

IN THE EXECUTIVE ETHICS COMMISSION
OF THE STATE OF ILLINOIS

IN RE: MANUEL ZEPEDA) OEIG Case #18-01447

OEIG FINAL REPORT

Below is a final summary report from an Executive Inspector General. The General Assembly has directed the Executive Ethics Commission (Commission) to redact information from this report that may reveal the identity of witnesses, complainants or informants and “any other information it believes should not be made public.” 5 ILCS 430/20-52(b).

The Commission exercises this responsibility with great caution and with the goal of balancing the sometimes-competing interests of increasing transparency and operating with fairness to the accused. In order to balance these interests, the Commission may redact certain information contained in this report. The redactions are made with the understanding that the subject or subjects of the investigation have had no opportunity to rebut the report’s factual allegations or legal conclusions before the Commission.

The Commission received this report from the Governor’s Office of Executive Inspector General (“OEIG”) and a response from the agency in this matter. The Commission, pursuant to 5 ILCS 430/20-52, redacted the final report and mailed copies of the redacted version and responses to the Attorney General, the Executive Inspector General for the Governor, and to Manuel Zepeda at his last known address.

The Commission reviewed all suggestions received and makes this document available pursuant to 5 ILCS 430/20-52.

FINAL REPORT

I. INTRODUCTION

On July 12, 2018, the OEIG received a complaint alleging that on July 10, 2018, Illinois Department of Human Services (DHS) Office of Inspector General (OIG) Internal Security Investigator II Manuel “Manny” Zepeda made several inappropriate and sexually directed comments to three female staff members of Marcfirst, a DHS Division of Developmental Disabilities service provider, while at the agency to conduct interviews as part of an OIG investigation. Specifically, the complaint alleged that Mr. Zepeda “made comments that his ex-girlfriend got him Viagra, his wife likes hotel sex and that he should stop talking because he did not need another sexual harassment case.” The complaint added that the staff who heard the comments did not feel they could ask Mr. Zepeda to stop because they did not know how it would affect his decisions on cases he was investigating at the agency.

Then, on July 30, 2018, the OEIG received a complaint alleging that on July 24, 2018, Mr. Zepeda made sexually harassing comments to two employees of EPIC, another Division of Developmental Disabilities service provider, while conducting an interview for an OIG investigation. Specifically, the complaint alleged that Mr. Zepeda told an EPIC employee to pull up her shirt and said, “you can’t sit there and squeeze them together and expect me to not look at them.” The complaint added that Mr. Zepeda also used the word “fuck” several times during the interview, and advised the two employees that he had been accused of sexual harassment in the past.

II. BACKGROUND

On November 18, 1996, Manny Zepeda was hired by DHS to be a Human Services Caseworker. On August 16, 1999, Mr. Zepeda was promoted to Internal Security Investigator I at Madden Mental Health Center. On September 16, 2000, Mr. Zepeda was promoted to Internal Security Investigator II within the DHS OIG. Mr. Zepeda has remained an ISI II with the OIG since that date.

The DHS OIG is responsible for investigating allegations of abuse, neglect, and financial exploitation of individuals receiving services from mental health facilities and community agencies operated, licensed, funded, or certified by DHS.¹ As an ISI II, Mr. Zepeda is responsible for gathering and analyzing relevant facts and data, preparing written investigative reports, and recommending findings at the conclusion of an investigation.² Mr. Zepeda is based out of a DHS office in Bloomington, Illinois; however, as part of the fact-gathering process, he is required to travel to community provider agencies to obtain documentation and conduct interviews of agency staff.³

At all times relevant to the investigation, Mr. Zepeda’s direct supervisor was [OIG Employee 1], who is based in Springfield, Illinois. [OIG Employee 1’s] direct supervisor, OIG Interim Deputy Inspector General William Diggins, is based out of the same Bloomington, Illinois office as Mr. Zepeda.⁴ Mr. Diggins has supervised Mr. Zepeda indirectly, and at times directly, for approximately eight years.

III. INVESTIGATION

As part of the investigation, the OEIG obtained and reviewed numerous documents, including Mr. Zepeda’s personnel and disciplinary files, and Mr. Zepeda’s email archive from January 1, 2018 until July 31, 2018. In addition, investigators obtained and reviewed various DHS OIG documents relating to complaints made about Mr. Zepeda, written statements of the Marcfirst and EPIC employees who witnessed Mr. Zepeda’s alleged misconduct, and a list of other provider agencies Mr. Zepeda visited in July 2018 as part of his OIG duties and responsibilities. Finally,

¹ 20 ILCS 1305/1-17.

² CMS Position Description 21732-10-14-500-13-01, DHS OIG Internal Security Investigator II (eff. 7/1/2018).

³ *Id.*

⁴ Mr. Diggins reports directly to DHS Inspector General Michael McCotter.

investigators interviewed numerous individuals about Mr. Zepeda’s alleged misconduct at Marcfirst and EPIC, as well as other potential instances of misconduct by Mr. Zepeda, including:⁵

- William Diggins – Interim Deputy Inspector General, DHS OIG
- [OIG Employee 1]
- Manuel Zepeda –Internal Security Investigator II, DHS OIG

- [Marcfirst Employee 1]
- [Marcfirst Employee 2]
- [Marcfirst Employee 3]
- [Marcfirst Employee 4]
- [Marcfirst Employee 5]
- [Marcfirst Employee 6]

- [EPIC Employee 1]
- [EPIC Employee 2]
- [EPIC Employee 3]
- [EPIC Employee 4]
- [EPIC Employee 5]

- [Mosaic Official 1]
- [Mosaic Employee 1]
- [Futures Unlimited Official 1]
- [Futures Unlimited Employee 1]

A summary of relevant information learned during the investigation follows.

A. July 10, 2018 Marcfirst Incident

1. Interviews of Marcfirst Employees [Marcfirst Employee 3], [Marcfirst Employee 1], and [Marcfirst Employee 2]

According to [Marcfirst Employee 3], [Marcfirst Employee 1], and [Marcfirst Employee 2], on July 10, 2018, OIG ISI II Manny Zepeda visited Marcfirst as part of an OIG investigation. After meeting with Marcfirst staff, Mr. Zepeda came to an office shared by [Marcfirst Employee 2] and [Marcfirst Employee 3]—where [Marcfirst Employee 2] was working at her computer, and [Marcfirst Employee 3] and [Marcfirst Employee 1] were discussing work-related matters—to

⁵ OEIG investigators conducted separate individual interviews, as follows: Mr. Diggins and Mr. Zepeda were interviewed on September 19, 2018; [OIG Employee 1] was interviewed on October 4, 2018; [Marcfirst Employee 1], [Marcfirst Employee 2], [Marcfirst Employee 3], [Marcfirst Employee 4], [Marcfirst Employee 5], and [Marcfirst Employee 6] were interviewed on September 16, 2018; [EPIC Employee 1], [EPIC Employee 2], [EPIC Employee 3], [EPIC Employee 4], and [EPIC Employee 5] were interviewed on September 15, 2018; [Mosaic Official 1] and [Mosaic Employee 1] were interviewed on August 15, 2018; and [Futures Unlimited Official 1] and [Futures Unlimited Employee 1] were interviewed on August 23, 2018.

collect a written statement from [Marcfirst Employee 2] and ask [Marcfirst Employee 3] for additional documentation relating to the ongoing investigation.

[Marcfirst Employee 3], [Marcfirst Employee 1], and [Marcfirst Employee 2] stated that after [Marcfirst Employee 3] agreed to gather the documents for Mr. Zepeda, Mr. Zepeda commented that [Marcfirst Employee 3] should also get something to eat.⁶ [Marcfirst Employee 3] said she assumed Mr. Zepeda was referencing her being skinny, and replied that she had just eaten a donut and drank some coffee. [Marcfirst Employee 3] said that while Mr. Zepeda's comment was strange, "this is just typical Manny" and you "have to play along."

[Marcfirst Employee 3], [Marcfirst Employee 1], and [Marcfirst Employee 2] stated that after Mr. Zepeda's comment to [Marcfirst Employee 3], they went back to what they had been doing before he came to the office, but Mr. Zepeda remained in the doorway, staring at a whiteboard on the office wall. All three women stated that as he remained in the doorway, Mr. Zepeda made a comment about having an ex-girlfriend who was a pharmacy technician who used to get him Viagra. [Marcfirst Employee 3] stated that this comment was "really out of left field" and she did not know what provoked Mr. Zepeda to make this comment. Similarly, [Marcfirst Employee 2] said Mr. Zepeda's comment was "very awkward [and] very weird," and said that her phone rang during this exchange, but she did not feel comfortable answering because she did not know what Mr. Zepeda would say next. [Marcfirst Employee 3], [Marcfirst Employee 1], and [Marcfirst Employee 2] each stated that no one responded to Mr. Zepeda's comment.

[Marcfirst Employee 3], [Marcfirst Employee 1], and [Marcfirst Employee 2] said they once again went back to what they had been doing before he came to the door, but Mr. Zepeda remained in the doorway and ultimately made a comment about his wife liking to have sex in hotels. [Marcfirst Employee 2] said that Mr. Zepeda's comment was "so random and so awkward" for all of the women, while [Marcfirst Employee 3] and [Marcfirst Employee 1] said they thought Mr. Zepeda made the comment because he wanted to get a reaction out of the women. All three women stated that because Mr. Zepeda was still staring at the office whiteboard while making this comment, [Marcfirst Employee 1] responded, "that's not on our board," prompting Mr. Zepeda to say that he should leave before getting another sexual harassment complaint against him. [Marcfirst Employee 3] and [Marcfirst Employee 1] said that after Mr. Zepeda left the office, they first told [Marcfirst Employee 4], and later [Marcfirst Official], about what had occurred, and wrote statements about Mr. Zepeda's conduct.

[Marcfirst Employee 2] stated that July 10, 2018 was the first time she met Mr. Zepeda, and he did not use any profanity, make inappropriate comments, or make inappropriate gestures during their interactions prior to his comments in the office. [Marcfirst Employee 2] said she did not think Mr. Zepeda was on a power-trip when making these comments, but thinks "he forgot where he was at." [Marcfirst Employee 2] said that while the comments Mr. Zepeda made in the office were not directed at her, she felt uncomfortable and did not appreciate them. Similarly, [Marcfirst Employee 3] stated that Mr. Zepeda's comments on July 10, 2018 were unwelcomed by her and "definitely unwanted." [Marcfirst Employee 3] said she had never heard anything like

⁶ [Marcfirst Employee 3] and [Marcfirst Employee 1] recalled that Mr. Zepeda told [Marcfirst Employee 3] to get a sandwich, while [Marcfirst Employee 2] recalled the comment being that [Marcfirst Employee 3] should get a cheeseburger.

this from Mr. Zepeda during two to three previous meetings they had together, although she noted that Mr. Zepeda has a dry sense of humor and said she felt that someone from the OIG should be more professional. [Marcfirst Employee 3] added that Mr. Zepeda is “not a bad guy, you just have to go along with him because he is IG.” Finally, [Marcfirst Employee 1] also stated that Mr. Zepeda was “never professional” during previous encounters she had with him, and was “always inappropriate, and creepy.”⁷ However, [Marcfirst Employee 1] stated that because Mr. Zepeda has always acted this way and this was how she was introduced to Mr. Zepeda by other Marcfirst staff, “it became normal” and her stance was always, “it’s just Manny, let it go.” Still, [Marcfirst Employee 1] stated that Mr. Zepeda’s behavior on July 10, 2018 “was Manny being extreme,” but said she did not feel she could say anything because there could be a negative impact on Marcfirst as a result of Mr. Zepeda’s investigations. [Marcfirst Employee 1] stated that she was uncomfortable and offended by Mr. Zepeda’s comments, and that his comments were unwanted and unwelcomed by her.

2. Review of Written Statements of [Marcfirst Employee 3], [Marcfirst Employee 1], and [Marcfirst Employee 2]

As part of the investigation, the OEIG also reviewed the statements written by each of the three Marcfirst employees describing their encounter with Mr. Zepeda on July 10, 2018. Each statement was dated July 11, 2018, and contained the signature of the individual who wrote it. The content of each statement follows, in whole, below.⁸

Statement of [Marcfirst Employee 3]

On July 10th 2018 I was in my office having my touch base with [Marcfirst Employee 1] when Manny walked to our office door and reminded me to make sure she gets [client’s] money checklist document to him by tomorrow. I told him I had it written down and that I would get it to him. He said “oh and go get a sandwich.” I was puzzled by this and replied to him that I was drinking my coffee and that I had already eaten a donut. Manny told me that donuts were like pistachios or chips and you can’t just eat one. It made me feel uncomfortable because I felt like he was implying something about my appearance which is irrelevant to how I perform my job duties. Manny also discussed that his ex girlfriend was a pharmacy tech and would bring home Viagra samples at the time. I ignored the comment and tried to continue my touch base with [Marcfirst Employee 1] and Manny said “I don’t know why my wife likes hotel sex”. [Marcfirst Employee 1] said “that’s not on our board” and we tried to brush the comment off. Manny made a comment then about leaving before he had a 2nd sexual harassment case.

I’ve always been told by coworkers to go along with what Manny says because it could affect the outcome of the case he is inquiring about. I have felt uncomfortable with Manny’s comments but with his position of power I felt like I could not say anything.

Statement of [Marcfirst Employee 1]

⁷ [Marcfirst Employee 1] stated that there was one time prior to July 10, 2018 that Mr. Zepeda made an inappropriate comment about what his wife likes sexually, but said she did not recall the specifics of the comment and did not tell anyone about it because, “it’s Manny, he’s OIG.”

⁸ Each statement was copied here exactly as written, with any spelling or grammatical errors included.

On July 10th 2018 I was in the Residential Directors office having a touch base with [Marcfirst Employee 3] when Manny walked to our office door and reminded [Marcfirst Employee 3] to make sure she gets [client's] money checklist document to him by tomorrow and said "oh and go get a sandwich" [Marcfirst Employee 3] replied that she didn't need a sandwich because she had a donut and he said again that she needed a sandwich and that donuts were like pistachios and you can't just eat one. Manny also discussed that his ex girlfriend was a pharmacy tech and would bring home Viagra samples at the time. At this time I turned around and faced [Marcfirst Employee 3] again and Manny said "I don't know why my wife likes hotel sex" and I looked at [Marcfirst Employee 3] and said this is not on our board because Manny was looking at the dry erase board in their office. Manny made a comment then about leaving before he had a sexual harassment case.

In the past Manny has made comments that have not always been appropriate but I have been intimidated to say anything because I was worried that it would compromise the outcome of the case that we were working on. When talking to other coworkers in the past I have mentioned to not let Manny intimidate them but yesterday's events were very inappropriate and made me feel very uncomfortable for not only myself but my staff and the individuals we support.

Statement of [Marcfirst Employee 2]

On July 10 during my interview I felt very uncomfortable from the things that were said by OIG, Manny. Some of the things that he stated was to bring "the white girl in first, oh that sounded racist" and chuckled. Later on that morning he came into the director's office and told [Marcfirst Employee 3] to eat a cheeseburger. [Marcfirst Employee 3] replied "I just ate a doughnut." He said "Eat 1 doughnut is like pistachios, you can't eat just 1." Then they started talking about jobs and he said "my ex-girlfriend was a pharm tech and used to get me Viagra" and "My wife always likes hotel sex" He also made the comment that he should stop talking because he doesn't need another sexual harassment case. During this time, I felt that I could not answer the phone due to the content that he was talking about. I did not feel that this was professional language especially from someone in an investigative role. I am newer to our Agency, and I did not feel like I could ask him to stop as I didn't know if it would affect his decisions on the cases he was here to work on.

3. Interview of Manny Zepeda

During his OEIG interview, Mr. Zepeda confirmed that he met with [Marcfirst Employee 1], [Marcfirst Employee 2], and [Marcfirst Employee 3] on July 10, 2018, as part of an OIG investigation, and that prior to leaving Marcfirst's office, he stopped by [Marcfirst Employee 1's] office, where [Marcfirst Employee 2] and [Marcfirst Employee 1] were also present, to ask her to gather additional documents.

Mr. Zepeda explained that he was in severe pain from falling and taking medication for the pain, but was "stuck" in the doorway because he was unable to move without falling again. Mr. Zepeda said that while he was in the doorway, one of the women made a comment about him not

leaving because “they were infatuated with me.” Mr. Zepeda said he showed them his wedding ring, referenced his wife, and jokingly told the women to “be careful, she’ll cut a bitch.” Mr. Zepeda said that [Marcfirst Employee 1] then made a comment about wishing she could only work one day a week, and he responded that, “maybe if you got pregnant and popped out a kid and claim postpartum depression, maybe they would let you work out of home too.”⁹ Mr. Zepeda said he then thanked the women for their time and left.

Mr. Zepeda stated that he did not recall telling [Marcfirst Employee 3] to eat a sandwich or a burger, but admitted that he “might have said that, if she was really thin.” Mr. Zepeda added that while he did not remember who [Marcfirst Employee 3] was, “it’s most likely that I did say that and had that conversation.” In addition, Mr. Zepeda admitted to making a comment to the women about his wife liking hotel sex. Mr. Zepeda explained that while he did not know how they got on the subject of hotels, his comment was prompted by one of the women jokingly making a comment about being infatuated with him. Mr. Zepeda denied making any comment about having an ex-girlfriend who was a pharmacy technician who would get him Viagra, and denied even having an ex-girlfriend who was a pharmacy technician. Mr. Zepeda added that he did not think he ever made a comment about Viagra. Finally, Mr. Zepeda denied saying anything regarding a previous sexual harassment case; Mr. Zepeda stated that he recalled telling the women he had to leave, but did not recall saying anything about getting other sexual harassment complaints against him.

Mr. Zepeda stated that the comments he made to [Marcfirst Employee 3], [Marcfirst Employee 1], and [Marcfirst Employee 2], including that his wife will “cut a bitch” and likes hotel sex, were “unprofessional.” In addition, Mr. Zepeda acknowledged that these comments violated DHS’ Administrative Directives on Employee Conduct and Sexual Harassment.

4. Interview of William Diggins

During his interview with the OEIG, OIG Interim Deputy Inspector General William Diggins said that he first became aware of the allegations made by the Marcfirst employees about Mr. Zepeda via an email from [Marcfirst Official] on July 11, 2018. Mr. Diggins said he asked [Marcfirst Official] to have the employees draft statements about what occurred, then brought the allegations to DHS OIG Inspector General Michael McCotter and Mr. Zepeda’s direct supervisor, [OIG Employee 1]. Mr. Diggins said that if Mr. Zepeda made statements to the Marcfirst employees similar to those that were alleged, Mr. Zepeda violated the DHS Administrative Directives on Sexual Harassment and Employee Conduct.

Mr. Diggins said that at the time this was occurring, the OIG had an active investigation into Marcfirst and [Marcfirst Official], and it appeared the allegations were going to be substantiated. Mr. Diggins said that [Marcfirst Official] was aware of the investigation into herself and Marcfirst and “tossed out whistleblower” as a potential precursor to any findings against Marcfirst when reporting Mr. Zepeda’s conduct. Mr. Diggins said that a decision was then made to remove Mr. Zepeda from working on any investigation involving Marcfirst, and to refer the

⁹ None of the Marcfirst employees interviewed indicated that Mr. Zepeda made any comment about his wife “cut[ting] a bitch,” or about pregnancy or postpartum depression. Because they were interviewed before the OEIG interviewed Mr. Zepeda, the OEIG did not specifically ask about these statements.

matter to the OEIG¹⁰ and DHS' Bureau of Civil Affairs. Mr. Diggins said that he would have disciplined Mr. Zepeda for the statements he was alleged to have made had there not been an active OIG investigation into Marcfirst.

B. July 24, 2018 EPIC Incident

1. Interviews of [EPIC Employee 1] and [EPIC Employee 2]

[EPIC Employee 1] and [EPIC Employee 2] stated that on July 24, 2018, Mr. Zepeda visited EPIC as part of OIG investigations he was conducting. [EPIC Employee 1] and [EPIC Employee 2] said that although [EPIC Employee 1] initially met with Mr. Zepeda alone, [EPIC Employee 2] soon joined them and the two interviews were conducted together. [EPIC Employee 2] added that Mr. Zepeda mentioned he wanted to get the interviews over because he was in pain, and also used profanity during the meeting.

[EPIC Employee 1] stated that as she was listening to Mr. Zepeda talk during [EPIC Employee 2's] interview, she leaned her head on her hand with her elbow resting on the table. Both [EPIC Employee 1] and [EPIC Employee 2] said Mr. Zepeda then gestured toward [EPIC Employee 1's] breasts and placed his hand in the air to shield his eyes, with [EPIC Employee 1] adding that Mr. Zepeda said to her, "you need to. . .you need to. . ." [EPIC Employee 1] said she believed Mr. Zepeda was gesturing for her to adjust her top and show less cleavage, so she sat back in her chair, adjusted her shirt, and said, "sorry, they have a mind of their own sometimes." [EPIC Employee 1] and [EPIC Employee 2] stated that Mr. Zepeda then commented that he could not be expected to not look at [EPIC Employee 1's] breasts when she was "squeez[ing] them together."¹¹ [EPIC Employee 1] said that as she and [EPIC Employee 2] acknowledged to each other that Mr. Zepeda had just made that comment, Mr. Zepeda went directly back to asking questions about the investigation. According to [EPIC Employee 2], Mr. Zepeda also said, "this is why I have had a sexual harassment case in the past."

[EPIC Employee 1] and [EPIC Employee 2] said [EPIC Employee 2] was subsequently excused, leaving Mr. Zepeda and [EPIC Employee 1] alone in the room.¹² [EPIC Employee 2] said she went directly to [EPIC Employee 5] and [EPIC Employee 3] to tell them about the inappropriate interaction, and [EPIC Employee 1] and [EPIC Employee 2] stated that [EPIC Employee 5], [EPIC Employee 3], and [EPIC Employee 4] came into the room shortly thereafter. [EPIC Employee 2] stated that she did not know what occurred in the room after she left, while [EPIC Employee 1] stated that Mr. Zepeda was ultimately asked to leave EPIC by [EPIC Employee 5] and [EPIC Employee 4].

[EPIC Employee 1] stated that while she does not get offended by strong personalities or profanity, Mr. Zepeda's comment about her breasts on July 24, 2018 "crossed a line," and his

¹⁰ Mr. Diggins consented to being identified as the source of complaints to the OEIG about Mr. Zepeda's conduct at Marcfirst and EPIC.

¹¹ According to [EPIC Employee 1], Mr. Zepeda stated, "you can't sit there and squeeze them together and expect me to not look at them." Similarly, [EPIC Employee 2] stated that Mr. Zepeda said, "well, when you lean over and squeeze them together, what do you expect. I'm gonna look when you do that."

¹² [EPIC Employee 1] stated that Mr. Zepeda did not say or do anything inappropriate during the time they were alone together.

comments and gestures that day were both unwanted and unwelcomed by her.¹³ [EPIC Employee 1] said that Mr. Zepeda does not hold a position of power or use his power to intimidate EPIC employees, but because he does investigate EPIC and they are vulnerable to potentially negative outcomes, Mr. Zepeda is allowed to act the way he does. Similarly, [EPIC Employee 2] stated that she was “absolutely offended and uncomfortable” by Mr. Zepeda’s comments on July 24, 2018, and the comments he made were “absolutely” unwanted and unwelcomed by her. [EPIC Employee 2] added that after Mr. Zepeda’s comment about [EPIC Employee 1’s] breasts during the interview, she was “too scared to address the situation to him” or confront him because she felt he was demeaning during their interview.

2. Review of Written Statements of [Epic Employee 1] and [EPIC Employee 2]

As part of the investigation, the OEIG also reviewed the statements written by the two EPIC employees describing their encounter with Mr. Zepeda on July 24, 2018. Each statement was dated July 24, 2018, and contained the signature of the individual who wrote it. The content of each statement follows, in whole, below.¹⁴

Statement of [EPIC Employee 1]

On July 24, 2018 I, [EPIC Employee 1], was in an investigation and being interviewed by Manuel Zepeda. Another staff member, [EPIC Employee 2], was called into the room with me to discuss the case. While we were in the room I was leaning on the table while listening to Manny tell me what he needed from me. He then looked at me put his hand up as to guard his eyes from seeing something and made gestures to me that I needed to pull up my shirt. [EPIC Employee 2] asked me what he was saying, and I told her that he was motioning for me to pull up my shirt, even though it is not low cut and only has a peep hold to see through the chest area. Manny then stated, “yeah, you can’t sit there and squeeze them together and expect me not to look at them” he then continued to the conversation to state that it’s comments like that in which he gets in trouble for sexual harassment.

Statement of [EPIC Employee 2]

On 7-24-18 @ around 1015am I met with [EPIC Employee 1] & Manny from DHS. While talking with him about a case involving [client] he dropped the F bomb 3x’s. Also while asking questions Manny turned to [EPIC Employee 1] & asked her to pull up her shirt. I asked what did he just say. [EPIC Employee 1] said he asked me to pull up my shirt. He then said “well when you lean over & squeeze them together what do you expect. I’m gonna look when you do that. This is what I have had a sexual harrassment case in the past.”

3. Interview of Manny Zepeda

¹³ [EPIC Employee 1] added that she met with Mr. Zepeda on one occasion prior to July 24, 2018, and that while he was “unprofessional and very lackadaisical” during the meeting, he was “not creepy.”

¹⁴ Each statement was copied here exactly as written, with any spelling or grammatical errors included.

Mr. Zepeda confirmed that he was at EPIC on July 24, 2018 as part of an OIG investigation, and interviewed [EPIC Employee 1] and [EPIC Employee 2] together that day. Mr. Zepeda said that during his interview with the women, he observed [EPIC Employee 1] leaning over the table with her blouse “going lower and lower.” Mr. Zepeda said he was uncomfortable by this, so he raised his hand in front of his eyes and asked [EPIC Employee 1] to sit back and lift her shirt. Mr. Zepeda said he told [EPIC Employee 1] that he could not be expected to not react to her breasts being exposed, and that he did not “need to see that [her breasts].” Mr. Zepeda confirmed that [EPIC Employee 1] responded that, “sometimes they have a mind of their own,” and said he replied that “nobody here needs to be accused of sexual harassment” in reference to [EPIC Employee 1] potentially being accused of sexual harassment. Mr. Zepeda stated that he was trying to not look at [EPIC Employee 1’s] breasts during this interaction, and did not recall pointing or gesturing at [EPIC Employee 1’s] breasts.

Mr. Zepeda stated that once he was done interviewing [EPIC Employee 2], he dismissed her from the room and began setting up times to come back for more information when EPIC administrators entered the room and told him to leave. Mr. Zepeda said he did not know why he was asked to leave until later when his supervisor, [OIG Employee 1], informed him there was an allegation that he made inappropriate comments to EPIC staff. Mr. Zepeda said he did not believe he violated any policies during his interaction with [EPIC Employee 1] and [EPIC Employee 2]. Finally, Mr. Zepeda said he may have used profanity during his interview with [EPIC Employee 1] and [EPIC Employee 2], but said he was in “serious pain” that day due to a hip injury and the profanity might have been related to that.

4. Interviews of William Diggins and [OIG Employee 1]

During his OEIG interview, Mr. Diggins stated that he was first made aware of the allegations against Mr. Zepeda by the EPIC employees when he received a phone call from [EPIC Employee 5] stating that Mr. Zepeda had made comments about employee [EPIC Employee 1’s] breasts during an interview, which made the women uncomfortable. Mr. Diggins said he told [EPIC Employee 5] to ask Mr. Zepeda to leave the facility and immediately notified Mr. McCotter and [OIG Employee 1] about the allegations. Mr. Diggins said that if Mr. Zepeda made comments similar to those alleged by the EPIC staff, Mr. Zepeda could have violated DHS policies related to employee conduct. Mr. Diggins said that he referred the information about Mr. Zepeda’s behavior and conduct at EPIC to the OEIG, and Mr. Zepeda was removed from field investigations.

During her interview, [OIG Employee 1] stated that Mr. Diggins called and asked her to inform Mr. Zepeda that a complaint had been made about him while he was at EPIC, and tell him that he was not to return to EPIC. [OIG Employee 1] said that when she spoke with Mr. Zepeda that same day, he explained that he had been interviewing a nurse as part of an investigation but also needed information from another woman, so he had the other woman come into the room. [OIG Employee 1] said Mr. Zepeda told her that while both women were in the room, [EPIC Employee 1] was leaning over the desk with her arms folded and her breasts exposed. Mr. Zepeda told [OIG Employee 1] that he was uncomfortable by this, so he asked [EPIC Employee 1] to adjust her shirt, which she did while adding, “sometimes they have a mind of their own.” [OIG Employee 1] said that Mr. Zepeda told her the other woman he was interviewing then left the room, and a short time later, he was asked to leave the building. [OIG Employee 1] said Mr. Zepeda was

upset about being asked to leave, and took leave time for the remainder of the day. [OIG Employee 1] said she did not recall Mr. Zepeda telling her anything about him making a statement to [EPIC Employee 1] about her squeezing her breasts together, nor did she recall Mr. Zepeda saying anything to her about informing the EPIC employees that he has had prior sexual harassment claims filed against him.

C. Additional Interviews Regarding Potential Misconduct By Manny Zepeda

During their respective interviews, Mr. Diggins and [OIG Employee 1] stated that aside from a complaint received about Mr. Zepeda in 2014¹⁵ and the Marcfirst and EPIC complaints, they have not received any complaints regarding Mr. Zepeda, and have no knowledge of any other complaints being made about Mr. Zepeda under similar circumstances. Mr. Diggins added that while Mr. Zepeda has a “big mouth” and has been unofficially “talked to” about the language he uses while at work, Mr. Diggins was caught off guard by the severity of the comments Mr. Zepeda was alleged to have made at Marcfirst and EPIC.

In an effort to determine whether Mr. Zepeda may have engaged in other similar conduct at Marcfirst, EPIC, or any of the other provider agencies he visited in July 2018, investigators interviewed various other Marcfirst and EPIC administrators, as well as [Officials and Employees] of provider agencies Mosaic and Futures Unlimited INC.¹⁶ Specifically, during their interviews, [Marcfirst Employee 4], [Marcfirst Employee 5], and [Marcfirst Employee 6] each stated that while Mr. Zepeda has not always seemed professional in their encounters, they never witnessed any inappropriate behavior or profane language from him. Similarly, [EPIC Employee 4] said she never observed Mr. Zepeda make any sexual comments or innuendos prior to July 24, 2018,¹⁷ and [EPIC Employee 3] stated that Mr. Zepeda never said or did anything inappropriate prior to that day. Finally, during their respective interviews, [Mosaic Official 1], [Mosaic Employee 1], [Futures Unlimited Official 1], and [Futures Unlimited Employee 1] each stated that they were not aware of any negative or inappropriate interactions between Mr. Zepeda and their respective agency’s provider staff.

IV. ANALYSIS

The DHS Employee Handbook and DHS’ Administrative Directive on Sexual Harassment provide that it is the right of each employee to work in an environment free from sexual harassment and the responsibility of each employee to refrain from sexual harassment, which includes

¹⁵ A review of documents revealed that in September 2014, Mr. Zepeda was investigated by the OIG about a complaint from a community service provider agency he was investigating. The complaint made several allegations about Mr. Zepeda’s conduct during staff interviews, including that he looked an employee up and down while shaking her hand, asked why they had never met before, and commented that he would have remembered her if they had previously met. According to an OIG Case Summary report, after an investigation, the OIG concluded that these particular allegations were unsubstantiated. However, the Case Summary report ultimately included a recommendation that Mr. Zepeda act in a professional manner at all times when representing the OIG, including with respect to the language he uses during conversations and interviews. Mr. Zepeda also received a written reprimand for Conduct Unbecoming a State Employee for other behavior he exhibited at the provider agency.

¹⁶ Mr. Zepeda also visited DHS’ Fox Developmental Center in July 2018 for an OIG investigation.

¹⁷ [EPIC Employee 4] stated, however, that Mr. Zepeda was “non-professional” because of the language he used and because he would speak openly about his family and medical issues.

suggestive comments; humor and jokes about sex, anatomy, or gender-specific traits; sexual innuendos; inappropriate comments about an employee's clothing; statements about other employees of a sexual nature; obscene gestures; and sexually suggestive bodily gestures.¹⁸ Further, the Employee Handbook and Administrative Directive on Employee Conduct both provide that DHS employees are expected to conduct themselves in a responsible, professional manner; shall not demonstrate inappropriate behavior or discourteous treatment of the public, coworkers, customers, or applicants; and shall not use vulgar, profane, loud, or disruptive language in a manner directed at other staff while in the workplace or on work status.¹⁹

On July 10, 2018, DHS OIG ISI II Manny Zepeda visited community service provider agency Marcfirst to obtain information as part of an OIG investigation. It is undisputed that during Mr. Zepeda's visit, he went to [Marcfirst Employee 3] and [Marcfirst Employee 2's] office where [Marcfirst Employee 3], [Marcfirst Employee 2] and [Marcfirst Employee 1] were talking. It is also undisputed that while there, Mr. Zepeda made comments to the three women that were inappropriate. During their OEIG interviews, all three women separately told investigators that Mr. Zepeda told [Marcfirst Employee 3] she should get something to eat; said he had an ex-girlfriend who was a pharmacy technician who would get him Viagra; said his wife liked to have sex in hotels; and commented that he should leave their office before getting another sexual harassment complaint against him. Each of these women also wrote a written statement, just one day after the incident occurred, detailing these very same comments and events, and notified Marcfirst management of the incident immediately after it occurred. In addition, Mr. Zepeda himself admitted that he made several inappropriate comments while talking with the women at Marcfirst that day, including that his wife likes to have sex in hotels. Mr. Zepeda also admitted he "likely made" other inappropriate comments, such as about [Marcfirst Employee 3] needing something to eat, and said he used other profane language while talking with the women, including saying that the women should be careful because his wife would "cut a bitch." While Mr. Zepeda denied making other comments alleged by the Marcfirst employees, including that he had an ex-girlfriend who would get him Viagra and that he should leave before getting another sexual harassment complaint against him, the fact that [Marcfirst Employee 2], [Marcfirst Employee 3], and [Marcfirst Employee 1] all separately reported that Mr. Zepeda made these same odd and specific comments—and that they did so both one day after the incident and later during their OEIG interviews—casts doubt on Mr. Zepeda's denial. Still, regardless of whether Mr. Zepeda made all of the comments alleged or not, Mr. Zepeda made at least *some* inappropriate comments to the women that day, including about sex and [Marcfirst Employee 3's] appearance, and his comments and conduct made each of the three Marcfirst employees uncomfortable and also concerned, given his role as an OIG investigator.

Ultimately, Mr. Zepeda did admit that his comments on July 10, 2018 to the Marcfirst employees were "unprofessional" and violated DHS' Administrative Directives on Employee Conduct and Sexual Harassment, as did OIG Interim Deputy Inspector General William Diggins. Based on all of the foregoing, the OEIG agrees. Accordingly, the allegations that Mr. Zepeda

¹⁸ DHS Employee Handbook, Section VI – Mandated Policies, Sexual Harassment (pp. 59-60); DHS Administrative Directive 01.01.01.050 – Sexual Harassment.

¹⁹ DHS Employee Handbook, Section V – Employee Personal Conduct (pp. 41-42); DHS Administrative Directive 01.02.03.040 – Rules of Employee Conduct.

violated DHS' Administrative Directive on Sexual Harassment and DHS' Administrative Directive on Employee Conduct with his conduct at Marcfirst on July 10, 2018 are **FOUNDED**.²⁰

On July 24, 2018, Mr. Zepeda again visited a community service provider agency, this time EPIC, to obtain information as part of ongoing OIG investigations. As with the Marcfirst incident, it is undisputed that during his visit to EPIC on July 24, 2018, Mr. Zepeda made inappropriate gestures and comments to agency staff. During their OEIG interviews, EPIC employees [EPIC Employee 1] and [EPIC Employee 2] both separately told investigators that during an interview with Mr. Zepeda, he placed his hand in the air to shield his eyes, gestured toward [EPIC Employee 1's] breasts—which [EPIC Employee 1] said she took as Mr. Zepeda gesturing for her to adjust her top and show less cleavage—and said he could not be expected to not look at [EPIC Employee 1's] breasts when she was “squeez[ing] them together.” [EPIC Employee 2] told investigators that Mr. Zepeda also commented that “this is why [he has] had a sexual harassment case in the past.” [EPIC Employee 1] and [EPIC Employee 2] also reported what had occurred to EPIC management immediately after it happened, and wrote written statements the same day describing these same comments and gesture.²¹ Further, during his own OEIG interview, Mr. Zepeda admitted that he covered his eyes and asked [EPIC Employee 1] to lift her shirt.

While Mr. Zepeda denied gesturing toward [EPIC Employee 1's] chest, he stated that his comments and gestures were made in response to feeling uncomfortable about [EPIC Employee 1's] breasts being exposed, and explained a different context for some of the comments he reportedly said to [EPIC Employee 1] and [EPIC Employee 2]. Nevertheless, it remains undisputed that Mr. Zepeda made some comment and gesture relating to [EPIC Employee 1's] appearance and breasts, and his intent, reasons, and justifications do not change that or negate the fact his conduct was unwanted and unwelcomed by [EPIC Employee 1] and [EPIC Employee 2].

Ultimately, Mr. Zepeda's comments and the gesture he made relating to [EPIC Employee 1's] appearance and breasts while at EPIC on July 24, 2018 were inappropriate and are evidence he did not conduct himself in the responsible and professional manner required by DHS, especially in light of his perceived position of authority as a DHS OIG Investigator. Given the foregoing, the allegations that Mr. Zepeda violated DHS' Administrative Directive on Sexual Harassment and Administrative Directive on Employee Conduct is while at EPIC on July 24, 2018 are **FOUNDED**.

The Ethics Act provides that all individuals subject to the Act “are prohibited from sexually harassing any person, regardless of any employment relationship or lack thereof.”²² The Ethics Act defines sexual harassment to include “any unwelcome sexual advances or requests for sexual favors or any conduct of a sexual nature when . . . such conduct has the purpose or effect of

²⁰ The OEIG concludes that an allegation is “founded” when it has determined that there is reasonable cause to believe that a violation of law or policy has occurred, or that there has been fraud, waste, mismanagement, misconduct, nonfeasance, misfeasance, or malfeasance.

²¹ [EPIC Employee 1's] written statement also stated that Mr. Zepeda said, “it's comments like that in which he gets in trouble for sexual harassment,” but she did not mention any statement from Mr. Zepeda to this effect during her OEIG interview. Similarly, during her interview, [EPIC Employee 1] told investigators that in response to Mr. Zepeda's gesture covering his eyes, she replied that “[her breasts] have a mind of their own.” However, this comment does not appear in [EPIC Employee 1's] written statement about the incident.

²² 5 ILCS 430/5-65(a).

substantially interfering with an individuals' work performance or creating an intimidating, hostile, or offensive working environment."²³ Given its relative newness, this Ethics Act prohibition has yet to be interpreted by courts; however, courts that have interpreted similar prohibitions, including the one contained in the Illinois Human Rights Act, have looked to caselaw interpreting Title VII of the Federal Civil Rights Act for guidance.²⁴ According to this caselaw, hostile work environment sexual harassment exists if the conduct in question is "sufficiently severe or pervasive to alter the conditions of the victim's employment"—both objectively from the point of view of the reasonable person, and subjectively from the point of view of the victim.²⁵ Several factors must be considered when determining whether a given act or course of conduct meets this standard, including "the frequency of the discriminatory conduct; its severity; whether it is physically threatening or humiliating, or a mere offensive utterance; and whether it unreasonably interferes with an employee's work performance."²⁶ Notably, however, courts have maintained that "not every unpleasant workplace is a hostile environment. The 'occasional vulgar banter, tinged with sexual innuendo, of coarse or boorish workers' would be neither pervasive nor offensive enough to be actionable. The workplace that is actionable is the one that is 'hellish.'"²⁷ As a result, "simple teasing, offhand comments, and isolated incidents (unless extremely serious)" do not constitute sexual harassment under current caselaw.²⁸ Given this, the OEIG finds insufficient evidence to conclude that Mr. Zepeda's actions on July 10, 2018 and July 24, 2018 at Marcfirst and EPIC, respectively, amount to sexual harassment under the Ethics Act.

First, it is unquestionable that Mr. Zepeda's conduct on July 10, 2018 at Marcfirst and July 24, 2018 at EPIC was unprofessional and inappropriate. During one incident, Mr. Zepeda self-admittedly made several comments and jokes of a sexual nature, and used other vulgar and profane language; during the other incident, Mr. Zepeda again self-admittedly used profane language and commented on an EPIC employee's exposed chest. However, none of the conduct or comments attributed to Mr. Zepeda on July 10, 2018 or July 24, 2018 appear to have been threatening, or severe or pervasive enough to alter the conditions of any of the Marcfirst or EPIC employees' employment.

Specifically, while [Marcfirst Employee 3], [Marcfirst Employee 1], and [Marcfirst Employee 2] stated that Mr. Zepeda's comments were unwanted and unwelcomed, and described him as "unprofessional," "inappropriate," and even "creepy" in previous encounters, [Marcfirst Employee 3] noted that Mr. Zepeda has a dry sense of humor, and both she and [Marcfirst Employee 1] described Mr. Zepeda's unprofessional behavior as "typical Manny" or "just Manny." Even still, none of the Marcfirst employees aside from [Marcfirst Employee 1], including three administrators, had any knowledge of any other instance where Mr. Zepeda behaved in a similar manner. Simply put, it appears Mr. Zepeda's conduct while at Marcfirst on July 10, 2018, described by [Marcfirst Employee 1] as "Manny being extreme," was just that—an isolated incident of perhaps heightened sexual, profane, and otherwise inappropriate comments by Mr. Zepeda. Finally, even though [Marcfirst Employee 2] said she declined to answer her phone while

²³ 5 ILCS 430/5-65(b)(iii).

²⁴ See *Zaderaka v. Ill. Human Rights Comm'n*, 545 N.E.2d 684, 687 (Ill. 1989).

²⁵ *Harris v. Forklift Systems, Inc.*, 510 U.S. 17, 21 (1993).

²⁶ *Id.* at 23.

²⁷ *Perry v. Harris Chernin, Inc.*, 126 F.3d 1010, 1013 (7th Cir. 1997).

²⁸ *Faragher v. City of Boca Raton*, 524 U.S. 775, 788 (1998).

Mr. Zepeda was in the office for fear of what he might say next, all three women indicated that they otherwise ignored Mr. Zepeda's comments and conduct that day; as such, while undoubtedly bothersome, Mr. Zepeda's conduct cannot be said to have unreasonably interfered with the women's work performance.

In addition, [EPIC Employee 1] and [EPIC Employee 2] both stated that Mr. Zepeda's comments to them on July 24, 2018 were unwanted and unwelcomed; however, [EPIC Employee 1], noted that while he was "unprofessional and very lackadaisical" during a previous meeting, he was "not creepy." Two other EPIC administrators also denied having any knowledge of similar conduct by Mr. Zepeda at any time prior. While the OEIG agrees with [EPIC Employee 1] that Mr. Zepeda's conduct "crossed a line" given the circumstances, there is no indication that either [EPIC Employee 1] or [EPIC Employee 2's] job performance or work conditions were affected by his comments or gestures. Simply put, Mr. Zepeda's conduct while at EPIC on July 24, 2018 cannot be described as severe or pervasive enough to alter the conditions of employment.

Given the foregoing, the OEIG concludes there is insufficient evidence that Mr. Zepeda engaged in sexual harassment in violation of the Ethics Act on July 10, 2018 at Marcfirst and July 24, 2018 at EPIC, and this allegation is **UNFOUNDED**.

V. FINDINGS AND RECOMMENDATIONS

As a result of its investigation, the OEIG concludes that there is **REASONABLE CAUSE TO ISSUE THE FOLLOWING FINDINGS:**

- **FOUNDED** – Manuel Zepeda violated DHS' Administrative Directive on Sexual Harassment by making sexually explicit and inappropriate comments to Marcfirst employees on July 10, 2018.
- **FOUNDED** – Manuel Zepeda violated DHS' Administrative Directive on Employee Conduct by making sexually explicit and inappropriate comments to Marcfirst employees on July 10, 2018.
- **FOUNDED** – Manuel Zepeda violated DHS' Administrative Directive on Employee Conduct by making a gesture and comments about an EPIC employee's appearance on July 24, 2018.
- **FOUNDED** – Manuel Zepeda violated DHS' Administrative Directive on Sexual Harassment by making a gesture and comments about an EPIC employee's appearance on July 24, 2018.
- **UNFOUNDED** – Manuel Zepeda did not violate the Ethics Act prohibition on sexual harassment by making sexually explicit and inappropriate comments to Marcfirst employees on July 10, 2018 or by making a gesture and comments about an EPIC employee's appearance on July 24, 2018.

The OEIG recommends that DHS takes whatever disciplinary action it deems appropriate

with respect to Mr. Zepeda. The OEIG also recommends that DHS implement measures to help ensure that Mr. Zepeda does not continue to engage in such inappropriate conduct and behavior in the workplace in the future. Finally, the OEIG recommends a copy of this report be placed in Mr. Zepeda's personnel file.

No further investigative action is warranted and this case is considered closed.

Date: April 30, 2019

Office of Executive Inspector General
for the Agencies of the Illinois Governor
69 W. Washington St., Suite 3400
Chicago, IL 60602

Colleen Thomas
Deputy Inspector General

Eddie Escamilla
Supervising Investigator #137



JB Pritzker, Governor

Illinois Department of Human Services

Grace B. Hou, Secretary

100 W. Randolph • Chicago, Illinois 60601

May 8, 2019

Via e-mail to Fallon Opperman, Deputy Inspector General and Chief of Chicago Division, on behalf of:

Susan M. Haling

Acting Executive Inspector General

Office of the Executive Inspector General for the Agencies of the Illinois Governor

69 West Washington Street, Suite 3400

Chicago, Illinois 60602

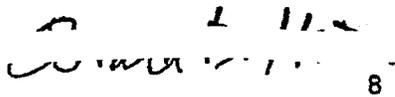
RE: Response to the Final Report for Complaint 18-01447

Dear Acting Executive Inspector General Haling:

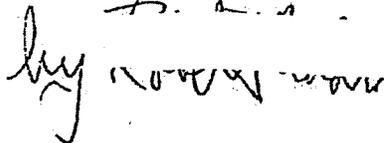
This letter responds to the Final Report for Complaint Number 18-01447. The Complaint details several founded allegations regarding sexual harassment by a Department of Human Services (DHS) employee. While this letter serves as an initial response to the Report, DHS will provide an update by June 20, 2019.

If you have any questions, please feel free to contact Robert J. Grindle, DHS' Ethics Officer.

Regards,



**Grace B. Hou
Secretary**





Illinois Department of Human Services

JB Pritzker, Governor

Grace B. Hou, Secretary

100 W. Randolph • Chicago, Illinois 60601

September 18, 2019

Via e-mail to Fallon Opperman, Deputy Inspector General and Chief of Chicago Division, on behalf of:

Susan M. Haling

Executive Inspector General

Office of the Executive Inspector General for the Agencies of the Illinois Governor

69 West Washington Street, Suite 3400

Chicago, Illinois 60602

RE: Response to the Final Report for Complaint 18-01447

Dear Executive Inspector General Haling:

This letter updates the previous responses to the Final Report for Complaint Number 18-01447. The Complaint details several founded allegations regarding sexual harassment by Department of Human Services (DHS) employee Mr. Zepeda.

Mr. Zepeda has served a 30-day suspension, and any appeal period has passed. The Department also believes this discipline will dissuade Ms. Zepeda from repeating such action. Finally, a copy of the Final Report was placed in his personnel file.

As such, DHS now considers this matter closed. If you have any questions, please feel free to contact Robert J. Grindle, DHS' Ethics Officer.

Regards,

Grace B. Hou
Secretary

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