

Confidential Investigation Report

Date: July 20, 2020

To: Mitzi Montoya, Jean Frankel, Kirk Schulz

CC: Danielle Hess, Holly Ashkannijhad, Theresa Elliot-Cheslek

From: Kathy Feldman

I. Executive Summary

On February 10, 2020, the Washington State University (WSU) Office of Civil Rights Compliance and Investigation commenced an investigation, utilizing an external investigator, concerning questions raised regarding Dr. Mitzi Montoya stepping down from her appointment as WSU provost and executive vice president in September 2019. The investigation examined the following issues: 1) whether WSU's contractor Jean Frankel, d/b/a Ideas for Action, provided and/or relayed feedback to, or an assessment of, Montoya was gender-based; 2) whether Frankel's feedback played any role in the decision to terminate Montoya; and 3) whether the decision to terminate Montoya resulted from improper influence or pressure from third parties.

After conducting the investigation, as described in greater detail below, based on the totality of the evidence and on the preponderance of the evidence standard, I find:

1. The factual evidence does not support a finding that Frankel provided or relayed gender-based feedback to, or an assessment of Montoya that was discriminatory based on her gender.
2. The factual evidence does not support a finding that Schulz relied on discriminatory feedback in his decision to terminate Montoya's appointment, or that his decision to terminate Montoya's appointment was discriminatory or violated WSU Policy 15.
3. The factual evidence does not support a finding that Schulz's decision to terminate Montoya's appointment resulted from improper influence or pressure from third parties.

II. Scope of Investigation and Evidentiary Standard

Scope of Investigation

On February 10, 2020, the Washington State University (WSU) Office of Civil Rights Compliance and Investigation (CRCI) became aware of an online news article titled, "Former WSU provost emails describe sexist feedback, administrative power struggles", posted to the Whitman County Watch website. The article included a September 22, 2019 email, in which former WSU provost Mitzi Montoya (Montoya) stated:

...I had another session with Jean today wherein I learned that there are major concerns about me – I need a personality transplant, I need to be more feminine and conforming in my communication style, and I need to be less intelligent...

At the request of faculty senate leadership, WSU President Kirk Schulz (Schulz) approved the retention of an external independent investigator, chosen by faculty senate leadership, to investigate(1) whether Jean Frankel, d/b/a Ideas for Action, LLC, provided or relayed gender based feedback or assessment to Montoya, (2) if so, whether gender based feedback or assessment played a role in the decision to terminate Montoya's appointment, and (3) whether the decision to terminate Montoya resulted from improper influence or pressure from third parties.

On February 20, 2020, WSU retained me to conduct an independent investigation into the above issues.

Evidentiary Standard

Findings in this report are based on a "preponderance of the evidence" standard. This standard means that I reviewed all the evidence, including witness statements and credibility, and determined whether it is more likely than not that the alleged conduct occurred. I did not evaluate whether any conduct violated any local, state, or federal laws.

III. Relevant University Policy

The investigation focused on whether Montoya's termination violated any WSU policies and standards, including the WSU Policy Prohibiting Discrimination, Sexual Harassment, and Sexual Misconduct, Executive Policy 15 (EP 15) and whether the decision to terminate Montoya resulted from any improper influence or pressure from third parties.

Executive Policy 15 states, "Discrimination in all its forms, including discriminatory harassment, sexual harassment, and sexual misconduct (including sexual assault and other sexual violence), destroys mutual respect and a trusting environment, can bring substantial personal harm to individuals, and violates individual rights. Such behaviors are prohibited and are not tolerated at Washington State University (WSU or the University). This policy expresses WSU's commitment to maintain an environment free of all forms of discrimination."

Note that this definition is from Executive Policy 15 as it existed on the date this investigation was initiated. Executive Policy 15 was amended on April 13, 2020; however, the amended language did not impact the conclusions of this investigation.

IV. Investigative Process

Between April 22, 2019, and June 4, 2019, the investigator interviewed the following witnesses via zoom.

Dan Bernardo
Lisa Calvert
Greg Crouch
Daryll DeWald
Theresa Elliot-Cheslek
Jean Frankel
Chris Hoyt
Colleen Kerr
Mitzi Montoya
Mel Netzhammer
Stacy Moana Pearson
Kirk Schulz

All witnesses provided their full cooperation during the investigation, and in some instances participated in multiple interviews. The investigator also reviewed the documents produced by WSU in response to various public records requests, and emails and text messages provided to the investigator by Schulz, Montoya and Frankel.

V. Factual Background

WSU Organizational Structure and Strategic Plan

WSU is a multi-campus system with six campuses located in Pullman, Everett, Spokane, Tri-Cities, Vancouver, as well as a Global Campus which provides online courses. The purpose of the campuses is to bring public education to geographic areas in which such is not readily accessible, and to focus on degree offerings that would be in high demand in those areas. WSU operates as an integrated university system, with all campuses adhering to the same set of goals, practices, and policies – known as One WSU. For example, degree requirements are similar across campuses; all instructors and researchers, regardless of their location, are considered part of one faculty; and the offices of student affairs and finance and administration are regarded as distinct but highly integrated components of the same administrative divisions. As part of its 5-year strategic plan, the University has been redefining its administrative and operational structures to ensure delivery of an integrated set of services, while allowing each campus autonomy via the leadership of the chancellor. Under WSU's model, each non-Pullman campus has a chancellor who is granted authority to administer those campuses under direction of the President and Board of Regents. The provost is WSU's chief academic officer overseeing all academic programs and has principal responsibility for the planning, development, implementation, assessment, and improvement of all academic programs and policies. The provost reports directly to the president.

Each campus, along with their communities, has unique characteristics which WSU has deemed crucial to the full functioning of the multi-campus system. WSU Pullman provides a major traditional residential campus; the other campuses bring opportunities for partnerships with other elements of the communities they serve. WSU Spokane focuses on health sciences in medicine, nursing and pharmacy. Between January 2019 and June 30, 2019, the three health sciences deans

(Medicine, Nursing and Pharmacy) reported jointly to the provost and the WSU Spokane chancellor. In 2019, President Kirk Schulz decided to restructure the health sciences campus and promote Daryll DeWald, Chancellor, to hold an additional position as Vice President for Health Sciences. Beginning on July 1, 2019, the three health sciences deans reported solely to the WSU Vice President for Health Sciences and Spokane Campus Chancellor DeWald.

In the fall of 2016, President Kirk Schulz launched a system-wide effort, known as WSU's Drive to 25, to achieve recognized status as one of the nation's top 25 public research universities by 2030. Schulz and then Provost Daniel Bernardo appointed a 24-member task force made up of faculty, staff, and students from throughout the system to lead the planning process. The president and provost co-chaired the group which met monthly to guide development of the plan and to ensure ongoing input from the entire University community and WSU stakeholders. In April 2018, WSU engaged consultant Jean Frankel, d/b/a Ideas for Action, LLC, to assist in the development of the new system strategic plan and provide one-on-one coaching to vice presidents, deans, and other senior leaders.

The objectives of the Drive to 25 serve as a roadmap for the University's comprehensive 5-year WSU system strategic plan that was the result of a collaborative effort by the University community to generate a collective vision of the "future WSU." The strategic plan serves as a guide to help the University make informed decisions about resource allocation and program development and articulates goals and strategies for growth and excellence in education, scholarly work, and outreach. The strategic plan specifies a goal to fully integrate and take advantage of the expertise that resides across the entire University system.

Search for Provost

In 2019, WSU Provost, Daniel Bernardo, retired from his position, and WSU engaged the search firm, Isaacson Miller, to conduct a search for a new provost who would play a key role in helping the university achieve its strategic goals through deliberative collaboration with faculty, staff, students, and administrators and by bringing decisive vision for continued growth. Provost candidates were advised that they were expected to work in close partnership with the president and the chancellors to help the multi-campus university system mature in ways that integrate, embrace, and build upon the individual strengths of each of the six campuses. The search firm provided candidates, including Montoya, with a twelve-page position description which described in detail the role of the provost and executive vice president and the key opportunities and challenges. The document stated the positions that report to the provost: Vice Provost for Academic Affairs; Vice Provost for Undergraduate Education; Vice Provost for Faculty Development and Recognition; an Associate Vice Provost; and the deans of the seven degree-granting colleges whose deans are based in Pullman. The document clearly stated that, "Beginning July 1, 2019, the health sciences deans will report solely to the WSU Spokane chancellor and Vice President of Health Sciences." During the interview process, the finalists for the provost position were also told that the three health sciences deans would not report to the provost but instead would report directly to Daryll DeWald, the chancellor of WSU Spokane and VP of Health Sciences beginning on July 1, 2019.

By all accounts, Montoya was the top candidate for the provost and executive vice president position. On April 3, 2019, Schulz sent Montoya an email congratulating her on being selected as a finalist for the position. In his email, Schulz provided Montoya additional information about WSU including the following:

We are in the process of appointing a Vice President for Health Sciences (VPHS) for the first time in school history in recognition of the growing importance of the health sciences to the WSU system. Daryll DeWald will assume this position on July 1 and will carry the joint title of Vice President for Health Sciences and Chancellor of WSU Spokane. The Deans of Medicine, Nursing, and Pharmacy and Pharmaceutical Sciences will report directly to the VPHS but will continue to serve on the Provost's Council. It is my expectation that the Provost and VPHS will work closely together as we continue to build out the Health Sciences at WSU.

Notwithstanding the fact that Montoya was the top candidate, some members of the search committee expressed reservations about her selection and specifically had the impression that she may not be a very collaborative leader. One committee member told Schulz that during Montoya's interview she talked about how Arizona State University ("ASU") had eliminated the chancellor's role. The interviewer told Schulz he was concerned that Montoya thought that the ASU model was the only successful structure for a multi-campus institution.

One vice president involved in the finalist interviews provided Schulz with written feedback of her concerns and strongly recommended:

As you negotiate and as you onboard her that you personally emphasize how important it is to you that we are all working in partnership with one another and that we will move forward based on strong collaboration. It was notable to me that I did not hear her use either of those words one time in the interview today. I say that because that is the element we have all noticed has been missing with our current Provost.

Additionally, and importantly, her description of ASU versus OSU-her previous and current institutions. She expressed some frustration with the culture at OSU and support for the model at ASU. She framed this as OSU being risk-averse and ASU as having an appetite for risk. I am actually quite familiar with both universities and was surprised to hear that description. I would say that perhaps ASU is a much more top down University and OSU is not. Further, OSU has done some remarkable things in consideration of metrics along the lines of students, votes, and dollars. That was absent from her comments.

Finally, she definitely has the idea that there is a lot to be “fixed” at WSU. In contrast to the previous two candidates, I did not hear her being as aware of the things that we have done well or as having done research about the state – frankly, in stark contrast to how you interviewed.

During my interview with Montoya, she said Schulz told her during the interview process that WSU had a lack of alignment on strategy and resource allocation and that there was a need for change. Montoya describes herself as a change agent and said that WSU knew that when they selected her. Schulz confirmed that one of Montoya’s references noted that Montoya was a change agent and would move the university forward. This reference also noted that she had a rough first year at that university. When asked during the provost interview about her prior history, Schulz said Montoya reflected that she had learned from that experience and realized that she did not need to change everything right away.

When this investigator asked Schulz what a change agent means to him, Schulz said, “Change agent in higher education means blow it up and put it back together. Our timeline was to do things over a couple of years. I would say that Montoya was hired to be a collaborative change agent.” One female vice president acknowledged that Montoya was hired as a change agent as was she. When asked what a change agent meant to this witness, she said, “how you navigate through change is just as important as the success of change. When I was hired, I listened for 90 days, I met with university leaders and peer groups. Even though I knew what I needed to do I had to assess the culture of WSU. That was an important part of being a change agent.” Another witness told me when the committee talked about hiring a change agent, “we meant that person would be a partner with Schulz and move together as a team.”

In late April 2019, WSU selected Montoya as the provost. In light of some of the concerns Schulz had heard during the interview process, he advised Montoya in her May 1, 2019, offer letter that he would like her to work directly with Frankel as an executive coach. In her offer letter, Schulz informed Montoya that Frankel was working with the WSU senior leadership team on leadership and team development and playing a major advisory role in long-term planning at WSU. Among the duties and responsibilities set forth in Montoya’s contract of employment was to work closely with campus chancellors. Schulz made it clear to WSU that Montoya’s first priorities would be to co-lead with Schulz the creation of the next 5-year strategic plan, which would include a plan that addresses the future of all of the University’s campuses and locations as well as a plan for the WSU Pullman campus.

Between May 10, 2019, and Montoya’s official start date of August 1, 2019, Montoya served in a consulting role where she spent time engaging with many of WSU leaders, including the outgoing provost, Daniel Bernardo, to learn more about the university structure, including the institutional challenges surrounding the system design and budget. It is undisputed that Montoya expressed her concerns about the WSU model from the beginning of her employment. Several witnesses remarked on how impressed they were with Montoya’s speed in assessing the challenges WSU was facing and coming up with solutions. Other witnesses said WSU leadership has recognized for years the challenges of operating as a multi-campus model and that Montoya’s concerns were

not new. One witness said Montoya ran trial balloons with him on how WSU could restructure. This witness wondered if she had the authority from Schulz to make those kinds of changes. The witness told me he asked Montoya whether she had Schulz's approval and she inferred that she did.

During Schulz's and Montoya's weekly meetings, Schulz said Montoya challenged the role of the chancellors and thought they should be primarily involved in fundraising and not academics. Schulz said he explained to her that the communities were invested in the chancellors' leadership roles in their communities, which expanded beyond a fundraising role. Schulz said Montoya indicated that she understood his decision, but then he would hear from others that she said WSU did not need the chancellors. Montoya made it clear to Schulz and others that she believed WSU should adopt the Arizona State University (ASU) model of governance. Schulz said he explained to Montoya that there are benefits of the ASU model, but explained the significant differences between ASU and WSU and the reason why WSU operates on a more hybrid model.

In response to this investigator's questions about her role as provost, Montoya said she had zero authority over chancellors or vice presidents and she had no ability to change their roles or responsibilities. She said, "at best, I could provide analysis and recommendations to the president; which he asked me to do: one of my projects was to analyze system design alternatives." Montoya further noted that "confusion and discussion about system design and administrative roles and responsibilities were persistent topics at leadership retreats."

On or about May 17, 2019 and June 24, 2019, Montoya and Frankel met via zoom for introductory meetings. As part of Frankel's executive coaching process, she uses leadership personality assessment tools. Frankel gave Montoya a Leadership SWOT Analysis and the Hogan Leadership Forecast Series on Values, Potential and Challenges to complete. Montoya said Frankel described to her what her role at WSU was in regard to strategic planning and gave her four points of advice: 1) Let curiosity drive you; 2) Build coalitions; 3) Listen to their pain; and 4) Don't discount need to bond.

On Montoya's first official day, August 1, 2019, she met with Chief of Staff, Chris Hoyt, and Frankel (via zoom) regarding the August 22-23 leadership retreat where strategic planning was an agenda topic. The purpose of the meeting was to update Montoya on the development of the strategic plan. Montoya said Frankel asked her if she was familiar with the strategic plan and she told her she was. Montoya said she felt that Frankel cut her off when she offered her suggestions about the plan. Montoya said Frankel proceeded to give her background about the plan which she already knew. Frankel recalled that Montoya seemed to be in a hurry and did not want to hear about the plan. Frankel acknowledged that this was Montoya's first day at work and she seemed very energized. When Hoyt was asked for her recollection of the meeting, she did not recall any specifics of the meeting and did not recall being offended by anything Montoya said to her.

Sometime in August 2019, Schulz learned that Montoya had told several deans that she was not supportive of the strategic plan that WSU had been working on. Schulz said he was concerned that Montoya was working on a different strategic plan and thought it best to meet prior to the August Leadership Retreat where the strategic plan was to be discussed. On August 21, 2019, Schulz met

with Montoya, Frankel and Hoyt to update Montoya on the work they had been doing on strategic planning and system design. When asked about this meeting, Montoya said when she told Frankel the plan needed to include the faculty's feedback, Frankel cut her off. Hoyt said when she tried to provide Montoya with historical context to the committee's work on establishing system design, Montoya told her she already knew that. Schulz described the meeting as tense and felt that Montoya was dismissive of the work that Hoyt and Frankel had done. Hoyt told this investigator that she was offended and annoyed with how Montoya treated her in the meeting. She said she also felt intimidated by her and did not feel like it was a productive meeting. After the meeting, Hoyt told Frankel that the meeting did not go the way she had expected it to.

August 21 Meeting between Montoya and Frankel

Montoya and Frankel met later on August 21st for their regularly scheduled meeting. When asked to recount what happened at the meeting, Montoya said Frankel was very critical of her and told her, "you talk too much, you need to speak in questions, you need to work on sounding less intellectual, you need to focus on being more warm because everyone thinks you are angry and you lack curiosity and empathy." Montoya said Frankel told her she had not listened to what Hoyt had told her about the strategic plan, was dismissive of her, and had hurt Hoyt's feelings. Montoya said when she tried to explain that she had limited time and had heard about the strategic plan before, Frankel yelled at her and said her values were not aligned. Montoya also said Frankel told her she had hurt Chancellor DeWald's feelings because she had inquired about whether the dean of medicine, who does not have tenure, may participate in tenure and promotion decisions. Montoya said Frankel told her she hurt Hoyt and DeWald's feelings and she should apologize to them.

When I asked Frankel about her recollection of the meeting, she denied telling Montoya that she had hurt Hoyt's feelings and said she asked Montoya what she had learned so far about her colleagues. She said she told Montoya the leadership retreat would be a good time to learn more about her colleagues. Frankel told me when she said that she felt Montoya was dismissive of that advice. Frankel said she had the impression that Montoya was more interested in projects than people. Frankel denied telling Montoya that she needed to sound less intellectual or that she lacked curiosity or empathy. Frankel also denied yelling at Montoya or telling her that she needed to apologize to Hoyt or to DeWald.

After her meeting with Frankel, on August 21st, Montoya sent Schulz an email:

Just got a lot of feedback and coaching from Jean that I need to work on my communication style – specifically that I hurt Chris and Daryll's feelings. I suspect I also hurt Jean's. The feedback was focused on how my values are not aligned, and that I talk too much, etc. Just wanted to let you know that I got the message and will work on fitting in better. And I'll reach out to Chris and Daryll.

She advised that I not talk about the Corporate Engagement Office as a decision at the retreat. I'll slow down the college planning as desired to align with her process.

Schulz responded to Montoya's email and said,

Just a reminder – everyone here is eager to partner with you – also get to know you as a leader, colleague and as a person. I would continue to urge you to approach meetings with folks in listening mode (even if you are confident you have the facts & story). – and just remind them you are here to work with them moving forward. You have an engaging & dynamic personality – just let that shine through a bit. We do have a lot of challenges- but they all don't need to be fixed immediately.

At heart – I am more solutions oriented and have to slow myself down at times – and I have gotten better at reading people & morphing my communications style a bit to suit them.

So – my suggestion is that when we next sit down – we go through your list of significant items or initiatives and discuss pacing. There are probably some items that need 100% Mitzi Speed and other which may need 10% MS – I think I can help with suggestions on pacing and communications.

Darryl, Kirk, Stacy and others are here to help you with the weirdness of WSU. About 80% of WSU was nearly identical to K-State_ but the other 20% was different and can be downright bizarre at times- including people's perception of reality. I have had to "ease" people towards the "actual" situation several times which seems frustratingly inefficient – but is a bit of the culture here.

Finally, I have never seen anyone who could stand in front of a group of legislators, Regents, etc and so quickly come across as having been here for a couple of years as you have done.

I am glad you are here and we are going to do great things! Don't get too frustrated by any of this.

Montoya responded to Schulz's email and said, "Thanks Kirk. I'll dial things down and put a draft list together for feedback. I'm here to help you, Stacy and Daryll be successful".

Schulz never told Montoya she needed to apologize to Hoyt. Nevertheless, Montoya apologized to Hoyt the following day and said it was not her intent to hurt her feelings. Hoyt told her she did not hurt her feelings but that she had been offended by her dismissiveness.

On August 22, 2019, at the Leadership retreat Montoya told two female vice presidents that Frankel told her she needed to act more femininely and that she should be quiet at the retreat. Both vice presidents told me that Montoya was upset about her meeting with Frankel. The witnesses said Montoya said Frankel told her to act more femininely and to be quiet at the retreat. Both witnesses said they were surprised that Frankel would make such comments. One witness noted that Montoya tended to use dramatic language. Both witnesses coached Montoya about the importance of listening to her colleagues and that pace of change and culture are important.

On August 25th Montoya sent an email to the WSU Leadership team reflecting on what she had learned at the retreat and over the past three weeks since joining WSU. Montoya described the provost's role as follows:

the Provost works on helping the institution address the most important challenges it faces in its drive to excellence, and that work entails persistent critical diagnosis.” Montoya recommended two leadership development books: “In Defense of Troublemakers: The Power of Dissent in Life and Business” which she said is important because the author reminds us that “we need to create an environment where people on teams feel empowered to speak up as we diagnose problems and craft solutions. This is an important reminder because we have a majority shared value of consensus, collaboration, and being Cougar nice -all of which are characteristics that make WSU an amazing place to work. The core message of this book is not that we should create dissent, but that we should permit dissent and embrace it when it is present, even if we don't like it or agree with it, because it will increase the quality of our decision-making process.” Montoya noted that the core message of the strategy book is that “strategy is a cohesive response to an important challenge. Good strategy is based on critical diagnosis that focuses on root causes, followed by aligned guiding policies and coherent actions.

On August 26, 2019, Montoya sent an email to the health sciences deans asking them to make an effort to attend the bi-weekly Deans' Council meetings. She emailed Schulz and said, “if I'm expected to oversee all academic affairs, it would be great if the deans that don't report to me are told that they have to engage with the provost. Or I need to be told that they don't need to engage. Either answer is good-but we all lack clarity right now. We have created another unusual model wherein hiring/firing/budget are disconnected and the only management tool in the Provost Office for these 3 colleges is veto power. This is the opposite of a strategic plan or developmental model wherein someone (a chancellor or provost) coaches, develops and incentivizes Deans toward strategic goals. I think alignment one way or the other is better for WSU than creating yet another

misalignment. I have no interest in control. I'm happy to share opinions on what I think is "best" if desired but I will always land on recommending alignment over misalignment any day of the week. Could we discuss?" Montoya immediately sent a subsequent email to Schulz and said,

Didn't mean to imply I need to manage these colleges. I don't. I'm suggesting that we consider fully enabling Daryll to do whatever is desired (he runs these units, does the hiring/firing/ P&T, manages the faculty, etc. however he sees fit) or we let the Provost Office run normal processes to advance academic affairs in these colleges like any other. I'm recommending that we commit to one model or the other. The split/misaligned model is confusing to everyone at every level and this confusion is playing out daily.

In response to Montoya's email, on August 27, 2019, Schulz emailed Montoya and Dewald and told them to work together to develop a clear set of guidelines for academic programs, tenure and promotion, etc. He also told them that he expected that all the deans interact on the Dean's Council on a regular basis, regardless of reporting structure.

During our interview, Schulz told me when he discussed WSU's structure with Montoya and the importance of working collaboratively, she responded appropriately but then he learned that Montoya met with the Spokane deans (DeWald's direct reports) without giving DeWald the courtesy of telling him. When asked about Montoya's relationship with DeWald, Schulz said he is a great believer in having people get to know each other and work together professionally. He said he never achieved this with Montoya and DeWald. He told me that Montoya was disparaging of DeWald and referred to him as a "super dean" instead of acknowledging his role as a vice president.

On August 28, 2019, Montoya emailed Schulz and asked him if she could be involved in the various academic program discussions on the Everett campus with the chancellors and deans. Schulz responded to Montoya's email and told her he was happy to have her lead this. Schulz acknowledged to Montoya the chancellor's frustration with the deans having absolute control over program offerings but also said "that discussion is now done for the year." Montoya responded to Schulz's email and again raised her frustration with the current model.

When I asked Schulz for his opinion of Montoya's performance during this time period (in which Montoya had held the position for only a few weeks), Schulz said he believed Montoya was doing excellent work but he was concerned about her pacing and timeline. He wanted her to be successful in their culture but was concerned that she wanted to solve everything immediately. Schulz told this investigator, "a single person cannot completely change a culture. She got frustrated that things did not happen as quickly as she wanted them to. We are a relationship organization and not transactional." Schulz told me Montoya repeatedly discussed her perspectives on WSU, the current leadership, and the challenges facing the University. Schulz acknowledged and appreciated Montoya's perspective but also told her it was important to slow down the pacing. Schulz said he also made it clear to her that he was not going to eliminate the chancellors' role.

In light of these recurring conversations with Montoya, on September 2, 2019, Schulz sent Montoya a lengthy email regarding WSU system direction and his thoughts about Montoya's question - where are we going with the WSU system. In the email, Schulz explained to Montoya the steps that WSU took to get them where they are today. Schulz told Montoya about his time looking at other structural models and specifically how health sciences campuses are structured when they are geographically removed from the main campus. Schulz said in part,

my plan from the beginning was to stand up a Vice President of Health Sciences position to be housed in Spokane which would then have the authority and mandate to get 3 colleges working more closely together (Medicine, Nursing, Pharmacy), develop a long term plan for the Health Sciences for WSU, represent our growing health sciences at the state, regional, and national level, build partnerships with the health care community, etc. We also did not have these three colleges working actively with anyone on the Pullman campus – and Daryll was interested in taking on a larger set of responsibilities – so was a really good fit for what we needed.” Finally, Schulz acknowledged “his primary leadership challenge is finding ways to creatively problem solve some of thorny issues with both the Chancellors and Deans. In my view – neither side is ‘right’ or ‘wrong’ – I respect all of them a great deal and understand their perspectives on what each is trying to accomplish.

Montoya replied to Schulz's email later that evening thanking him for the helpful history and again pointed out her concern that the lack of alignment is what is causing the conflict. Montoya stated, in part,

The current design compels weird behavior by everyone. I'm smack dab in the middle of it – for example, I'm Provost and yet 3 Deans and related budgets no longer report to me. That's creating weird behavior among the Provost, Chancellor, CFO and 3 deans.”

Montoya continued to advocate for the ASU model. On September 3, 2019, Montoya sent an email to Schulz about the ASU case study and another email forwarding an email she received from the Dean of College of Arts and Sciences about multi-campus challenges. Montoya told Schulz that,

“...we could just acknowledge that faculty should be managed by academic units (chairs, director, deans and provost). Would Chancellors scream – yes. Is this difficult – no. It is a matter of changing supervisors. Instead of reporting to a vice chancellor or chancellor, faculty would simply revert back to reporting to their chair/director, who reports to a dean, who should report to the Provost, who makes sure nobody randomly “steals” money or cuts programs without. Budget follows people. Then we'd sort out how to manage facilities.

On September 3, 2019, Schulz responded to Montoya and said he was glad the deans are thinking broadly about academic excellence and that this was the first he had heard about some of their frustrations. Schulz told Montoya, “Let’s make a comprehensive list of the concerns Deans have – and at least have a conversation before making a change in reporting structure. I remain committed in attempting to engage our current Chancellors, Deans and other Vice Presidents in working towards solutions.... I believe that it would be appropriate to write up a white paper which describes what it is we are trying to accomplish. We need to engage all of our current leadership in these discussions. At this point I am not willing to make the decision to reassign all these faculty unilaterally.” Finally, Schulz told Montoya,

You have been at WSU five weeks. Give yourself some time to get to know all of us. We don’t need to fix all of the multitude of our challenges by October 1. No one is looking for you to bring a miracle to cure all of our ills in the first 30 days. I fully understand that the Chancellors are part of the challenge to getting some of these things addressed – my commitment here is that we will work together to attempt to get these addressed to the Deans satisfaction. I want you to observe and document all of these issues with our Deans – along with their (and your) suggested solutions. I am slow to make decisions – and I am sure I will frustrate you to no end. I understand that wishing for things to be different doesn’t fix anything. However – I am not going to do anything significant until we have a chance to discuss it broadly. I will insist on this approach as we make significant system wide decisions.

Over the next several weeks, Montoya continued to analyze system design alternatives and appropriately tasked Vice Provost Craig Parks with this analysis. During this time period, Schulz continued to take a measured response to Montoya’s effort to fast track structural changes by counseling her to slow down her pace. Schulz continued to tell Montoya in several meetings and emails that he was not going to change the role of the chancellors or the reporting structure of the three health science deans.

On September 12, 2019, Montoya met with the Facilities and Administration (F & A) committee and presented a proposal authored by Chris Keane, Vice President for Research, to change Facilities and Administration allocations which would mean that the campuses outside of Pullman would receive less than half of what they currently were receiving. A chancellor who attended the meeting spoke of the chancellors’ concerns about the proposal. This chancellor said Montoya said that the chancellors have all the power and the deans have no power and they are going to change that by moving things centrally. The chancellors disagreed with the proposal’s finding that the deans and the provost are in a better position to allocate F &A to the campuses.

On September 13, 2019, the chancellors sent Keane, Schulz, and Montoya a memo stating their concerns. The memo concluded by stating:

We agree with the Provost's emphasis on excellence. We should start with the notion that we all come from that starting point rather than asserting that our opposition is somehow self-serving, as she suggested. This type of rhetoric only serves to impede progress and success. As Richard Rumelt stresses in *Good Strategy Bad Strategy*, too often strategies are implemented because the hard work of diagnosing the cause has not been done. We are committed to investing in the hard work of true diagnosis and the development of a comprehensive and fair strategy moving forward.

When Schulz received the memo, he felt that Montoya was again trying to change the structure by cutting the chancellor's budget.

On September 16, 2019, Stacy Pearson, CFO and VP for Finance and Administration, sent an email to Colleen Kerr, VP of External Affairs-Governmental Relations, and DeWald regarding her concerns about funding for a Health Sciences Government and Community Relations position. Montoya forwarded Pearson's email to the deans without telling Pearson. Schulz, Kerr, DeWald and Pearson were upset that Montoya forwarded Pearson's email to the deans before a decision about the position had even been made. Schulz felt that Pearson's budget concerns were issues that should be handled at the vice president level and that this was one more instance where Montoya was driving a wedge between members of his team rather than discussing the issues collaboratively. Schulz spoke to Montoya about the email and asked her to apologize to Pearson, Kerr, and the chancellors for including the deans in the conversation about budget. Montoya sent an apology. DeWald thanked Montoya and said, "We are committed to working together to address the budgetary, academic and research challenges." Even though Pearson had not forwarded the email, she apologized to DeWald because she felt it was the right thing to do.

On September 20, 2019, two cabinet members met with Schulz concerning their interactions with Montoya. One cabinet member told Schulz that Montoya told this member that Montoya believes she was hired to institute an ASU model at WSU and that she planned to organize deans and faculty against Schulz's direction. This member said Montoya organized people as players, partners, blockers and soldiers and used information she learned to her advantage. The cabinet members told Schulz about incidents where Montoya was disrespectful to her colleagues and did not want to collaborate and work together. After the meeting, Schulz called a female cabinet member who had worked closely with Montoya during the past two months to reach out to others about their working relationship with Montoya. Schulz said he entrusted this cabinet member with this role because she is even keeled, has a critical eye, and would have no problem telling him if she thought there was an issue concerning Montoya's leadership.

Schulz knew that Frankel was meeting with Montoya on September 22, 2019, in a regularly scheduled meeting. Before the meeting, Schulz texted Frankel about the concerns he had been hearing. Schulz said,

For Mitzi today – I am not sure she has worked anywhere where colleagues talk with each other. I think it is important to for her to know that.

1. Colleagues came to me with concerns on her behavior
2. When she wants to be collaborative-she can be very, very good.
3. If she ever wants to be a President-she must learn to work with people different than her stylistically.
4. She may think the Chancellors are going away – they are not. Finally – I need to know how she wants to work with me. Good luck today. I still have hope. She is really talented and can really do a lot at WSU – if she can work with people. But if she cannot – forget being a President.

Frankel confirmed with Schulz that he was asking her to deliver those messages to Montoya and for her help to find a way for he and Montoya to work together productively.

September 22, 2019 Meeting Between Frankel and Montoya

On September 22, 2019, Frankel met with Montoya at her house. Prior to the meeting, Montoya sent Frankel her responses to the Leadership SWOT Analysis and Hogan Leadership Forecast Series. The Leadership SWOT Analysis asks the individual to consider a series of questions which identify strengths and weaknesses from the standpoint of a colleague. Montoya identified her leadership strengths as:

Ability to influence; ability to chart a course to excellence; ability to connect; ability to empower others; resilient commitment to my principles even and especially in the face of opposition and criticism; ability to communicate effectively; role-based expertise and experience; ability to recruit leaders; sense of humor.

In response to the question about what strengths are required for success in her current role and what functions or activities do you execute most effectively, Montoya wrote:

Ability to solve problems so others can succeed-especially faculty, student and support staff; ability to diagnose situations, develop strategy (make choices) and create processes to advance an organization; willingness to tackle difficult things; ability to mediate conflict about opposing ideas and build coalitions for change; helping people see themselves in the future of an organization. Diagnosing systems, developing strategic responses, implementing

operational plans. Basically, orchestrating changes that advance organizations.

In response to the question about what Montoya perceived as her most significant weaknesses, she wrote:

Lack of sufficient patience in some contexts; my commitment to excellence; remembering that some people's feelings are hurt by critical analyses of organizational issues; my experience at Top 25 institutions is a handicap in some ways; my communication style is ineffective with some people.

In response to the question about what others may see as Montoya's most significant weakness, she wrote:

Saying unpopular or uncomfortable things – interpreted as not being nice; lack of conformity with current culture – interpreted as being disruptive; debating ideas – interpreted as argumentative.

In response to the question about what feedback Montoya has received that would suggest weaknesses in her leadership style, she wrote

I've been asked to stop talking (as many women are); I've been told that I seem angry (as many women are); I've been told my values are misaligned with WSU; I've been told that I've hurt specific people's feelings.

In response to the question about if Montoya felt over-committed or overwhelmed right now, and, if so, in what ways, she wrote:

There is a curious strong desire for major things to be fixed and massive resistance to any course of action. The combination is unusual. It is a recipe for conflict – which is normal. But this place is highly conflict-avoidant and it seems to know that it's opposing desires are creating the conflict. I'm the target of most of that since the things to "fix" are theoretically (though not really) in my area of responsibility. It's not overwhelming so much as fascinating.

In response to the question about if colleagues or senior leaders have given Montoya feedback about ways to improve her leadership, and if so, what advantages would taking their advice yield, she wrote:

Jean has asked me to speak in questions, which may be effective with the chancellors and some VPs. I need to be very aware that communications with certain people will involve hurt feelings if any critique is provided. I have been advised to stop providing critique,

but that would be dereliction of duty. When I communicate with specific people whose feelings are easily hurt, I am working to speak indirectly, with more flowery language, upspeak and smiles (as women are so often advised to behave).

In response to the question about what Montoya could do today that currently isn't being done by Montoya or others; and what is possible but not yet identified or understood, she wrote:

Communicate in a more feminine style. Let others speak for me.

In response to the question about what threats do Montoya's weaknesses expose her to; or what could harm her in her current leadership position or prevent Montoya from succeeding, she wrote:

I serve at will. I can be sent back to the faculty at any time. I don't view that as harmful. I would view it as a personal failure if I was not able to help WSU turn the corner toward the aspirational goal the president has defined (Drive to 25). The organizational resistance to change is the threat. As a leader, if I cannot navigate through that resistance (for any reason), that would prevent me from helping WSU advance.

When this investigator asked Montoya about her responses to the SWOT analysis, she told me that neither Frankel nor anyone at WSU ever told her to communicate in a more feminine style, to let others speak for her, to use flowery language, or to upspeak. Montoya explained to me that she used those words herself in the analysis response based on her interpretation of Frankel's advice during their August 21st meeting.

Montoya said she and Frankel spent the first hour of their meeting having lunch and then Frankel reviewed with her the SWOT analysis responses and the leadership personality test results. Montoya said Frankel expressed surprise that the personality test showed she was high in curiosity and empathy. Montoya said Frankel asked her why she had written "communicate in a more feminine style" in the SWOT analysis and she told her because she felt that Frankel had given her gendered advice and explained to her what she had learned in various programs at Oregon State. Montoya said Frankel said to her why do you make everything about gender.

Montoya said Frankel was antagonistic during the meeting and asked her if she would be authentically happy at WSU if nothing changed. Montoya said Frankel told her it had been decided at a meeting that there will be no changes. Montoya said when she asked Frankel who met, she refused to say. Montoya said she felt like Frankel was personally attacking her when she repeatedly asked her if she felt like she fit in at WSU. Montoya said she asked Frankel if she should stop her projects. Montoya said Frankel told her she should discuss it with Schulz. Montoya said Frankel seemed manipulative and Montoya felt like she needed to be a puppet to please her.

Frankel said her meeting with Montoya began with a pleasant lunch where she felt that Montoya was open and engaging. Frankel had reviewed Montoya's responses to the SWOT analysis and

was eager to discuss them because she thought Montoya had reflected on the feedback that she had been receiving. Frankel said, however, when they reviewed the SWOT analysis document Montoya became “very combative, challenging me, questioning me, asking me if I thought the feedback was true, trying to pull me into the politics, and attacking me when I refused”. Frankel said Montoya made a comment about women being asked to stop talking and when she asked her who said that she would not say. Frankel told me that she never said that to Montoya and would be surprised if anyone did because WSU is not that kind of culture. Frankel denied that she asked Montoya “why do you make everything about gender?” Frankel told me when she told Montoya that Schulz had asked her to talk to her about leadership style, collaboration and the role of the chancellors, Montoya started attacking Schulz and said she did not know what his vision was.

Frankel said she did not take any notes during her meeting with Montoya but wrote a full set of notes that evening. During the investigation, Frankel sent me an email based on what she said were her notes of the direct quotes made by Montoya (Montoya’s direct quotes, according to Frankel, are in italics below). When I asked Frankel to provide me her actual notes, she said she had deleted them after she prepared her email to me. In Frankel’s email to me she said Montoya made the following statements during their meeting:

- *A lot of things need to be changed if we want to move into this century, and I want to make those changes. If Kirk doesn’t want me to change the culture he needs to tell me. This place needs someone who can drive change, and it isn’t him.*
- *There are people who will partner with me and others who will fight me to the death. I’m ready to go to battle with whoever I have to. I’m prepared to go to war with Colleen and I know how and I will do it.*
- *The chancellors are an impediment to proper management. Faculty is organizing for an uprising over the way the university is managed. There is strong agreement among the faculty on the need to change.*
- *She is convinced that the Pharmacy Dean and the Nursing Dean were terminated because they were disruptive [both of which are completely untrue, as per the VP of Health Sciences].*
- *There is a complete lack of understanding on what has to change to accomplish the president’s vision. [Then she is not sure what President Schulz’s real vision is and challenges me to describe it. I told her that’s not my role].*
- *Kirk’s role is to be liked. Hard decisions are pushed off to other team members. He tries to avoid disagreement. This prevents us from getting to the nut of the issue. He doesn’t make the hard*

decisions. Ultimately, Kirk can't deliver unless he is willing to make some hard decisions.

- *I'm getting a lot of feedback on my communication style. I am not fond of consensus decisions. I like a CEO model vs collaborative model. [She recounts that she sent something to President Schulz for his input and was annoyed that he wanted the input from others in the Cabinet].*

- *Yes, I could have a problem adapting to the collaborative model that Kirk wants. Kirk told me I hurt Daryll's feelings – I asked him, what do you want me to do about it? She says she can't change her style and if the organization has a person who doesn't fit in they need to tell them to leave.*

- *When I tried to help her think through how she could adapt her style to one that is more collaborative and less combative, she challenges me, saying, *are you telling me not to talk?* I reply no. I ask her to listen more and ask questions and be inquisitive. This is the kind of leadership feedback I give many leaders, both male and female. She says she is a researcher and that shows she knows how to ask questions but she doesn't want to ask questions of her colleagues. I think this is where she completely misinterpreted my comments, perhaps she looks at the world from a gender-lens, rather than a leadership lens. My advice seemed to go completely over her head.*

- *She again challenged me and said if it is not a good fit she can step down and tries to get me to give her an opinion as to whether she should. I tell her she needs to think it through herself, but it is my understanding that President Schulz is happy with the current culture and structure and is not interested in making major structural or cultural change. She notes that she isn't planning on going anywhere. She has no problem with the discomfort she is creating. Then she says, a different kind of provost would be more operationally focused, but I'm not that person. They could have saved a lot of money and hired me as a consultant if they wanted me to lead change. And that's what I thought he wanted.*

When I asked Montoya if she said any of the above statements Frankel attributed to her, she denied saying any of the above, other than the statement that the faculty agrees on the need to change and there is a complete lack of understanding on what has to change to accomplish the president's vision.

A few hours after the September 22 meeting, Frankel called Schulz and told him that there was not a lot of hope that Montoya would be able to develop a collaborative style and that she seemed angry. Frankel did not provide Schulz any details of their meeting nor did she tell him about Montoya's responses to the SWOT analysis. Frankel said Schulz never asked for her opinion about whether Montoya should be terminated nor would it be appropriate for her to provide her opinion. When I asked Schulz if Frankel told him that Montoya said any of the above described comments, he said she did not.

On September 22, 2019 at 6:42 p.m., Schulz sent an email to the chancellors and Montoya reaffirming his commitment to the WSU Spokane reporting structure. Schulz said he had clearly told Montoya that the reporting structure in Spokane was not going to change but based on what he was hearing he felt it was important that the chancellors and Montoya hear it again. In the email Schulz said,

I have had several people inquire about the reporting structure in Spokane and for WSU Health – and in particular if it was going to change “back” to what it was prior to July 1. These conversations have moved into the Spokane community and to the WSU Board of Regents (cc'd here). The greater Spokane community has taken great pride in having WSU Health administered out of the Spokane campus – and has provided significant political and financial support to make this happen.

I want to re-affirm my commitment to the reporting structure I put in place on July 1 with the Deans of Medicine, Nursing and Pharmacy and Pharmaceutical Sciences reporting directly Vice President for Health Sciences DeWald. We are not revisiting this structural change and will continue to move forward to build an integrated Health Sciences campus in Spokane. The open dean searches for Nursing and Pharmacy and Pharmaceutical Sciences will be managed, supervised and filled by Vice President DeWald. I fully expect that he will consult with me as President and with Provost Montoya as he makes a hiring decision – however let me re-affirm that this is his decision to make.

During the investigation, Montoya told me when she received Schulz's email, she interpreted it to be an illustration of what Frankel told her that there would be no changes. Montoya said to me, “This was an unusual pronouncement for Schulz. Also, the pronouncement by email to all of these people effectively changed my role in relation to the chancellor and the pronouncement was inconsistent with my position description. It is unusual to learn of a change in your position via an email distributed to a wide audience.” Shortly after reading Schulz's above email, Montoya sent Schulz an email summarizing the feedback she had received from Frankel and said that it seemed like she was not a fit at WSU. Montoya said in part,

2. I had another session with Jean today wherein I learned that there are major concerns about me –I need a personality transplant, I need to be more feminine and conforming in my communication style, and I need to be less intelligent. She also indicated that you said there will be no changes that affect Chancellors in any way. You wrote and confirmed this for one, so I trust she was accurate in her statement for all. It seems I need to quickly stop a lot of projects - integrated system enrollment management planning (consultants and EM team), system budget model analysis (Stacy, Don and team), system design analysis (Craig Park and Greg Crouch) and the geographic planning all Deans were doing.

3. I was going to write and ask if we could talk about the concerns Jean relayed about me. But I think the conclusion is that I am not a fit for what you need here. I can quickly and smoothly transition the projects above to something appropriate and non-conflict producing. I'd like to discuss how we can transition me to a better role-e.g., back to the faculty to do good outreach like AWL, my teaching and research.

Schulz sent Montoya an email at 7:30 p.m. and said, “Let’s meet on Wednesday – we can discuss then. Let’s not stop everything just yet.” Schulz said that he canceled his cabinet meetings scheduled for September 23rd so that he had a chance to talk to Montoya. Schulz said he was surprised when Montoya offered to resign and felt that she would only say that if she was serious about doing so.

When I asked Schulz what he thought about Montoya’s statement that Frankel told her to act more femininely and conforming and less intelligent, he said he did not believe Frankel would say that. Schulz said that no other female vice president had ever reported to him that Frankel had made gender based comments to them. Schulz said he never reviewed Montoya’s SWOT analysis responses until he read the newspaper article excerpts.

When asked whether he had decided on September 22 to accept Montoya’s resignation, he said he had not. Schulz said while he was leaning in that direction, he was also looking for someone to talk him off the ledge. On September 23, 2019, Schulz spoke with the female cabinet member about what she had learned from her colleagues. The cabinet member told Schulz, without telling him who she spoke to, that people had reported to her that Montoya had detrimental relationships with the chancellors and several vice presidents and that she did not listen to people. This cabinet member also reported that people had observed that Schulz’s direction seemed different from Montoya’s direction. The loud and clear message that Schulz heard from her was that Montoya would not listen to others. Schulz felt that he was having the same conversations over and over with Montoya and was not making any progress. Schulz was also concerned that the chancellors and maybe others would leave if Montoya stayed.

On September 24, 2019, Schulz learned of other examples where Montoya had been dismissive to staff. Schulz said it became clear that he had no choice but to terminate Montoya's appointment. When asked whether Frankel's input about Montoya played any role in his decision, he said it did not and explained that it is not Frankel's role to decide who should work at WSU. When I asked Schulz about the allegation that the chancellors and the regents forced him to make the decision, he said that was absolutely false. He said that he never met with any of the regents nor received any input from them before making his decision. While he acknowledged that he was aware of Montoya's conflicts with DeWald, his decision to terminate her appointment was not based on that factor alone.

When Montoya was asked whether Schulz made the decision to terminate her based on her gender, Montoya said nothing Schulz ever said to her reflected any gender bias on his part. During the investigation, Montoya indicated that Schulz treated her differently than Bernardo because she was told to apologize to DeWald and Bernardo was never told to do so even though he disagreed with the chancellor's role. When I asked Schulz if there was a difference in how he treated Montoya and Bernardo, he said there was not. Schulz said while Bernardo might have disagreed with his decision about the chancellor's reporting structure, he accepted the decision and moved on. In my investigation interview with Bernardo, he confirmed that he was not happy with the chancellor's role but he told Schulz that he was the president and he would live with his decision. Bernardo told me he was impressed with how quickly Montoya had assessed the institutional challenges surrounding the system design and budget. Bernardo opined about the difference between Schulz and Montoya and noted Schulz's style is collaborative and Montoya's style is more direct. When asked whether he thought Schulz terminated Montoya based on her gender, he said no. He told me he thought Montoya was dismissed because of her style.

VI. Analysis

Issue 1: Whether WSU's contractor, Jean Frankel provided or relayed gender-based feedback to, or an assessment of, WSU's former provost, Mitzi Montoya that was discriminatory based on gender?

Finding: I find that this allegation is not substantiated by a preponderance of the evidence.

Analysis:

Although Montoya did not file a formal complaint of discriminatory treatment, WSU initiated an investigation into whether Frankel provided Montoya with gender-based feedback or assessment during their in-person meetings on August 21, 2019 and/or on September 22, 2019.

August 21, 2019 Meeting

On August 21, 2019, prior to Frankel and Montoya's one-on-one meeting, Montoya, Schulz, Frankel and Hoyt met to discuss the strategic plan in advance of the August 22, 2019 Leadership Retreat. Montoya claims that Frankel cut her off when she told Hoyt that the strategic plan needed to include the faculty's input. Hoyt said when she tried to provide Montoya with historical context

concerning the strategic planning committee's work, Montoya was dismissive. When I asked Schulz about the meeting, he described it as tense.

After the meeting, Frankel and Montoya met in their regularly scheduled meeting. Montoya said Frankel went negative immediately. Montoya claims Frankel told her that she talked too much, she needed to speak in questions, work on sounding less intellectual, smile more and focus on being warm. Montoya said Frankel told her everyone thinks you are angry and you seem paranoid. Montoya said when she asked Frankel who said that she would not tell her, although she did tell her that she had hurt Chris Hoyt's and Daryl DeWald's feelings. Montoya said Frankel told her she was dismissive of Hoyt during their earlier meeting when she cut Hoyt off when she gave her background information about the strategic plan. Montoya said she told Frankel that they had limited time and she had heard about the strategic plan already. Montoya said Frankel also told her she had hurt DeWald's feelings when she inquired about whether the dean of medicine may participate in tenure and promotion decisions.

Montoya further said Frankel advised her to listen and try not to talk much at the leadership retreat on August 22 and 23. Montoya said she was supposed to present at the retreat but Frankel removed her from the schedule and told her there would not be time for her presentation. Finally, Montoya said Frankel told her that her values were not aligned with Schulz and that Schulz's number one value was conflict avoidance.

Montoya told me that Frankel gave her gendered feedback and specifically said Frankel's advice to speak less, speak in questions, sound less intellectual and smile more is the type of advice that women are often given. When asked to clarify further, Montoya told me "women are commonly advised to be seen and not heard and to focus on being nice rather than on performance or competence." Montoya further explained that "women are framed as angry if they disagree or are assertive".

When I asked Montoya about her interactions with Hoyt during the meeting, she said she was already familiar with the strategic plan. Montoya acknowledged being upset that she had to apologize to Hoyt and DeWald over what she viewed as extremely minor incidents. Montoya told me "women are commonly expected to be deferential and framed as angry when they make a decision with which others disagree." Montoya said she asked Frankel if she was aware that she was giving gendered advice, and Frankel said she gives the same advice to males and females.

Montoya sent Schulz an email on August 21st and told him she had received a lot of feedback and coaching from Frankel that she needs to work on her communication style – specifically that she had hurt Hoyt and DeWald's feelings. She told Schulz that the feedback was focused on how her values are not aligned, and that I talk too much, etc. Montoya told Schulz she got the message and would work on fitting in better. Montoya did not tell Schulz that she thought Frankel gave her gender-based feedback or that she was being treated differently based on her sex. Schulz responded and said everyone is eager to partner with you and to approach meetings in listening mode.

When asked about the August 21st meeting, Frankel denied giving Montoya any gender-based feedback and specifically denied telling her to speak less, speak in questions, sound less intellectual and smile more. In our first interview, Frankel denied telling Montoya that she had hurt Chris Hoyt or Daryl DeWald's feelings and told me that it is not her job to do that. When I read Frankel the email Montoya sent to Schulz, where she told Schulz that Frankel told her she hurt their feelings, Frankel said it was possible that Montoya had brought up her conversations with Hoyt and DeWald. During this first interview, Frankel told me that she had been on vacation between August 1 and August 19 and had not spoken to anyone about Montoya.

When asked if she removed Montoya from the retreat schedule, she said the retreat involved small group discussions that she was facilitating and that business engagement and the capital planning process were not topics on the agenda. Other witnesses confirmed that Frankel facilitated small group table discussions. When asked if she told Montoya to speak less at the retreat, Frankel denied saying that. Frankel said she asked Montoya what she knew about her colleagues and told her that she would learn more about her colleagues if she asked them more questions. Frankel said she told Montoya the retreat would be a good time to do that.

In my second interview with Frankel, she was more forthcoming and said that DeWald had told her during her August meeting with him that Montoya had met with the three health science deans without letting him know. Frankel told me that WSU is a very collaborative culture and that Montoya's conduct was inappropriate. Frankel told me that she had also heard from people that Montoya was rude and abrupt. When I asked Frankel who said that, Frankel would not say. Frankel said when she tried to coach Montoya about WSU culture, Montoya seemed to be impatient about what she called "WSU nice". Frankel told me she never told Schulz about her August 21 meeting with Montoya. Schulz confirmed that neither Frankel nor Montoya gave him any details of the August 21 meeting.

Montoya told me she was so upset about her meeting with Frankel that she told two female vice presidents what Frankel had said to her. Both witnesses confirmed that Montoya seemed upset. One witness recalled Montoya said Frankel told her she needed to act more femininely and to be quiet at the retreat. Montoya told this witness that Frankel had shared confidential information about other vice presidents which this witness felt was inappropriate. This witness was perplexed about the statements Montoya claimed Frankel had made to her and noted to me that Montoya tended to use dramatic language. This witness had heard from other colleagues that Montoya did not seem to listen to people. She had previously coached Montoya that people had reported that she had made them feel incompetent during initial meetings with her. When this witness counseled Montoya that her approach might be too direct, Montoya said "I like to run into the fire."

The other witness recalled that Montoya said Frankel told her to be quiet at the retreat, to apologize to DeWald and others, she was too direct in her communications and mannerisms and she needed to tone it back. This witness said she did not recall that Montoya said Frankel told her to sound less intellectual. This witness told me she thought what Montoya told her Frankel said to her sounded bizarre. Both witnesses thought highly of Montoya and wanted her to succeed but they also disagreed with her approach of blowing everything up. One of these witnesses shared with Montoya her views about WSU and told her, "culture is important, pace of change is important,

you need to listen, there is a lot of history and long memories here. Coming in and blowing things up doesn't work." This witness said Montoya questioned whether WSU was the right place for her because she was brought in to be a change agent and she thought it was to do it quickly. The witness told Montoya that what she was hearing from her was that she wanted to blow things up and then fix it without a plan. She told Montoya she needed to make sure the pace of her change was being well received and that if it was not, she needed to talk to the president and be thoughtful and careful about the culture of the institution.

When both witnesses were asked whether they believed Frankel told Montoya that her views don't align with Schulz, both witnesses acknowledged the natural tensions between the vice presidents, the chancellors and the deans because the roles are not clearly stated. One witness said the issues that Montoya was raising are issues that they had all been diligently working on for years. This witness said that Montoya asked good questions but it seemed to this witness that it was arrogant for Montoya to think that she could make such change in just a few weeks of being provost. In both witnesses' opinion, Montoya's style to blow things up and later fix it does not work in many institutions, including WSU. The witnesses felt that Montoya had taken on too many projects and they coached her on the importance of listening and not blowing things up without a plan.

When these witnesses were asked whether Frankel had ever provided them gendered feedback during their coaching sessions with Frankel, both said she had not. One witness said her meetings with Frankel were mostly positive and she told her she was a good listener. Another female witness said Frankel told her to be warm and approachable; which the witness felt was appropriate advice and not gender based.

When these female cabinet members were asked whether Schulz ever demonstrated any gender bias toward them, they noted that they never saw that. Both noted that Schulz is focused on leadership and not on gender. Both vice presidents said Schulz never asked them to avoid a conversation or not to speak up. To the contrary, one cabinet member said Schulz asked her to speak more during external meetings where her natural inclination was to defer to the president. Other female cabinet members interviewed also noted that Schulz never treated them differently because of their gender.

Montoya claims that Frankel's directive that she apologize to Hoyt and DeWald is an example of women being expected to be deferential and framed as angry when they make a decision with which others disagree. Several female witnesses said that Montoya was often dismissive and abrupt to colleagues. Montoya also admitted in her August 22nd email to Schulz that she may have offended Hoyt and DeWald and would reach out to them. I find that Frankel's advice to Montoya to apologize to a colleague is not gender-based advice but was appropriate coaching directed toward a specific incident.

Montoya also inferred that Schulz displayed gender bias when he directed her to apologize to DeWald for forwarding an email about budget issues to the deans. The female vice president whose email was forwarded apologized to DeWald because she believed it was inappropriate for Montoya to forward the email. I find that Schulz appropriately counseled Montoya to apologize to DeWald

because he wanted his cabinet members to work in a collaborative and respectful environment and that his directive was not based on gender bias.

During the investigation Montoya inferred, without substantiation, that she was treated differently than the former male provost. Witnesses who were asked about this comparison disagreed with this inference and said that they did not think that Schulz treated Montoya differently than he treated Bernardo. One female cabinet member said Bernardo disagreed with Schulz's decision about the chancellor's role but he accepted the decision whereas Montoya openly opposed the president's direction. Bernardo also confirmed that while he disagreed with Schulz's approach, he accepted the decision. I find no evidence to support a finding that Schulz treated Montoya differently than the former provost.

SWOT Analysis and September 22, 2019 Meeting

On September 22, 2019 Montoya emailed Schulz and said Frankel told her she needed to be more feminine and conforming in her communication style and she needed to be less intelligent. When asked whether Frankel had ever said that to her, Montoya said neither Frankel, Schulz or anyone at WSU ever told her to communicate in a more feminine style, to let others speak for her, to use flowery language or to use upspeak. Montoya explained that those were her words used in the SWOT analysis responses based on her own interpretation of what Frankel told her in their August 21st meeting. Based on a preponderance of the evidence, I find that Frankel did not provide gender-based feedback to Montoya and specifically did not tell Montoya to be more feminine, conform her communication style or to act less intelligent.

Some witnesses were critical of Frankel's role at WSU, her coaching methods, and/or her interpersonal interactions. That said, none of the female cabinet members interviewed said that Frankel provided them with gender-based advice. In addition, the advice Frankel gave to male members of the leadership team was not substantially different from advice given to females. Based on a preponderance of the evidence standard, I find insufficient evidence to support a finding that Frankel provided or relayed gender-based feedback to Montoya that was discriminatory based on gender.

Issue 2: Whether the discriminatory feedback or assessment played a role in the President's decision to terminate Montoya's appointment?

Finding: I find no evidence to support a finding that discriminatory feedback or assessment played a role in the President's decision to terminate Montoya's appointment.

As discussed in my finding above, there is no evidence to support a finding that Frankel provided gender-based feedback to Montoya and consequently, there is no evidence to support a finding that Frankel provided Schulz with any discriminatory feedback regarding Montoya. Moreover, I find that Schulz made his decision to terminate Montoya's appointment independent of any information Frankel shared with him about Montoya. Schulz said he never reviewed Montoya's responses to the SWOT analysis questions where Montoya referenced being told to act more femininely. Notably, in my interview with Montoya, she said Schulz never made any gender-based

comments to her and said she was not claiming that he made the decision based on her gender. As discussed in further detail below, I find that no evidence to support a finding that discriminatory feedback or assessment played a role in Schulz's decision to terminate Montoya's appointment.

Montoya was told during the provost interview process and before she was hired about the WSU multi-campus structure and specifically that the three health science deans would report to Chancellor DeWald as of July 1, 2019. Despite this clear direction, Montoya continued to challenge Schulz's clear directive and argue that the ASU model was more appropriate. During their weekly meetings, Schulz continued to coach Montoya about her pacing and communications. He told her there are probably some items that need 100% Mitzi Speed and others which may need 10% MS. Schulz wanted Montoya to be successful and said he, DeWald, Pearson and others were here to help her. Schulz made it clear, however, that he was not going to change the reporting structure and on September 3, 2019, specifically told her,

You have been at WSU five weeks. Give yourself some time to get to know all of us. We don't need to fix all of the multitude of our challenges by October 1. No one is looking for you to bring a miracle to cure all of our ills in the first 30 days. I fully understand that the Chancellors are part of the challenge to getting some of these things addressed – my commitment here is that we will work together to attempt to get these addressed to the Deans satisfaction. I want you to observe and document all of these issues with our Deans – along with their (and your) suggested solutions.

Over the next several weeks, Schulz heard from other cabinet members that Montoya did not agree with his governance decisions. On September 20, 2019, two cabinet members met with Schulz and reported on their troubling interactions with Montoya as well as other examples where Montoya had been disrespectful of colleagues. After the meeting, Schulz asked a female cabinet member who he trusted to provide him feedback concerning Montoya's working relationship with her colleagues.

On September 22, 2019, Schulz sent an email to the chancellors and Montoya reaffirming his commitment to the WSU Spokane reporting structure. Schulz said he sent the email because even though he had clearly told Montoya that the Spokane reporting structure was not going to change it was apparent to him that Montoya was not accepting this. Montoya emailed Schulz after her meeting with Frankel and told him she learned that "there are major concerns about me – I need a personality transplant, I need to be more feminine and conforming in my communication style, and I need to be less intelligent. She also indicated that you said there will be no changes that affect Chancellors in any way." Montoya told Schulz that she thought the conclusion is that she is not a good fit for what he needed and that she transition back to the faculty. Schulz said he was surprised that Montoya offered to resign.

When I asked Montoya about her statement in her September 22, 2019 email to Schulz that he had confirmed there would be no changes that affect the chancellors, she said when she received Schulz's email to the chancellors she felt it was an unusual pronouncement for Schulz and

effectively changed her role in relation to the chancellor and that the pronouncement was inconsistent with her position description. Based on the totality of the evidence, I find clear evidence that Montoya was told during the interview process, and many times afterward, what her role was in relation to the chancellors. Contrary to what Montoya told me, the evidence supports a finding that Schulz consistently delivered the same message to Montoya and that his September 22nd email to the chancellors and Montoya did not effectively change her role.

As part of my investigation I interviewed the female cabinet member who Schulz asked to talk to Montoya's colleagues. This cabinet member told me that during the month of September she had talked to most of the deans and several of Montoya's direct reports and learned that people were worried about Montoya's pace and her approach. Two deans reported to her of their initial meetings with Montoya where they felt dismissed by her. One dean said it was the scariest meeting she ever had and she thought she was going to be fired. Another colleague reported that Montoya made her feel incompetent. On September 23, 2019, this cabinet member spoke to several chancellors who said they felt that Montoya did not respect them. This cabinet member said when she had coached Montoya earlier about the chancellor's role, Montoya told her it would be better if the health science deans reported to her and not DeWald. The cabinet member told me Schulz did not ask her to talk to any regents about Montoya's performance and she confirmed to me that she had not.

On September 23, 2019, the female cabinet member told Schulz about her meetings and what she had learned. She told him people had reported that Montoya had detrimental relationships with chancellors and several vice presidents and that cabinet members believed that her direction was not aligned with Schulz. Based on this report, Schulz said he believed that Montoya's relationship with the chancellors and other leadership team members was broken.

On September 24, 2019, Schulz also learned of other incidents where Montoya had been dismissive to staff. At this point, it became clear to Schulz that Montoya was not going to change despite his repeated directives to work collaboratively with her colleagues. When asked whether Frankel's input about Montoya factored into his decision to terminate Montoya's appointment or influenced him in any way, Schulz credibly said it did not and that Frankel has no role in deciding who should work at WSU. Based on the preponderance of the evidence, I find that Schulz's decision to terminate Montoya's appointment was a decision made by him and was based on a legitimate nondiscriminatory reason which was not in violation of EP 15.

Issue 3: Did the decision to terminate Montoya result from improper influence or pressure from third parties?

Finding: I find that this allegation is not substantiated by a preponderance of the evidence.

There is no evidence that Schulz's decision to terminate Montoya's appointment was based on improper influence or pressure from third parties. As discussed above, Schulz did not speak to any regents about his decision to terminate Montoya nor did he direct others to do so. Based on the preponderance of the evidence, I find that Schulz's decision to terminate Montoya's appointment was not the result of improper influence or pressure from third parties.

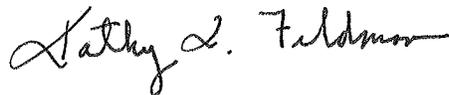
VII. Conclusion

Based on the preponderance of the evidence standard:

1. The factual evidence does not support a finding that Frankel provided or relayed gender-based feedback to, or an assessment of Montoya that was discriminatory based on her gender.
2. The factual evidence does not support a finding that Schulz relied on discriminatory feedback in his decision to terminate Montoya's appointment, or that his decision to terminate Montoya's appointment was discriminatory or violated WSU Policy 15.
3. The factual evidence does not support a finding that Schulz's decision to terminate Montoya's appointment resulted from improper influence or pressure from third parties.

Parties have the right to appeal this investigation and conclusion to the CRCI Appeals Committee within fifteen (15) days in accordance with the CRCI Procedural Guidelines <https://crci.wsu.edu/crci-procedural-guidelines/>.

Respectfully submitted this 20th day of July 2020.



Kathy L. Feldman