyer Reynolds admitted to allowing PAB Witness 14 to conduct interviews of job applicants.
- b) Dwyer Reynolds denied that PAB Witness 14 would receive a clerk. Dwyer Reynolds stated that he and the PAB Board discussed hiring a clerk to assist Wilson and the PAB Board with administrative tasks. PAB Witness 5 stated that Dwyer Reynolds approved PAB Witness 14, getting a clerk but would not allow PAB Witness 5 to hire additional staff for community engagement. PAB Witness 5 stated that Dwyer Reynolds told her to use volunteers to assist with community engagement. PAB Witness 14 stated that Dwyer Reynolds and the Board discussed hiring a clerk who would take over board meeting minutes when PAB Witness 14 was not able to and that would work closely with PAB Witness 14, not for her.

- c) Dwyer Reynolds denied that he allowed PAB Witness 14 to do the day-to-day management of senior staff members. Dwyer Reynolds stated that he wanted PAB Witness 14 to be the gatekeeper of the executive office. Dwyer Reynolds stated that this meant she would manage communications between various departments, take meeting notes, and coordinate meetings.
 - a. PAB Witness 1 and PAB Witness 5 stated that it was their understanding that Dwyer Reynolds intended to allow PAB Witness 14 to manage senior staff.
 - b. PAB Witness 5 stated that it was her understanding that Dwyer Reynolds would complete their reviews but PAB Witness 14 would complete the day-to-day management of senior staff.
 - c. PAB Witness 3 stated that PAB Witness 14 was given more responsibility by Dwyer Reynolds than she should have been given. PAB Witness 3 stated that on April 25, 2022, during a meeting, Dwyer Reynolds told the staff that PAB Witness 14's title was changing to [REDACTED] that if PAB Witness 14 came to speak to them about anything, they should respond as if they are speaking to him. PAB Witness 3 stated that Dwyer Reynolds also said that PAB Witness 14 was his mole.
 - d. PAB Witness 13 stated that Dwyer Reynolds told the staff if PAB Witness 14 was present it was because Dwyer Reynolds cannot be, and she should be respected. PAB Witness 13 stated that Dwyer Reynolds made those statements to instruct the staff not to devalue PAB Witness 14 and to treat her as more than a secretary.
- d) Dwyer Reynolds and PAB Witness 4 confirmed that Dwyer Reynolds told PAB Witness 14 to take over drafting the floor plan for the new building.
- e) Dwyer Reynolds stated that PAB Witness 14 would communicate his directives to other employees but did not act independently. Dwyer Reynolds confirmed that he said that PAB Witness 14 would act as his eyes and ears. PAB Witness 5 stated that Dwyer Reynolds told the staff that they should treat PAB Witness 14 with the same power, authority, and respect that they give him.
 - a. PAB Witness 1, PAB Witness 5 and PAB Witness 3 confirmed that Dwyer Reynolds told the senior staff that PAB Witness 14 would be his eyes and ears, his mole, and that they should speak to her as if they are speaking to him. PAB Witness 7 confirmed that Dwyer Reynolds said PAB Witness 14 would be his eyes and ears. PAB Witness 7 stated that Dwyer Reynolds made the statements because PAB Witness 14 was not getting respect and he wanted to tell the staff to be "responsive" to her.
- f) Dwyer Reynolds stated that he cannot recall whether PAB Witness 14 approved his staff's timecards but would not be surprised if he directed her to do so because doing so would be within her authority. PAB Witness 3 confirmed that PAB Witness 14 was approving timecards for Dwyer Reynolds' staff.

- g) Dwyer Reynolds admitted that PAB Witness 14 responded to his e-mails on his behalf.
- h) Dwyer Reynolds admitted that he planned to promote PAB Witness 14 to the [REDACTED] position and allowed her to participate in drafting her own job description without seeking approval or input from HR. City of Rochester Witness 1 stated that the only person who should be developing job descriptions is the manager of the position. City of Rochester Witness 1 stated it should then be sent to HR for review and approval. City of Rochester Witness 1 stated when managers put together job specifications, the HR person should first look to find an existing job description that is similar and work from that. PAB Witness 4 stated that she was concerned that Dwyer Reynolds attempted to promote PAB Witness 14 without going through her or PAB Witness 3. PAB Witness 3 stated that she shared those concerns.

PAB Witness 14 stated that Dwyer Reynolds drafted the job title for her in March or April 2022 but that she wrote the bulk of the job description and was allowed to flush the details out. Dwyer Reynolds confirmed this. PAB Witness 14 stated her new job duties would include:

- Acting as a bridge between junior and senior staff;
- Using her discretion to determine if issues raised by staff should be directed to Dwyer Reynolds or PAB Witness 3 ;
- Managing clerks for every division to ensure that meeting was well coordinated, and department needs were met; and
- Assisting with taking notes for PAB Board meetings.

III. Finding

NOT SUBSTANTIATED

Although Dwyer Reynolds exercised questionable judgment in how he communicated PAB Witness 14s’ value to the staff utilizing terms like “mole” and saying she was his “eyes and ears”, his conduct did not give rise to a policy violation. Further, although Dwyer Reynolds failed to properly vet the [REDACTED] job description, he was creating with PAB Witness 14, the job change was never implemented and instead was only in the planning process.

17. Whether Conor Dwyer Reynolds established PAB policies that were duplicative and/or inconsistent with City of Rochester established policies.

I. Allegation

There is an allegation that Dwyer Reynolds created or instructed subordinate employees to draft policies that were either inconsistent with or duplicative of City of Rochester policies – for example Dwyer Reynolds instructed PAB Witness 3 to draft the internal investigation rule.

II. Corroboration and Key Facts

- Dwyer Reynolds admitted to instructing PAB Witness 3 to draft an internal investigation rule. Dwyer Reynolds stated that they needed to begin investigating PAB Witness 11 and PAB Witness 1’s complaints against each other but did not have an existing investigation rule to begin the process. Dwyer Reynolds said that he spoke with Witness 9 from the Office of Public Integrity to inquire about a rule of investigating personnel matters. Dwyer Reynolds stated that Witness 9 told him that every City of Rochester Department had to draft their own investigations rule and procedure. Dwyer Reynolds stated that he did not ask City of Rochester HR about an investigations rule because he did not have faith in their ability to assist him based on their treatment of other HR matters that Dwyer Reynolds brought to them. Dwyer Reynolds later stated that he regularly asked HR for policies related to investigations but was told by HR to look at the Handbook. Dwyer Reynolds stated that he is not aware of any policies that he drafted that conflict with City of Rochester policies.
- Witness 9 denied that Dwyer Reynolds contacted her to inquire about an investigation rule and stated that if he had come to her, she would have directed him to City of Rochester HR.
- City of Rochester Witness 2 and City of Rochester Witness 3 stated that the City of Rochester has a rule for conducting internal investigations into personnel matters and that Dwyer Reynolds should have used the City of Rochester’s internal investigation rules. City of Rochester Witness 1 stated that Dwyer Reynolds wants the PAB to be a part of City government when it benefits them but wants to distance PAB and claim independence when it does not.

III. Finding

NOT SUBSTANTIATED

City of Rochester HR was the obvious department to contact in inquire about rules regarding conducting an investigation regarding an internal complaint of hostile work environment and discrimination. Dwyer Reynolds’ decision not to contact that office is puzzling. Despite that, the policy PAB policy created does not appear to be inconsistent with established policies.

18. Whether PAB Witness 1 engaged in bullying or otherwise subjected staff to a work environment that violated the City of Rochester’s internal policies.

I. Allegation

There are allegations that PAB Witness 1 engaged in the following:

- a) PAB Witness 1 made condescending statements to the staff attorneys such as, “Poor leadership is not an excuse for poor performance,” “I was not aware that attorneys were not able to do a legal analysis” and told the attorneys that their work was “terrible”;

- b) PAB Witness 1 provided little guidance on assignments but criticized the staff attorneys' work product;
- c) PAB Witness 1 routinely spoke over other people in meetings; and
- d) PAB Witness 1 made condescending, inappropriate, and rude comments to PAB staff members.

II. Corroboration and Key Facts

- PAB Witness 1 did not have any direct reports in her role as [REDACTED]. However, Dwyer Reynolds assigned her to oversee the Disciplinary Matrix Project which he had previously been managing before PAB Witness 1's start with the PAB. PAB Witness 11, PAB Employee 1 and PAB Witness 13 were assigned to work on the project and continued to work on the project when PAB Witness 1 took over management. PAB Employee 1's participation was limited initially as she was taking time off to study for the bar exam. Several weeks into working on the project, PAB Witness 11, PAB Witness 12 and PAB Employee 1 sent an e-mail to Dwyer Reynolds stating that they wished to have a meeting with him. During that meeting, PAB Witness 11 expressed concerns about how she had been treated by PAB Witness 1 during the meetings held regarding the Disciplinary Matrix project.
- PAB Witness 11 confirmed that she believed that PAB Witness 1 engaged in behavior that was bullying including making statements criticizing the instructions on the project that the team had received when Dwyer Reynolds was managing the project.
- PAB Witness 1 admitted that she may have said some variation of "I was not aware that attorneys were not able to do a legal analysis" regarding the Disciplinary Matrix and in a group context, but not to PAB Witness 11 specifically.
- There is corroboration that PAB Witness 1 routinely spoke over people in meetings and that she made comments that were perceived as rude, inappropriate, and condescending. Multiple witnesses (Dwyer Reynolds, PAB Witness 2, PAB Witness 4, PAB Witness 5 and PAB Witness 7) confirmed that PAB Witness 1 spoke over people in meetings, cut off people when they were speaking and had referred to other employees as "dumb" or "idiots". PAB Witness 1 admitted to speaking over people in meetings and stated that it was the culture of the PAB at the time and she never did it in a spirit of trying to disparage the person speaking.
- Dwyer Reynolds alleges that PAB Witness 1 called his ideas stupid to his face on three separate occasions, told him in meetings that she does not respect him and does not know why he is there, that he was not there for the work, that she was sticking around and not going anywhere, and that she "knows people". PAB Witness 1 denies making these comments and no other witnesses could corroborate these allegations.

III. Finding

NOT SUBSTANTIATED

As there is no policy that covers bullying or toxic work environment claims under the City of Rochester policies where there is no allegation that the behavior was based on a protected category (race, gender, etc.), no policy violation could be substantiated. However, it is clear that PAB Witness 1 engaged in a pattern of communication that negatively impacted other PAB staff members, regardless of whether or not that was the intent. On that basis, it is recommended that PAB Witness 1 be provided with communications training to increase her awareness of how her communication style impacts her colleagues and to halt this behavior going forward.

19. Whether PAB Witness 11 subjected PAB Witness 1 to race discrimination in violation of the City of Rochester's internal policies.

I. Allegation

PAB Witness 1 alleges that PAB Witness 11 made racist and sexist remarks against her. Specifically, PAB Witness 11 is alleged to have said on one occasion in March 2022 that PAB Witness 1 acts the way that she does because she is a Black woman in a predominantly White male field and that PAB Witness 11 prefers to work with white men, and called PAB Witness 1 a bitch.

II. Corroboration and Key Facts

PAB Witness 11 admitted that during a conversation with PAB Witness 15, PAB Employee 1, PAB Witness 12, and PAB Witness 13 she said that it is possible that PAB Witness 1 acts the way that she does (referring to her demeanor and communication style) because she is a Black woman in a male dominated field and that it has caused her to act this way. PAB Witness 11 stated that she made this comment as she was attempting to figure out why PAB Witness 1 had a protective reaction to working with PAB Witness 11 and said it may be because of how PAB Witness 1 has been treated as a Black woman in the legal field that influenced the way that she interacts with PAB Witness 11. PAB Witness 15 and PAB Witness 13 confirmed that PAB Witness 11 made these statements.

PAB Witness 11 denied that she said that she prefers to not work with a Black woman or that she called PAB Witness 1 a bitch. PAB Witness 12 and PAB Witness 15 stated that PAB Witness 11 did not say that she prefers to not work with Black women and did not call PAB Witness 1 a bitch. PAB Witness 13 and PAB Witness 3 confirmed that PAB Witness 11 called PAB Witness 1 a bitch. PAB Witness 13 confirmed that PAB Witness 11 did not expressly state that she preferred to work with White men but instead that was the inference he made based on PAB Witness 11's statement.

III. Finding

NOT SUBSTANTIATED

There was no corroboration that PAB Witness 11 indicated that she preferred to work with White males and did not want to work with PAB Witness 1 as a result. PAB Witness 11's statement on one occasion that hypothesized whether PAB Witness 1's behavior was related to her being a Black woman in a White male dominated legal field does not constitute race discrimination.

20. Whether PAB Witness 1, PAB Witness 6, PAB Witness 5, PAB Witness 2, and PAB Witness 4 subjected PAB Witness 14 to sexual harassment in violation of the City of Rochester's internal policies.

I. Allegation

Whether PAB Witness 1, PAB Witness 6, PAB Witness 5, PAB Witness 2, and PAB Witness 4 spread rumors that PAB Witness 14 was involved in a sexual relationship with Dwyer Reynolds and that said relationship [REDACTED] in violation of the City of Rochester's Sexual Harassment Policy.

II. Corroboration and Key Facts

PAB Witness 1, PAB Witness 6, PAB Witness 5, PAB Witness 2, and PAB Witness 4 denied that they started or participated in the spread of a rumor that PAB Witness 14 had a sexual relationship with Dwyer Reynolds [REDACTED] as a result.

- PAB Witness 7 stated that on April 27, 2022, during a senior staff meeting, PAB Witness 1 implied that PAB Witness 14 [REDACTED] because of her relationship with Dwyer Reynolds but did not explicitly say it. PAB Witness 1 denied making the statement.
- PAB Witness 5 stated that during the April 27, 2022 meeting a senior staff member (who she refused to name) inquired why PAB Witness 14 [REDACTED] and asked if it was possible that PAB Witness 14 was in a sexual relationship with Dwyer Reynolds. PAB Witness 5 stated that she responded saying that was not accurate and the staff member agreed and said that [REDACTED] PAB Witness 5 stated that was the only time any potential relationship between PAB Witness 14 and Dwyer Reynolds was discussed during the meeting.
- PAB Witness 5 stated that on May 6, 2022, she met with Dwyer Reynolds at Mercantile on Main and expressed to him that things had gotten so crazy at the PAB that someone asked if he was sleeping with PAB Witness 14. PAB Witness 5 stated that Dwyer Reynolds later told PAB Witness 14 that there was a rumor circulating that she was sleeping with him and encouraged her to file a sexual harassment complaint against the senior staff. PAB Witness 5 stated that she had a conversation with PAB Witness 14 about the alleged rumor. During that conversation, PAB Witness 14 asked PAB Witness 5 to write a statement for

her Complaint and PAB Witness 5 said that she could not because there was no rumor, and she would be attesting to a lie.

- PAB Witness 14 stated on May 6, 2022, she met with Dwyer Reynolds and that he told her that PAB Witness 5 told him the senior staff started a rumor that the two of them were sleeping together and [REDACTED] PAB Witness 14 stated that Reynolds told her about the rumor because he is a mandated reporter and would need to file a sexual harassment complaint related to the rumor with City of Rochester HR.
- PAB Witness 14 stated that on May 9, 2022, she met with PAB Witness 5 to discuss the rumor and PAB Witness 5 informed PAB Witness 14 that there was no rumor and that Dwyer Reynolds mischaracterized what she said to manipulate her. PAB Witness 14 stated that she asked if PAB Witness 5 would write a statement about the rumor and PAB Witness 5 refused because she believed there was no rumor and Dwyer Reynolds' statements to her were a lie. PAB Witness 14 stated that on May 18, 2022, she had another conversation with PAB Witness 5 in the PAB office and PAB Witness 5 shared that the conversation where the rumor came up was not about PAB Witness 14 and was instead about Dwyer Reynolds and his decision making. PAB Witness 14 stated that PAB Witness 5 shared that she felt like [REDACTED].
- PAB Witness 14 stated that she spoke to Dwyer Reynolds the following Tuesday or Wednesday and he told her that he really needed to report the rumor to the City and wanted to make sure that she was comfortable with it. She said sometime between May 10 -12, 2022, she told Dwyer Reynolds that she wanted him to put in a complaint. PAB Witness 14 stated that the complaint was filed on May 13, 2022.

III. Finding

NOT SUBSTANTIATED

There was no corroboration that a rumor about a sexual relationship was ever circulated. Instead, it appears there may have been a reference during one meeting on one occasion to a potential relationship. That would not rise to the level of a violation of the City's sexual harassment policy.

21. Whether PAB senior staff members retaliated against PAB Witness 14 in violation of the City of Rochester's internal policies.¹³

I. Allegation

PAB Witness 14 alleges that senior staff and the PAB Board retaliated against her after the rumor of her sleeping with Reynolds circulated. PAB Witness 14 alleges that the senior staff and PAB Board took work away from her and refused to assign her similar work that she was completing prior to the spread of the rumor. For example, PAB Witness 14 was no longer allowed to sit in on senior staff meetings to take notes and was not allowed [REDACTED] PAB Witness 6, to attend a meeting with the City of Rochester Police Chief.

II. Corroboration and Key Facts

PAB Witness 5, PAB Witness 4, PAB Witness 3, PAB Witness 6, and PAB Witness 21 denied that PAB Witness 14 was retaliated against at any time.

- PAB Witness 21 stated it made sense that PAB Witness 14's duties were reduced because she had been operating outside of her assigned role's job duties.
- PAB Witness 14 stated on May 17, 2022, PAB Witness 4 approached her at the PAB office and asked if she was okay with reporting to PAB Witness 4 as a temporary supervisor so that she can have someone there to guide her. PAB Witness 14 stated that she told PAB Witness 4 that she did not feel comfortable reporting to her.
- PAB Witness 14 stated her assignments changed significantly after Dwyer Reynolds was placed on leave. [REDACTED]

- PAB Witness 14 stated on May 31, 2022, she met with PAB Witness 6 and requested to attend the meeting with the Rochester Police Department, as Dwyer Reynolds had promised she could do before his leave. PAB Witness 14 stated that PAB Witness 6 told her she could not attend the meeting because they were keeping it between him and PAB Employee 2. PAB Witness 14 stated on the day of the meeting, PAB Witness 2, PAB Witness 1, PAB Witness 6, and PAB Employee 2 all got in the same car to what she assumes, go to the meeting with the Rochester Police Department.

- PAB Witness 14 stated that she expressed her concerns to PAB Witness 5 about not having substantial assignments in retaliation of her making a complaint about the alleged rumor. PAB Witness 14 stated that PAB Witness 5 assured her that there was no retaliation and no rumor and has since assigned her more work. PAB Witness 14 stated that although she appreciates PAB Witness 5's efforts to provide her with more work, she did not come to the PAB to be a [REDACTED] and instead wants to go back to being an [REDACTED]
- PAB Witness 6 stated PAB Witness 14 set up his meetings, took minutes, and communicated with the Board – all assignments within her job title and duties. PAB Witness 6 stated when PAB Witness 14 informed him that she was low on work, he coordinated with the [REDACTED] PAB Witness 5, to get her more work because that department had a need for assistance. PAB Witness 6 stated he did not allow PAB Witness 14 to attend the meeting with the Rochester Police Department because there were already three Board members, himself, and the Chiefs of Policy and Legal attending and he did not believe it was appropriate for PAB Witness 14 to also be in attendance.
- PAB Witness 14's job duties as [REDACTED]
- The job duties that PAB Witness 14 was assigned prior to Dwyer Reynolds' leave that she alleges were taken away were outside the duties listed in her job description.

III. Finding

NOT SUBSTANTIATED

There was no corroboration that PAB Witness 14 was retaliated against for making a sexual harassment complaint. [REDACTED]

22. Whether PAB Witness 23 retaliated against PAB Witness 6, PAB Witness 5, PAB Witness 1, PAB Witness 2, and PAB Witness 4 in violation of the City of Rochester’s internal policies.

I. Allegation

It is alleged that PAB Witness 23 retaliated against senior staff members during the listening session with the PAB Board on May 5, 2022, During the meeting, after senior staff shared their concerns about Dwyer Reynolds leadership, PAB Witness 23 wrote in the Zoom chat that the senior staff was a “den of vipers”. PAB Witness 23 refused to apologize to the senior staff for his comments.

II. Corroboration and Key Facts

- PAB Witness 23 admitted to calling the senior staff a “den of vipers”. PAB Witness 23 stated that the phrase was descriptive of how the meeting went but was not intended to diminish the staff’s complaints. PAB Witness 3, PAB Witness 5, PAB Witness 6, PAB Witness 1, PAB Witness 2, PAB Witness 18, PAB Witness 19, PAB Witness 21, Wilson, PAB Witness 22, and PAB Witness 20 confirmed that on May 5, 2022, PAB Witness 23 called the senior staff a “Den of Vipers”.
- PAB Witness 21, PAB Witness 18, PAB Witness 19, and PAB Witness 20 confirmed that PAB Witness 23 refused to apologize to the staff following his comment. PAB Witness 21 stated she spoke to PAB Witness 23 about his comment and asked him to apologize but PAB Witness 23 said, “No, I’m not apologizing because that is what they are.” PAB Witness 18 stated that PAB Witness 23 also said that the senior staff were just babies and had nothing to complain about.
- PAB Witness 6 stated that PAB Witness 23’s comment was not helpful and made people think their complaints fell on deaf ears. PAB Witness 6 stated that PAB Witness 23 did not believe the staff and remains oppositional to them.
- PAB Witness 1 stated that PAB Witness 23 was grimacing at the senior staff during the entire meeting and said that no one who signed onto the complaint should be considered as an interim ED. PAB Witness 1 stated that PAB Witness 23 also said that they were professionals who should know better.
- PAB Witness 14 stated that PAB Witness 23 has caused some issues and says things that are misogynist. PAB Witness 14 stated that PAB Witness 23 said things in public meetings that have made female members of the Board and staff feel uncomfortable but was laughed off and chalked up to that just being how PAB Witness 23 behaves. PAB Witness 14 stated that Wilson has talked about PAB Witness 23’s comments saying he is rough around the edges and they must remind him of etiquette. PAB Witness 21 stated that PAB Witness 23 often made inappropriate comments but that he did not mean any harm by them. PAB Witness 20 and PAB Witness 18 also stated that PAB Witness 23 often made misogynistic comments such as “put your big girl panties on,” made comments about women’s physical

appearances, and referred to a PAB board member as foxy. PAB Witness 23 denies making any of those comments.

III. Finding

NOT SUBSTANTIATED

The City of Rochester's Whistleblower Policy defines retaliation as disciplinary or other adverse personnel action relating to the terms and conditions of employment taken against an employee because the employee has made a good faith report. Here, although PAB Witness 23's comment was improper and likely made with the intent to diminish the staff's complaints and concerns, the making of one comment on one occasion does not rise to the level of an adverse personnel action, which is required under the policy to find a violation.

23. Whether PAB Witness 4 sexually harassed PAB Witness 16 in violation of the City of Rochester's internal policies.

I. Allegation

PAB Witness 16 alleges that PAB Witness 4 sexually harassed him. PAB Witness 16 alleges that PAB Witness 4 requested to meet with him in a private location alone on one occasion, requested to meet for breakfast and lunch meetings on three (3) occasions, called his personal cell phone during non-business hours on one occasion, pushed for PAB Witness 16's desk to be close to hers when they were moving to a new office space, applied lip balm during a Zoom meeting on one occasion, showed him and other staff videos of her daughter dancing "like a pop star" on one occasion, put on a sweater during a zoom call that was similar to one being worn by another person on the call and hugged him more than once.

II. Corroboration and Key Facts

- PAB Witness 16 was hired in March 2022 and reported to PAB Witness 3 who reported to PAB Witness 4.
- PAB Witness 4 stated that she hugged PAB Witness 16 once when he first began his employment at the PAB as a welcome hug. PAB Witness 4 stated that she often hugged other PAB staff members and no one expressed any discomfort with it. PAB Witness 4 stated that she found out during a meeting on April 28, 2022, attended by her, PAB Witness 14, PAB Witness 3, and PAB Witness 16, that PAB Witness 16 was uncomfortable with PAB Witness 4 hugging him. PAB Witness 4 stated that she apologized to PAB Witness 16 and agreed to never hug him again. PAB Witness 4 and PAB Witness 16 confirmed that PAB Witness 4 did not hug PAB Witness 16 after she learned that he was uncomfortable with it. PAB Witness 3 confirmed that PAB Witness 4 hugged PAB Witness 16 when he first began his employment at the PAB. PAB Witness 3 stated that PAB Witness 16 told her that he felt uncomfortable with PAB Witness 4 hugging him. PAB Witness 3 stated that she told PAB Witness 4 that PAB Witness 16 did not feel comfortable with her hugging him and asked PAB Witness 4 not to hug him again. PAB

Witness 3 confirmed that PAB Witness 16 did not inform her of PAB Witness 4 hugging him again.

- PAB Witness 16 stated that on March 21, 2022, PAB Witness 4 showed him a video of her daughter dancing “like a pop star” that he felt was inappropriate. PAB Witness 4 stated that her daughter is a dancer and a theatre major in college. PAB Witness 4 stated that she showed PAB Witness 16, as well as other employees who were present at the time, a video of her daughter performing at a concert at her school. PAB Witness 4 stated that the video would not have been of her daughter in any inappropriate clothing or dancing suggestively.
- PAB Witness 16 stated that PAB Witness 4 applied lip balm during a Zoom meeting on one occasion which he believes was an example of sexual harassment. PAB Witness 4 stated that she [REDACTED] and admitted that she may have applied it during a Zoom call but did not do so in a sexually suggestive way.
- PAB Witness 16 stated that on April 8, 2022, PAB Witness 4 changed her sweater during a Zoom call on one occasion with a potential employee to put on a zip up sweater over her clothing that was the same as the sweater the potential employee was wearing. PAB Witness 4 denied this allegation.
- PAB Witness 16 stated that PAB Witness 4 was attempting to force him to have his desk placed near PAB Witness 4’s in the new office but it never occurred. PAB Witness 16 stated that he asked PAB Witness 6 if he could sit in the section where the investigation team was seated in the new office space and PAB Witness 6 told him that it was fine. PAB Witness 4 denied that she pushed for PAB Witness 16’s desk to be close to hers. PAB Witness 4 stated that she never suggested that PAB Witness 16 sit next to her. PAB Witness 4 stated she simply told PAB Witness 16 that he could not sit with the investigations team and would need to move to another location in the office. PAB Witness 3 confirmed that PAB Witness 4 did not request that PAB Witness 16 move his desk near hers.
- PAB Witness 4 stated that she had to use PAB Witness 16’s personal cell phone number before he was officially onboarded at the PAB to request information from him. PAB Witness 4 stated that her phone saved PAB Witness 16’s personal cell phone number as the primary number without her awareness so every time she called him, it dialed his personal number. PAB Witness 4 stated that PAB Witness 16 brought this issue up during the April 28, 2022, meeting and PAB Witness 4 was horrified that she had made that mistake. PAB Witness 4 stated that she explained to PAB Witness 16 why she was unintentionally calling his personal cell phone, apologized, and erased his personal cell phone number from her phone so she would not call it again. PAB Witness 3 confirmed that PAB Witness 4 called PAB Witness 16 on his personal cell phone prior to his first day at PAB to request information from him for his onboarding process. PAB Witness 3 confirmed and stated that PAB Witness 4 told her that PAB Witness 16’s personal cell phone saved as the default number in PAB Witness 4’s phone, and she was unaware that it was not his PAB phone.

- PAB Witness 4 admitted that she requested to meet with PAB Witness 16 for working breakfasts and lunches. PAB Witness 4 stated she asked to meet with PAB Witness 16 for a working lunch earlier in April before their April 28th meeting to work on the move because it was difficult to schedule a time to meet during the mandatory staff training. PAB Witness 4 stated that PAB Witness 16 emailed her that he had to run errands and would prefer not to meet during that time which was off the clock. PAB Witness 4 stated that she respected PAB Witness 16's request and tried to reschedule the meeting. On another occasion, PAB Witness 4 stated that when she asked to meet with PAB Witness 16 first thing in the morning before training, he emailed her back to notify her that he was not "entirely comfortable with working breakfasts and lunches." Again, making it difficult to complete the work that needed to be done. PAB Witness 4 stated this eventually led to her doing the majority of the work by herself. PAB Witness 4 stated that PAB Witness 16 told her during the April 28, 2022, meeting that he was not comfortable with it and she stopped inviting him to meet during breakfast and lunch hours. PAB Witness 3 confirmed that because of PAB Witness 4's busy schedule and the lack of office space she often requested to meet with staff for breakfast and lunch meetings. PAB Witness 3 stated that she met with PAB Witness 4 for both a breakfast and lunch meeting before.
- PAB Witness 16 stated that PAB Witness 4 requested through e-mail that he meet with her at 8:15 a.m. on a Monday morning at the 80 Commercial Street location in order to prepare for an 8:30 a.m. new employee orientation. PAB Witness 16 stated that PAB Witness 4 was aware of the vacancy of the Commercial Street location and made the suggestion thus disregarding PAB Witness 16's previously discussed concerns of being alone in non-workspace environment with her. PAB Witness 16 stated that PAB Witness 4 also requested that he meet with a new female employee alone at the Commercial Street location. PAB Witness 4 stated that part of her and PAB Witness 16's role included conducting new employee orientation so her request was in line with his role. PAB Witness 4 stated that PAB Witness 16 refused to meet with the new employees and she had to call PAB Witness 3 to speak to PAB Witness 16 about dropping off the equipment. PAB Witness 4 stated that PAB Witness 16 sent her an email saying "Unfortunately, I am not comfortable with this. I will neither meet you alone in an empty office space, nor stay in that empty office space with [the new employee]. I will be happy to retrieve the computer and cell phone from you, and arrange to meet [the new employee] at the city council office, if that would be helpful. Please advise, and give me her cell phone number if I can help reschedule today's computer and phone set up." PAB Witness 4 stated that she attempted to call PAB Witness 16 on his work cell after receiving his e-mail, to explain to him that she had sent an email out with the new location for set up as he had requested and not to their 80 Commercial Street location. However, PAB Witness 16 purposely did not pick up her call and quickly replied by email saying: "I'm sorry I missed your call just now, but for the time being I need to limit my communications with you to email only or in person among other staff members. Please advise." PAB Witness 4 stated, prior to this date, PAB Witness 16 had met with new staff for set up at the 80 Commercial Street location and it was not shared with PAB Witness 4 or PAB Witness 3 that he did not feel comfortable

meeting new staff at this location for new employee set up. PAB Witness 4 stated that this was a task that PAB Witness 16 volunteered to assist with. PAB Witness 4 stated that she considered PAB Witness 16's behavior to be insubordination. PAB Witness 4 stated that she spoke to City of Rochester Witness 1 from the City of Rochester HR to discuss the situation and he confirmed that PAB Witness 16's behavior was inappropriate and insubordination. PAB Witness 3 confirmed that PAB Witness 4 never requested a secret meeting with PAB Witness 16. PAB Witness 3 confirmed that on one occasion, PAB Witness 4 asked PAB Witness 16 to meet her at the new office building to drop off equipment for staff members.

- PAB Witness 16 stated that PAB Witness 4 called him on his personal cell phone on one occasion. PAB Witness 16 stated that this is when he knew he needed to contact PAB Witness 3 to tell her about his concerns. PAB Witness 16 stated that he told PAB Witness 4 not to call his personal cell phone again and to delete his number that same day. PAB Witness 16 stated that PAB Witness 4 replied, in a non-apologetic tone and without any explanation as to why, saying that she deleted his number upon his request. PAB Witness 16 stated that PAB Witness 4 did not call his personal cell phone again. PAB Witness 16 stated that his fiancée was aware of his concerns regarding PAB Witness 4's behavior and it was causing undue stress and hardship to the two of them. PAB Witness 16 stated that he told PAB Witness 3 that he did not want to take action against PAB Witness 4 but wanted to inform her of the pattern of behavior that he was seeing from her. PAB Witness 3 confirmed that PAB Witness 16 called her to report concerns about PAB Witness 4 calling him after work hours and scheduling secret meetings. PAB Witness 4 denied calling PAB Witness 16 after work hours and scheduling secret meetings.
- PAB Witness 3 stated that on May 13, 2022, PAB Witness 4 requested a meeting with PAB Witness 16 to clear up any confusion. PAB Witness 3 stated that on May 16, 2022, PAB Witness 16, Dwyer Reynolds, PAB Witness 4, and PAB Witness 3 met. PAB Witness 3 stated that PAB Witness 4 apologized for calling PAB Witness 16 on his work phone and agreed to delete his personal cell phone, said that she would no longer schedule work meetings during breakfast or lunch hours but that PAB Witness 16 would still need to meet with her one on one in the office or via Zoom. PAB Witness 4 stated that PAB Witness 16 was angry in the meeting and deflected from his insubordination to discuss his concerns about PAB Witness 4. PAB Witness 4 stated that she felt targeted by PAB Witness 16's allegations against her. PAB Witness 3 stated that things seemed fine between PAB Witness 4 and PAB Witness 16 after the meeting.
- PAB Witness 16 emailed City of Rochester Witness 1 on May 13, 2022, requesting guidance because he has experienced inappropriate behavior in the workplace. PAB Witness 16 informed City of Rochester Witness 1 that on April 26, 2022, he requested the behavior stop and stated that the behavior had stopped, but that he worried that his work relationships may have been negatively impacted. PAB Witness 16 stated that at times, "the person" failed to give him information, resources, and direction required for him to perform at the capacity he expects of himself. PAB Witness 16 stated that he was not

requesting that any action be taken but wanted to inform him of the situation and be pointed towards the best person to contact in HR in case he needed to report any concerns later. City of Rochester Witness 1 responded to PAB Witness 16's email directing him to complete a complaint form so the City could investigate the issue. City of Rochester Witness 1 also informed PAB Witness 16 of the City's retaliation policy. PAB Witness 16 reiterated to City of Rochester Witness 1 that he did not want to file a complaint at that time.

- Dwyer Reynolds stated that during a meeting with PAB Witness 4, PAB Witness 3, PAB Witness 14, PAB Witness 16, and him to discuss PAB Witness 16's concerns with PAB Witness 4, PAB Witness 16 expressed the need to have personal boundaries, his concern with having to work during lunch hours PAB Witness 4 calling his personal phone, and his discomfort that PAB Witness 4 invited him to meet in a building alone. Dwyer Reynolds stated that PAB Witness 16's resistance was mischaracterized as insubordination. Dwyer Reynolds stated that after the meeting he told PAB Witness 4 that she should not do the things PAB Witness 16 raised issues about anymore and that it was inappropriate for PAB Witness 3 to be angry with PAB Witness 16 about these issues.

III. Finding

NOT SUBSTANTIATED

Although there was clearly a strained relationship between PAB Witness 16 and PAB Witness 4, there is no evidence that the issues in the relationship were related to PAB Witness 16's gender or any romantic interest that PAB Witness 4 had in him. Although not a violation of City of Rochester policy, PAB Witness 4 should be directed that hugging in the workplace may make people feel uncomfortable and that she could be making the company susceptible to potential overtime or improper pay claims if she requires employees to meet outside of work hours or during designated break times.

24. Whether PAB Witness 16 subjected PAB Witness 4 to a hostile work environment based on [REDACTED] in violation of the City of Rochester's internal policies.

I. Allegation

PAB Witness 4 alleges that PAB Witness 16 felt uncomfortable with [REDACTED] so he refused to meet with her directly, targeted and criticized all her actions, and made her fearful to come into work. PAB Witness 4 alleges that her every move was being watched and scrutinized by PAB Witness 16. PAB Witness 4 stated that PAB Witness 16 told her that he would limit communication with her, that talking to anyone about her apparent weight loss in the office is unprofessional, she should not be sending work emails over the weekend, applying medicated lip balm during a Zoom meeting was unprofessional, and that her familial behavior was unprofessional. PAB Witness 4 also alleges that during a Zoom meeting, PAB Witness 16 told

her that it was unprofessional of her to show a video of her daughter singing in the office. PAB Witness 4 stated that PAB Witness 16 indicated something about his fiancé which initially made her believe there was underlying sexism as the reason for his actions towards her.

II. Corroboration and Key Facts

- PAB Witness 16 denied that he subjected PAB Witness 4 to a hostile work environment.
- PAB Witness 3 confirmed that PAB Witness 16 subjected PAB Witness 4 to a hostile work environment by refusing to meet with her, speaking in an angry tone with her, and being insubordinate to her
- Dwyer Reynolds stated that PAB Witness 16's resistance was mischaracterized as insubordination. Dwyer Reynolds stated that PAB Witness 16 expressed clear boundaries to PAB Witness 4 and PAB Witness 3 during his meeting with them on April 28 and he told PAB Witness 4 after the meeting that she needed to respect PAB Witness 16's boundaries.
- PAB Witness 5 confirmed that PAB Witness 4 stayed out of the office for weeks after the staff training on diversity, where the staff discussed intersectionality of identities, race, gender, and sexuality, because she feared PAB Witness 16 and feared that he was trying to take her job.
- PAB Witness 14 stated on April 28, 2022, in a meeting with PAB Witness 16, PAB Witness 3, PAB Witness 4, and herself, PAB Witness 16 raised his voice inappropriately at PAB Witness 3 and PAB Witness 4 when they interrupted him before he was done speaking.
- City of Rochester Witness 1 stated that PAB Witness 4 called him in tears to discuss her interactions with PAB Witness 16. City of Rochester Witness 1 stated that PAB Witness 4's actions towards PAB Witness 16 did not appear retaliatory and instead, seemed like PAB Witness 4 was fearful and threatened by PAB Witness 16 and did not feel safe being around him.

III. Finding

NOT SUBSTANTIATED

Although PAB Witness 16 stated that he did not feel comfortable with PAB Witness 4 discussing [REDACTED], the alleged mistreatment that PAB Witness 4 claims she endured was related to his own feelings of discomfort and his sentiment that he believed PAB Witness 4's behavior constituted sexual harassment.

25. Whether PAB Witness 16 engaged in [REDACTED] discrimination against PAB Witness 4 in violation of the City of Rochester's internal policies.

I. Allegation

PAB Witness 4, alleges that her direct report and junior staff member, PAB Witness 16, discriminated against her. PAB Witness 4 alleges that PAB Witness 16 discriminated against her because of her [REDACTED]. PAB Witness 4 alleges that during a training session on identity and diversity, she shared that [REDACTED] and PAB Witness 16 appeared offended. PAB Witness 4 alleges that after that PAB Witness 16 began to treat her in a way that made her not enjoy coming to work.

II. Corroboration and Key Facts

- PAB Witness 4 alleges that PAB Witness 16 refused to meet with PAB Witness 4 to pick up materials for new hires one on occasion as part of his job, took offense to PAB Witness 4 applying medicated lip balm during a zoom call, told others that PAB Witness 4 tried to force him to sit next to her when she did not, and criticized everything that PAB Witness 4 did in the workplace. PAB Witness 4 alleges that PAB Witness 16 did not behave this way towards anyone else and believes that it is [REDACTED]. All of the specific acts that PAB Witness 4 alleges that PAB Witness 16 took issue with were part of his complaint of sexual harassment against her.
- PAB Witness 4 provided no direct evidence of discrimination and relied on the treatment she alleged occurred following [REDACTED].
- PAB Witness 16 denied that he engaged in [REDACTED] discrimination against PAB Witness 4 but admitted that PAB Witness 4's discussion [REDACTED] made him uncomfortable. PAB Witness 16 confirmed that he felt that PAB Witness 4's conduct was inappropriate and constituted sexual harassment. As support for his complaint of sexual harassment, he cited to PAB Witness 4 asking him to meet one on one before work hours or during lunch, applying lip balm in meeting, forcing him to sit near her in the new office space – all of the things that PAB Witness 4 bases her claim on. PAB Witness 16 was within his right to assert a claim of sexual harassment against PAB Witness 4 based on his sentiment that the behavior constituted sexual harassment. PAB Witness 4 cannot use PAB Witness 16's asserting of a claim and concerns about her behavior to in turn make a complaint against him. There is no corroboration that PAB Witness 16 treated PAB Witness 4 differently because of her [REDACTED].
- PAB Witness 14 and PAB Witness 3 confirmed that PAB Witness 16 said that PAB Witness 4's [REDACTED] made him feel uncomfortable during a meeting on April 28, 2022. That meeting was regarding concerns with PAB Witness 16 conduct and the sentiment from management that he was engaged in insubordination. PAB Witness 16 shared his concerns as part of his complaint against PAB Witness 4.

III. Finding

NOT SUBSTANTIATED

PAB Witness 16 addressed his concerns about PAB Witness 4, and PAB Witness 4 alleges that his asserting his concerns about the conduct was solely based on [REDACTED]. However, there is no evidence that PAB Witness 16 subjected PAB Witness 4 [REDACTED] discrimination.

VII. ADDITIONAL OBSERVATIONS

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- PAB Board members reported never receiving City of Rochester training regarding any policies or practices. The PAB Board is tasked with providing performance evaluations of the Executive Director but reported having received no instruction on what is required in order to complete those evaluations or standard procedures utilized by the City of Rochester to perform evaluations. Further, the PAB Charter mandates that PAB Board members adhere to the City of Rochester Code of Conduct but they have never received any training on the policy. Many Board Members reported having never seen a copy of the policy. The PAB Board also does not appear to have an open line of communication with City of Rochester HR or the City of Rochester Law Department regarding the filing of internal complaints or external legal filings. The PAB Board is not able to properly oversee the activities of the PAB without knowledge about internal and external complaints that are filed.
- PAB Witness 3 failed to adequately investigate PAB Witness 11's complaint that PAB Witness 1 bullied her and PAB Witness 1's complaint that PAB Witness 11 made racist remarks about her. Based on PAB Witness 3's notes from the interview, PAB Witness 11 was not asked key questions regarding allegations in the investigation. However, PAB Witness 3 stated in her final investigation report that PAB Witness 11 admitted to calling PAB Witness 1 a bitch. PAB Witness 3 interviewed five (5) witnesses and did not spend more than 20 minutes on a single interview. However, PAB Witness 3 had multiple claims and statements about which witnesses should have been questioned as they were all alleged to have been present when certain comments were made. PAB Witness 3 did not interview

PAB Witness 1 until May 9, 2022 and does not have any notes from any meetings with other individuals between April 18, 2022 and May 9, 2022. PAB Witness 3 stated that PAB Witness 1 was not interviewed until May 9, 2022, because PAB Witness 1 went out on leave due to medical issues related to her pregnancy. However, PAB Witness 1 was involved with staff meetings between April 27, 2022 and May 9, 2022. Further, PAB Witness 3 's notes with several witnesses lack sufficient detail but were relied on in the final investigation report that was drafted almost two (2) months later. Finally, PAB Witness 3 's report included conclusions that were unsubstantiated by witness testimony and that appeared to include her personal opinions without supporting evidence.

- After Dwyer Reynolds made a complaint of sexual harassment against Wilson on May 5, 2022, Wilson continued to serve on the PAB Board until she later resigned. Wilson was recused from participating in discussions regarding Dwyer Reynolds' employment and did not participate in the vote to place him on leave. However, she should have been temporarily removed from the PAB Board while the investigation was pending because of the actual or perceived conflict of interest.
- One PAB employee who was interviewed during the Investigation contacted Investigators on November 2, 2022, requesting that information they previously provided to Investigators be "stricken from the record". Among the information the witness wished Investigators to disregard were statements critical of Dwyer Reynolds' leadership. Notably, the employee confirmed that they had had a conversation with Dwyer Reynolds after interviewing with Investigators, but shortly before they asked the Investigators to disregard certain statements. The employee denied the conversation with Dwyer Reynolds included any discussion of the Investigation. Investigators chose not to utilize any information provided by the witness as support for any of the Investigation findings.