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Woman Files Suit Over National City District's Response

BY DAVID HERNANDEZ

National City-An administrative assistant in the National School District has filed a lawsuit in which she alleges she was sexually harassed by a co-worker on multiple occasions and the district failed to respond properly.

Michelle Mendoza alleges the sexual harassment began in June 2016 and continued into last month. She filed a lawsuit in San Diego Superior Court against the National City district and maintenance worker Hector Goytia on March 13.

Both Mendoza and Goytia work under the Maintenance and Operations Department.

According to the lawsuit, an investigation launched by the district found in May 2017 that reports she had made of sexual harassment were substantiated. Documents and a lawyer representing the district confirmed the outcome of the investigation.

Goytia is on administrative leave pending the outcome of a new investigation launched by the district. Goytia, who has employed by the district for almost 14 years, denied in an interview any inappropriate behavior toward Mendoza. He said he was only instructed to stay away from Mendoza.

Yet records show the district notified Goytia that the investigation found the claims to be substantiated and that the district intended to suspend him without pay for 10 days. The notice indicates Goytia refused to sign the document dated June 7, 2017.

Mendoza says the sexual harassment began soon after she was hired in June 2016. What began as comments about her appearance escalated into inappropriate remarks that were sexual in nature and repeated requests for hugs, the lawsuit states. It also alleges Goytia caressed her hand.

Mendoza filed a complaint with her supervisor and the District's Human Resources Department in March 2017. An investigation based in part on interviews with Goytia and co-workers concluded two months later that the allegations were substantiated according to the lawsuit and the notice address to Goytia.

"At that point the district was on notice that a sexual harasser was working with plaintiff and other women," the lawsuit states. "The district failed to take remedial measures to prevent any further sexual harassment or retaliation."

Mendoza's attorney Daphne Delvaux of Gruenberg Law said the district's response-namely allowing Mendoza and Goytia to continue to work together-sent a message that the behavior was acceptable and female employees were not protected.

According to the lawsuit, Mendoza would face retaliation and other instances of sexual harassment. In late April of last year, the lawsuit states, Goytia lodged a harassment claim against Mendoza, who in response filed a retaliation claim against him.

Goytia said he had complained to their supervisor after Mendoza called him on his cell phone after hours. He said he didn't want her to call him, given the past troubles between them. He said Mendoza apologized for calling his cell phone in a meeting with their supervisor.

According to the lawsuit, the district investigated the harassment claim against Mendoza and found that it was unsubstantiated and that Goytia had filed the claim in retaliation for her complaints against him.

The lawsuit alleges the top human resources administrator delegated “corrective action” to the supervisor, “even though that was her job’ and the supervisor “was not trained” in human resources matters or state employment law.

The lawsuit alleges the harassment continued this year. The suit alleges that in February, Goytia whistled at Mendoza and ran his fingers down her arm as he smiled.

Then, last month, Goytia pushed his body against her backside, the lawsuit alleges. Mendoza reported the alleged recent incidents on March 5, even though she “had lost all hope and trust in HR to do the right thing,” the lawsuit states.

“Ms. Mendoza’s current complaint is in the middle of an investigation and, if substantiated, we will take further corrective action,” said attorney Sam Sherman of TencerSherman LLP, which is representing the district. “However, we must allow that investigation to fully run its course prior to making any decisions.”

Mendoza’s attorney, Daphne Delvaux of Gruenberg Law, said the district’s response sent a message that the behavior was acceptable and female employees were not protected.

Sherman said the district intends to fully investigate the complaint and defend itself against the lawsuit. The district said in a court document that it “acted reasonably and in good faith at all times” and that any damages suffered by Mendoza resulted from the actions of other parties.

The district’s response, filed in court on April 15, also says that Mendoza failed to exhaust administrative remedies and comply with the California Torts Claims Act, which governs the process of filing claims against government agencies.

According to the lawsuit, Mendoza filed a complaint with the state Department of Fair Employment and Housing on March 12, and received a right-to-sue letter the same day. She seeks unspecified damages. The district serves about 5,000 students at 11 elementary schools and a preschool.

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