

SPECIAL REPORT TO THE PRESIDENT
SOCIAL MEDIA VIDEO INCIDENT
OF WEDNESDAY, OCTOBER 11, 2017

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On Wednesday evening, October 11, 2017, members of the University of North Florida's (UNF) executive administration asked the Office of Equal Opportunity and Diversity (EOD) to participate in a meeting the next morning regarding a reported incident involving two UNF students shown on social media acting as monkeys. EOD was advised that after a Students for a Democratic Society (SDS)/Black Lives Matter (BLM) Rally that day, a social media post surfaced later that afternoon featuring two students with a caption that read: "What actually went on at the BML Rally."

An assemblage of University administrators met the following morning, Thursday, October 12, 2017, and discussed the video. The meeting was facilitated by the University President John Delaney. Following the meeting, President Delaney distributed a message to the University community providing his stance on the issue including that the matter would be thoroughly investigated. A joint investigation through the Offices of Student Conduct (SC) and Equal Opportunity and Diversity (EOD) commenced immediately with the first interview of persons having knowledge of, or involved with, the reported matter occurring in the afternoon of the same day.

Interviews were held by the Offices of Student Conduct (SC) and Equal Opportunity and Diversity (EOD), and began on Thursday, October 12, 2017, and ended on Friday, November 3, 2017. The snowball method was employed while conducting interviews. In the snowballing method, when interviewees mentioned other individuals having direct knowledge regarding the reported social media post, those individuals were also contacted if it was believed they could provide information relevant to the incident. A number of students were interviewed including those directly involved with the filming of the video and/or having personal and direct knowledge of the social media post. Other students, including representatives from the Students for a Democratic Society (SDS) and the Black Student Union (BSU) were included in the interviews. In addition, four staff members were interviewed: Mr. Paul Schreier, Assistant Director, Academic Services, Coggin College of Business (CCB) and Advisor, CCB Living-Learning Community (LLC)¹; Ms. Courtney King, Assistant Director, Office of Campus Life; Mr. Darryl Glenn, Residence Life Coordinator, Osprey Crossings; and Mr. Corey Ulloa, Residence Life Coordinator, Osprey Fountains.

¹ A *Living-Learning Community (LLC)* allows students with similar academic interests to take classes together and live on the same floor in the residence hall, while creating meaningful relationships with faculty, staff and other LLC students. *Theme Housing* promotes a direct link between residential and extracurricular life for students. It provides students who have common extracurricular interest the opportunity to live together in campus housing while fulfilling a common goal. For more information, refer to: <https://www.unf.edu/housing/lc/>

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While the Offices of SC and EOD conducted a joint investigation for efficiency, the two offices had separate roles. For example, EOD evaluated the incident(s) to determine whether the University's *Non-Discrimination [EOD] Regulation* and any related university policies, based upon Federal and State law, were violated. Upon completion of the EOD report, the Office of SC would then determine whether there was information sufficient to charge the participant(s) involved with the video and subsequent post(s) with a violation of the University's *Student Code of Conduct*.

In addition to direct interviews, documents from relevant sources such as Housing and Residence Life, e-mails, and social media (Snapchat, Facebook, and Instagram) posts were collected, read, and reviewed.

The incident caused an array of public commentary ranging from outright disgust to support for the students' actions. The majority found the students' actions to be highly offensive. Understanding the sensitive nature of this matter, the Offices of SC and EOD handled their inquiry in an objective, methodical, and thorough manner. The following section outlines the legal standards used during the process.

LEGAL STANDARDS

Briefly, the *Non-Discrimination, [EOD] Regulation* prohibits discriminatory treatment that is severe, persistent or pervasive so that it limits or denies a UNF community member's ability to participate in or to realize the intended benefits of an institutional activity, opportunity, or resource. UNF's *Non-Discrimination, EOD Regulation* is based on guidance from the U.S. Department of Education Office for Civil Rights (OCR). In determining severity, the nature of the incidents must be considered. In some cases, a racially hostile environment requiring appropriate responsive action may result from a single incident that is sufficiently severe. Such incidents may include, for example, injury to persons or property or conduct threatening injury to persons or property. If an alleged incident is not sufficiently severe, the conduct must be persistent or pervasive and consist of more than casual or isolated racial incidents in order for it to create a racially hostile environment. Whether conduct constitutes a hostile environment must be determined from the totality of the circumstances, with particular attention paid to whether the conduct meets the severe, persistent and pervasive standards.

For alleged discrimination, such as creating a hostile educational environment based on race, potential violations of this regulation are evaluated using the above criteria from the perspective of a reasonable person subject to the alleged conduct and the context in which the alleged conduct occurred. To find that one has engaged in behavior that constitutes a hostile educational environment requires examining the issues from a "more likely than not" evidentiary standard.

Further, the *Non-Discrimination, EOD Regulation* records that the "University will not abridge either free speech or academic freedom based on its context." In addition, the *Student Code of Conduct* states that "Online speech will be protected as free expression and not subject to this Code" except "a threat a reasonable person would interpret as a serious expression of intent to

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inflict bodily harm upon specific individuals of the community.” Although separate reports were written, both investigators considered all factors.

FINDINGS

The social media post became public after the SDS/BLM Rally, late in the afternoon of October 11, 2017, and subsequently went viral.

The purpose of the Rally was to stand in solidarity with NFL athletes, such as Colin Kaepernick, who have been attempting to raise awareness of police brutality and racial injustice, according to a Rally participant. The Rally was not the group’s first event at UNF and was conducted in a manner where a wide variety of students and some community members attended.

The student who filmed and posted the video on social media was at the Rally asserting that “All Lives Matter.” Significantly, most of the Rally participants were predominately White in terms of race. The event was relatively peaceful absent a moment of terse dialogue between the student who took the video and an unknown veteran. No person suffered physical or direct injury.

The student who first posted the video reported that the BML label was intentional. He stated that “BML” referred to “Blessing Many Lives” or “Bless My Life.” The students who imitated monkeys were unaware the video was posted on Snapchat with a caption, until sometime after going out to eat. Over the meal, they noticed the number of “shares” increasing. One student said based on the increase, the outcome was going to become disastrous as it appeared to be going viral. Meanwhile, the student who took the video stated that he attempted to post it as part of a private Snapchat group from his page, unaware that the settings made it go out as a public story.

During an interview, the student who filmed and posted the video stated he did not target students who attended the Rally, regardless of their race, in an attempt to cause anyone harm.

Regardless, the intent of the video appeared to mock the BLM Rally. Nearly all who were interviewed stated that they felt the video was offensive with or without the caption.

The majority of students interviewed did not have safety concerns as a result of this incident. Student concerns and beliefs varied widely. Most students interviewed stated they believed the video was “stupid” and “ignorant.” Others said the video was racist and an act of discrimination. A number of people interviewed said the University needed to continue or increase its diversity and anti-discrimination efforts.

The Housing and Residence Life staff members and an LLC Advisor cited their concerns regarding the need to balance all students’ safety and well-being in the residence halls. Having heard concerns from the parent of a student of color, that student was offered a “safe room.” A “safe room” at UNF is a temporary living option offered by Housing and Residence Life for students who are concerned about their safety. However, this offer was declined. The same accommodation was offered to the student who posted the video and that student, likewise, declined the offer. Other students in the LLC said they felt safe.

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The student who admitted publishing the post initially stated that it was an emotional time for him. That night, he contacted University Police concerned about threats, shut off his social media accounts, and was worried about losing his scholarship and suffering other consequences.

CONCLUSION

As stated in the Legal Standards section, the issue that must be determined is whether the students' actions, by either participating in, or posting the video, were severe, persistent or pervasive so as to create a hostile learning environment based on race. Further, it has to be determined whether the actions limit or deny a UNF community member's ability to participate in or to realize the intended benefits of an institutional activity, opportunity, or resource. Based on the investigation, this single incident does not meet the standard of being persistent or pervasive because it was an isolated event and there is no evidence the students have acted in a persistent or widespread manner targeting students based on race. That leaves determining whether the students' actions were so severe that they resulted in hostile educational environment based on race. Based on the totality of investigative findings, I cannot conclude that the students' actions rose to that level as there was no injury to persons or property or conduct that threatened the safety of others.

It must be emphasized that UNF is a public higher education institution where freedom of speech is paramount and where exchanges of thoughts and ideas, even those that many may find objectionable, is highly protected. Thus, to expunge one range of thought, idea, or activity over other thoughts, ideas, or activities inherently violates that stance. However, if and when discrimination, or discriminatory harassment is found, UNF can and is working to redress the matter to ensure the University fosters a nondiscriminatory educational environment.

By no means, should the students' actions be minimized or go unaddressed, but their actions did not result in limiting or denying other students from participating and benefiting from UNF's educational opportunities under the operative legal standards. The video has negatively impacted the emotional well-being of some in the campus community and the University has a responsibility to ensure a welcoming and inclusive environment.

The student who posted the video has voluntarily agreed to participate in diversity training.

Additionally, the Vice President for Student and International Affairs will be meeting with students involved in this incident to discuss this incident, its impact on the University community, and to work with the campus going forward on ways to advance mutual respect and civility, that are important UNF values.

The matter is also being referred to the University's administration to enhance diversity and inclusion efforts on campus.