

August 26, 2013

Mr. Chris C. Wyrick
Vice Chancellor for University Advancement
University of Arkansas
416 ADMIN
Fayetteville, AR 72701

Dear Chris:

Through this letter I am exercising my right to respond to the termination letters I received from you via e-mail on Friday, August 23, 2013. I understand that this letter will be placed in my personnel file and may be released to the public with my permission. I am granting that permission with the condition that this response is released simultaneously with the two letters of termination cited above.

Let me preface my response by expressing my dismay with your characterization of our Thursday, August 22, 2013, meeting, at which you informed me that I was being reassigned within the Advancement Division and would be retained as Associate Vice Chancellor through the end of the calendar year unless I chose to leave the University sooner. The specifics you shared in one of the two termination letters excluded important and relevant details and created a false context of what occurred. Because those letters are now part of my personnel record and will no doubt be made public, I regret that I am compelled to specify important details of our meeting that you failed to include in your summary. Everything presented here was witnessed by your assistant, Denise Reynolds, during our Thursday morning meeting.

This letter will focus on the two areas you did not address in your correspondence: Our discussions of what I believe has been a purposeful effort to interfere with the university's obligations to respond to Freedom of Information Act (FOIA) requests from the news media; and what I expressed as impulsive, threatening, and offensive statements and actions you have engaged in affecting me and other members of the university community. This is not an all-inclusive list; it only reflects those points that I addressed with you, in Denise's presence, on Thursday.

OBSTRUCTION OF TIMELY FOIA RESPONSES

During Thursday's meeting, I reiterated my previous concerns that your handling of the July 22, 2013 FOIA request from the Arkansas-Democrat Gazette was causing unjustifiable delays in fulfilling the University's legal obligations to respond. I had made this point to you and to the University's legal counsel over the preceding two weeks and had spoken about this delay on Tuesday to Chancellor Gearhart's chief of staff, who said that she and other members of the University's Executive Committee had been informed the day before that my responsibilities as the University's lead FOIA coordinator were being reassigned to Mark Rushing, one of my direct reports. As Mark told you, he has absolutely no prior experience or training in FOIA matters. Furthermore, Mark is already overburdened; the consequences for the U of A of mishandling FOIA requests are too great to place on the shoulders of someone so busy and inexperienced.

As I reminded you during our Thursday meeting, some of the reasons you had been giving me for the delay in response were not legally justifiable, including your statement that you had not yet discussed the response with Chancellor Gearhart because he was "preoccupied with" the upcoming release of the audit report on

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the Advancement Division. I also told you that I had spoken to the University's legal counsel about these concerns and delays. My understanding is that Scott Varady subsequently spoke to you about this on August 21, 2013, which prompted you to provide me with the one-page FOIA response late that afternoon. As directed, I forward, via e-mail, the document to the Democrat Gazette as the totality of responsive documents in the university's possession which, based on the e-mail exchanges, documents, and video that had been circulated on campus and within the division, was not accurate. By directing me to provide that single page as the sole responsive documents, you put me in a position that jeopardized the university's credibility, a position I objected to on Thursday morning when we met. I believe the action you took on Friday morning to terminate me in 30 days was in retaliation for pointing out that concern.

Also on Thursday morning, over your objections to further discussion of FOIA, I referred to the July 29, 2013 meeting in the Chancellor's conference room when Bill Kincaid, Scott Varady, and I met with you, Chancellor Gearhart, and Vice Chancellor Pederson, at which Scott, Bill, and I presented what we thought would be the appropriate way to handle gathering potentially responsive materials related to the Democrat-Gazette's revised July 22, 2013 FOIA request. As you know, the Chancellor strongly objected to the recommendations we presented. Immediately following that meeting, Scott, Bill, and I had a conference call with the UA System Attorney in Little Rock to tell them about the Chancellor's objections.

Looking back, that July 29 meeting appears to be the start of when you and possibly others chose to exclude me from being involved in the FOIA process. It also marks the point at which you took over my responsibility for coordinating FOIA queries, doing away with the protocol I had put in place at University Relations shortly after I joined the University in 2010--i.e., consulting with legal counsel to determine the most clear and accurate way to ask employees, in writing, for potentially responsive materials in order to document our due diligence and of course to respond in a timely manner. You chose to ask individuals *orally* for potentially responsive materials without giving them written instructions on exactly what might constitute potentially responsive items. As I recently told you, I believe the negative consequences of orally and individually asking for responsive records are obvious: it becomes very easy for individuals to misinterpret exactly what is being asked for as opposed to giving them specific written instructions that are shared uniformly with all possibly affected parties. That might explain why only one item was submitted to you in response to that request.

HOSTILE AND THREATENING WORK ENVIRONMENT

On Thursday, when you informed me that I was being reassigned to be Associate Vice Chancellor for Campaign Communications, I pointed out that the action was a continuation of a five-month pattern that I and other members of the Advancement division's leadership team had advised you against--that is, imposing serious, disruptive, and secretive changes in personnel appointments with little regard to the stress it places on affected individuals, their colleagues, and Division operations. It was at that point you gave me the first of several warnings during our meeting that you would fire me immediately if I persisted in speaking. I responded that I felt it was unfair and unrealistic to deny a person in my situation an opportunity to defend himself, and was allowed to continue.

I told you that I felt your impulsive actions and management of personnel matters, including your failure to follow HR and Office of Equal Opportunity and Compliance policies and procedures, had created a hostile and dysfunctional work environment. I told you that meeting with individuals secretly and telling them not to inform their supervisor of those meetings was unethical and divisive. I told you that your implied and explicit threats of retaliation against Division employees undermined the managerial authority of the Division's senior leaders and supervisors. You responded to that point by stating that Division employees work for you, not for those to whom they report.

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I told you that I found your pattern of inappropriate statements to me personally and in group settings were offensive and threatening. I reminded you of the following examples which, as I believe you know, I previously shared in July with the Chancellor's Chief of Staff at a meeting in her office:

1. On the day of our first one-on-one meeting following your official start as Vice Chancellor, you exited your personal office with two other university employees and, when seeing me, pointed out to those present that I am Catholic and that "y'all travel in packs."
2. In late April, during a meeting of our Advancement Executive Staff, you asked our Associate Vice Chancellor for Alumni Affairs if he was the only "white guy" who attended the April 20, 2013 Black Alumni Society scholarship fundraising dinner. Twice during the remainder of the meeting you referred to the Alumni leader as "Brother Honky."
3. On two separate occasions this spring you told me that I needed to replace the "old guy" who works part-time on my staff because you said you saw him standing around and not helping another staff member during equipment set-up for the May commencement ceremonies.
4. During a hastily called meeting in your office the week before the June 20 all-staff meeting, I witnessed you threaten a shocked and emotionally distraught employee with possible termination if she told anyone other than her husband that you were reassigning her to another unit within the Division. You would not explain to her (nor to me) your reasoning, and ignored her long and impressive service as a leader within the Office of University Relations. As you will recall, you asked me to stay in your office once the meeting concluded, which I did. You then asked me if I thought the meeting "went okay." I told you that I felt you were inappropriately harsh and threatening, especially given the employee's emotional state and the news you had just delivered to her.

Though not acknowledged in your August 23, 2013 summation of the meeting, the above examples were a substantive part of our discussion on Thursday and were witnessed by your assistant, Denise. Though this recitation angered you, you did not dispute a single point. My purpose in raising them with you was to put the action you were taking against me in the larger context: your five-month pattern of impulsive decisions and inappropriate comments that I and others have found hostile, threatening, offensive, and damaging to the Division and the University.

OTHER ASSERTIONS IN YOUR LETTERS

One of your August 23, 2013 letters misrepresents the circumstances surrounding the conclusion of our August 22, 2013 meeting. I am compelled to address those for the record.

As noted earlier, several times during the meeting you interrupted me or reacted to my body language by holding up your hand with your forefinger and thumb close together, saying, "I am this close to firing you today!" At one point, you stood up while I was trying to make a point in my own defense and said, "This meeting is over." You went to open the door and I said one word: "Leadership." (I did not at any time refer to your leadership style as "laughable," because it is not.) You responded angrily by gesturing and saying, "One more word out of you!" to which I said, "Stop threatening me." You stepped closer to me in view of others and repeated, "One more word!" to which I replied, "I said, Stop threatening me!" I then left the office.

Your letter--and comments that you made at the University Relations staff meeting Friday morning--implied that I left the office and contacted the news media about my situation. That is absolutely false. Given what you had just told me, my immediate thoughts were about my family and my rights. I went from your fourth-

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floor office to the Human Resource office on the first floor to speak with a staff leader to report what had just occurred and to find out what my rights were as a U of A employee. Following that meeting, I returned to Davis Hall to get my car keys to go home for the remainder of the week, as you had ordered. Upon entering, one of the employees in the reception area asked me if I was alright, given the look on my face. I did indeed make a throat-slashing motion, indicating that things were bad. Contrary to your letter's assertion, reacting in that manner to news that I had four months to find another job is not an act of "insubordination" under any definition.

As I was leaving the parking lot to head home, you called my cell phone. I was in no mood to talk; I hadn't even called my wife at that point. You did not leave a message. I do not believe my failure to take your call under those circumstances constitutes insubordination.

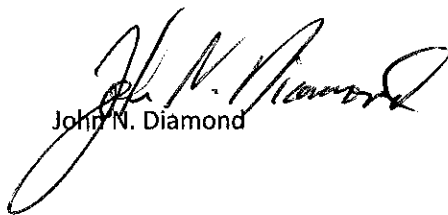
You sent me a text message at 3:07 p.m. to tell me you had spoken with a reporter from the Democrat Gazette and said, "I believe it would be mutually beneficial to talk before the days (sic) end? (sic)." At that point I was home with my wife and ignoring the phone and computer as she and I discussed the consequences for our family of what I had been told, and how and when to tell our children. Under the circumstances, I don't believe my failure to check for text or e-mail messages was an act of insubordination.

As I and others have tried to tell you during your five months as Vice Chancellor, good leaders must maintain the trust and credibility of their leadership team and staff. The way you dealt with me on Thursday and Friday has contributed further to the toxic environment that currently exists within the Division and which has permeated other parts of campus.

Even more damaging, your disregard for the University's obligations under FOIA continues to jeopardize the U of A's relationship with its internal and external constituencies. To be sure, complying with the Freedom of Information Act may at times be disruptive and time-consuming. However, that's a reasonable burden for the University to bear in exchange for the taxpayer and tuition-payer dollars it receives. The University's students, employees, alumni, donors, and friends—as well as the public—deserve the University's cooperation.

In closing, I was pleased and surprised with your directive to me in your letter to preserve documents when I cleaned out my office. As you and others know, I believe that is the responsible and ethical thing to do.

Sincerely,



John N. Diamond