**CONFIDENTIAL**

**ADMINISTRATIVE INVESTIGATION**

**REPORT OF FINDINGS**

**IN THE MATTER OF**

Judy Samuel

Gotham City Sanitary District



**INVESTIGATED BY:**

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April 15, 2019

TO: JOSEPH HIGHTOWER

 Attorney for the Gotham City Sanitary District

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SUBJECT: ADMINISTRATIVE INVESTIGATION – *Judy Samuel Matter*

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## **EXECUTIVE SUMMARY**

This matter related to an administrative investigation undertaken on behalf of the Gotham City Sanitary District (District). This matter concerned reviewing potential misconduct relating to Judy Samuel's (Ms. Samuel) behavior as directed towards a co-worker, Linda Lawrence (Ms. Lawrence). Even though Ms. Lawrence had not made a formal complaint, District officials had heard concerns from Ms. Lawrence as well as Donna Gregg (Ms. Gregg) and Julietta Bush (Ms. Bush), District employees who work in the same area as Ms. Samuel and Ms. Lawrence.

 The facts in this matter demonstrate that Ms. Samuel and Ms. Lawrence share the same job title, however Ms. Lawrence was recently hired in January 2018 after having served the District as a temporary employee for a private temporary agency. Ms. Lawrence reported that after she had been hired as a full-time employee for the District, her treatment by Ms. Samuel became progressively worse and more aggressive.

 The facts in this matter demonstrate that Ms. Samuel and Ms. Lawrence work in close proximity, and at times, on similar projects. Ms. Lawrence reported that Ms. Samuel has treated her poorly by engaging in behavior that she describes as accusatory, intimidating, aggressive and rude. Ms. Lawrence said that Ms. Samuel tends to question Ms. Lawrence's activities and/or authority for conducting her various tasks and is rather dismissive and condescending towards Ms. Lawrence generally.

 This factfinder interviewed witnesses that work in or about the area of Ms. Lawrence and Ms. Samuel and/or who might have information concerning any sort of behavior by Ms. Samuel towards Ms. Lawrence in the workplace. Additionally, this factfinder reviewed various documents as part of this factfinding investigation.

 Based on the greater weight of the credible evidence, the facts demonstrate that Ms. Samuel has engaged in inappropriate behavior of an intimidating nature directed towards Ms. Lawrence. Ms. Samuel's behavior was observed as being bullying in nature and that it interfered with and distracted Ms. Lawrence from the performance of her duties as assigned. The greater weight of the credible evidence here demonstrate that Ms. Samuel had violated the work rules associated with the District. The allegations are therefore, **Sustained**.

## **SCOPE OF THE INVESTIGATION**

The scope of this investigation was to determine:

1. **Did Judy Samuel (Ms. Samuel) engage in workplace behavior concerning her treatment and/or communication of Linda Lawrence (Ms. Lawrence) that would violate the rules of the District?**

## **METHODOLOGY**

This investigation involved the review of documents, as well as conducting interviews of District employees. Once factual evidence was developed, the various statements of the witnesses were compared and contrasted with one another as well as other evidence and determinations of credibility were established. Once credibility was established along with a factual framework of the alleged events, conclusions were formed based on the greater weight of the credible evidence. For the purpose of findings, direct and circumstantial evidence may be given equal weight. The investigation also involved:

A. Reviewing applicable District rules and regulations;

B. Reviewing applicable personnel documents;

C. Interviewing co-workers, supervisors and witnesses;

D. Following-up on other evidentiary leads; and

E. Providing additional services as may be requested by the District.

## **INVESTIGATIVE STRATEGY**

Prior to commencing this investigation, this factfinder created a strategy for attempting to develop objective and credible information in this matter. This factfinder’s strategy was to do the following:

 A. Review any applicable District rules and regulations.

B. Obtain background information from the General Manager, as well as the Director of Human Resources.

C. Identify those District employees who may have information to assist in this factfinding investigation.

D. Obtain any additional documents and/or other evidence that would assist in the factfinding investigation.

E. Make findings concerning whether Ms. Samuel had engaged in misconduct based on the rules of the District and based on the credible evidence developed herein.

## **SOURCE OF THE COMPLAINT**

This complaint was internally generated.

## **ACCUSED/FOCUS EMPLOYEE**

1. **Judy Samuel**

Administrative Secretary/Accountant

Gotham City Sanitary District

## **RULES**

The relevant rules of the District are attached and incorporated herein by reference.[[1]](#footnote-1)

## **WITNESSES**

1. **Tom Jones**

General Manager

Gotham City Sanitary District

1. **Jeff Asturias**

Director of Operations/Safety

Gotham City Sanitary District

1. **Linda Lawrence**

Administrative Secretary/Accountant

Gotham City Sanitary District

1. **Robert Husted**

Director of Finance/Human Resources

Gotham City Sanitary District

1. **Donna Gregg**

Secretary – Executive Board

Gotham City Sanitary District

1. **Julietta Bush**

Administrative Clerk/Operator

Gotham City Sanitary District

1. **Judy Samuel**

Administrative Secretary/Accountant

Gotham City Sanitary District

## **CREDIBILITY OF THE WITNESSES**

The analysis of the credibility of the witnesses is an important aspect of a fact-finding investigation. As an accepted rule of evidence, a fact finder can disregard the statements of a witness who has been found to have provided false or unreliable information during their testimony in a matter. Those witnesses' statements can be disregarded in their entirety and not believed unless there is compelling evidence to conclude that individual statements otherwise are true.[[2]](#footnote-2) Concerning the witnesses’ statements, this fact finder considered:

(a) The witness’s demeanor while providing a statement and the manner in which he/she provided the statement.

(b) The character of the witness’s statement.

(c) The extent of the witness’s capacity to perceive, to recollect, or to communicate any matter about which he gave a statement.

(d) The extent of the witness’s opportunity to perceive any matter about which he gave a statement.

(e) The witness’s character for honesty or veracity or their opposites.

(f) The existence or nonexistence of a bias, interest, or other motive.

(g) A statement previously made by the witness that is consistent with his statement during the fact-finding investigation.

(h) A statement made by the witness that is inconsistent with any part of his statement during the fact finding investigation.

(i) The existence or nonexistence of any fact given in statement by the witness.

(j) The witness’s attitude toward the fact-finding investigation in which he gave a statement or toward the giving of a statement.

*Discussion*

1. **Tom Jones**

Mr. Jones was not a percipient witness in this matter however is the General Manager of the District. Mr. Jones provided some background details to this factfinder concerning Ms. Samuel's past work history as well as Ms. Lawrence's.

 Mr. Jones was a credible witness in this matter based on the fact that his statements tended to be corroborated by documents and other credible witnesses. Mr. Jones presented as fair-minded and even-handed and seemed objective in his analysis of Ms. Samuel's behavior concerning Ms. Lawrence.

1. **Jeff Asturias**

Mr. Asturias was a credible witness in this matter. Mr. Asturias's statements to this factfinder tended to be corroborated by other credible witnesses. For instance, Mr. Asturias recalled that Ms. Lawrence had shared with him that she had concerns about the way Ms. Samuel had treated her in the workplace. Additionally, Mr. Asturias said that he has overheard Ms. Samuel speaking on the telephone to customers and had noted her aggressive and accusatory tone during those calls. This observation tended to be corroborated by other witnesses who made similar descriptions of Ms. Samuel's behavior on phone calls and with co‑workers.

1. **Linda Lawrence**

Ms. Lawrence was a credible witness in this matter. Ms. Lawrence's statements to this factfinder tended to be corroborated by other credible witnesses. For instance, Ms. Lawrence had spoken to Mr. Asturias who recalled her concerns about Ms. Samuel's treatment of her in the workplace. Ms. Lawrence's statements to this factfinder were also corroborated by Ms. Bush who had overheard and observed Ms. Samuel treating Ms. Lawrence in an aggressive, intimidating and belligerent manner in the workplace.

 Ms. Lawrence presented as a mature, objective and reasonable individual and had actually not made a formal complaint in this matter. There was no evidence to conclude that any information Ms. Lawrence had provided to this factfinder was untrue, exaggerated or was in any way unreliable.

1. **Robert Husted**

Mr. Husted appeared to be a credible witness in this matter. Mr. Husted's statements to this factfinder tended to be corroborated by other credible witnesses. Mr. Husted was aware that Ms. Samuel had been somewhat aggressive in the workplace and that he had received verbal concerns from Ms. Gregg as well as Ms. Bush who had both claimed that Ms. Samuel was acting in an aggressive and intimidating manner and treating Ms. Lawrence poorly in the workplace.

1. **Donna Gregg**

Ms. Gregg was not a credible witness in this matter. It was apparent from speaking with Ms. Gregg that she was unwilling to provide any negative or derogatory information about any co-workers in the workplace that might lead to a co-worker getting into any trouble. Even though Ms. Gregg had previously complained to Mr. Husted about Ms. Samuel's behavior, she indicated that she did not want to provide any negative or derogatory information about any employees that she works with. It appeared to this factfinder that Ms. Gregg was concerned about retaliation or having difficulties in the small office environment in which she works. Ms. Gregg had initially indicated to this factfinder that she felt any sort of investigation was unwarranted even though she was unaware of what the investigation concerned.

1. **Julietta Bush**

Ms. Bush was a credible witness in this matter. Ms. Bush's statements to this factfinder tended to be corroborated by other credible witnesses such as Mr. Husted and Ms. Lawrence. Ms. Bush made observations concerning Ms. Samuel's loud, aggressive and intimidating behavior directed towards Ms. Lawrence and had previously expressed her concerns to Mr. Husted regarding Ms. Samuel's belligerent and aggressive behavior.

 Ms. Bush also observed Ms. Samuel wrongfully examining a document that had been placed on Ms. Gregg's desk after Ms. Lawrence had placed it there. This observation was also corroborated by Ms. Lawrence who had previously been advised by Ms. Bush of her observations concerning this document and Ms. Samuel's behavior.

1. **Judy Samuel**

Ms. Samuel was not a credible witness in this matter. Ms. Samuel claimed that she had not mistreated Ms. Lawrence even though other credible witnesses had observed her clearly doing so. Ms. Samuel, in her interview with this factfinder, attempted to focus the investigation on Mr. Jones and Mr. Husted and their treatment of her as opposed to her behavior towards Ms. Lawrence. Ms. Samuel inexplicably believed that Ms. Lawrence had been hired and brought into the organization to ultimately replace Ms. Samuel's position. Ms. Samuel presented as overly suspicious, somewhat paranoid and defensive concerning any belief that she may have engaged in any form of inappropriate communication towards Ms. Lawrence.

## **INVESTIGATION**

1. **Summary of Discussion with Tom Jones**

On April 4, 2019, this fact finder met with Tom Jones (Mr. Jones) the General Manager of the Gotham City Sanitary District. This fact finder spoke with Mr. Jones in order to get background information concerning the employees involved in this matter. Mr. Jones was not a percipient witness to any of the alleged misconduct.

 Mr. Jones indicated that Ms. Samuel has worked for the District for approximately 8 years. Linda Lawrence (Ms. Lawrence) was hired in late 2018 as a temporary employee. She was brought on to the agency as she was fluent in Vietnamese and at least 40 percent of the customers of the District are Vietnamese speaking. Mr. Jones said that Ms. Lawrence has done an outstanding job in assisting with translation and was hired as a regular employee on or about January 19, 2019.

 Mr. Jones said that after Ms. Lawrence was hired by the District, in addition to her translation assistance with customers, she was generally assigned to Mr. Asturias, the Director of operations, to assist him with various tasks.

 Mr. Jones indicates that Mr. Asturias is oftentimes in the field overseeing operations and that Ms. Lawrence has worked fairly independently under Mr. Asturias's general observation and direction. Mr. Jones said that Ms. Lawrence has a done "great job" and has saved money by identifying overcharges by various vendors such as haulers and/or recycling operations. Mr. Jones noted that this work was previously done by Ms. Samuel who had not identified such overcharges.

 Mr. Jones indicates he does not know what issues may be of concern, as to why Ms. Samuel has allegedly treated Ms. Lawrence poorly, however suspects that perhaps jealousy may play some role.

 Mr. Jones noted that Ms. Samuel has had difficulties in the past and that in August 2018 she was issued a reprimand due to poor workmanship and general incompetency. Mr. Jones said that he is not certain what exactly transpired but he was rather concerned that Julietta Bush (Ms. Bush) had come forward, as Ms. Bush is typically a person in the office who does not get involved in issues or concerns. Mr. Jones stated that the event must have risen to a level that was somewhat serious, as Ms. Bush would typically not become involved in and come forward to make any sort of complaint or voice her concerns.

1. **Summary of Interview of Jeff Asturias**

On April 4, 2019, this fact finder conducted an audio-recorded interview of Jeff Asturias (Mr. Asturias) the Director of Operations/Safety at the District. Mr. Asturias was called as a potential witness in this matter. Mr. Asturias has worked for the District for approximately 16 years.

 Mr. Asturias recalled a time where he and Ms. Lawrence were driving together to see R and R, a recycling location, in order to speak with them concerning a disputed billing. Mr. Asturias said that on the way there Ms. Lawrence asked if she could talk to him about an issue at work. Ms. Lawrence went on to explain that she was having "incidents" with Ms. Samuel. Ms. Lawrence described to Mr. Asturias that Ms. Samuel would continually question her concerning how Ms. Lawrence was doing her job, and would ask her what she was doing and who gave her authority to do what she was doing. Mr. Asturias said that it sounded as though Ms. Lawrence was describing that Ms. Samuel was acting in somewhat of an officious manner.

 Mr. Asturias said that he advised Ms. Lawrence to remain calm and attempt to work with Ms. Samuel in the future. Mr. Asturias said that this conversation took place a "few weeks ago."

 Mr. Asturias said that sometime in the last week Ms. Lawrence had asked him for assistance installing some message boards in the driver's room area. During that time, Ms. Lawrence again advised Mr. Asturias that she was continuing to have the same types of issues that she had described before with Ms. Samuel. Mr. Asturias said it was clear that Ms. Lawrence was somewhat reticent about complaining and indicated that she did not want to cause any problems, however Ms. Samuel's continual questioning of Ms. Lawrence's job activities and doing so in somewhat of a challenging and officious manner had caused her continued concern.

 Mr. Asturias said that the next morning he advised Mr. Jones about the concerns that Ms. Lawrence had expressed to him concerning Ms. Samuel's behavior towards her.

 Mr. Asturias said that he had heard that Julietta Bush (Ms. Bush) had apparently overhead Ms. Samuel questioning and generally treating Ms. Lawrence inappropriately. Mr. Asturias said he believes that Ms. Bush had provided this information to Robert Husted (Mr. Husted) the Human Resources Officer for the District.

 Mr. Asturias said that he recently received a complaint from a resident whose trash pickup had been missed. The resident was complaining that Ms. Samuel had addressed him in an officious manner, seemingly questioning the customer as to whether the customer had actually put out the trash receptacles on time or implying that the customer had made some sort of mistake, as opposed to merely reassuring the customer that the District would come out and be certain that his refuse was collected. Mr. Asturias said that during the lunchtime period when many people are gone from the District and the workplace is quiet, he has at times overheard Ms. Samuel speaking to customers on the phone interrogating them and acting in somewhat of an officious manner as the customer complainant had described, as well as how Ms. Lawrence has described Ms. Samuel's behavior towards her.

1. **Summary of Interview of Linda Lawrence**

On April 4, 2019, this fact finder conducted an audio-recorded interview of Linda Lawrence (Ms. Lawrence) an Administrative Secretary/Accountant for the District. Ms. Lawrence was called as a witness in this matter because it had been reported that Ms. Samuel had mistreated her in the workplace. Ms. Lawrence had not made a formal complaint however allegations of misconduct arose to the Human Resources Officer, Mr. Husted, who had contacted Mr. Jones, the General Manager.

 Ms. Lawrence has worked for the District since September 17, 2018, being hired on a temporary basis through HB Staffing Temps. On January 14, 2019, she was hired full time for the District in her current position as Administrative Secretary/Accountant.

 Ms. Lawrence said her first concern as a full-time employee with Ms. Samuel occurred during a January 23 staff meeting. Ms. Lawrence indicated that during the staff meeting, Mr. Husted shared with everyone that Ms. Lawrence would be transitioning from the HB Staffing position to a District employee, and explained what her role would be. Ms. Lawrence said that Mr. Husted indicated that Ms. Lawrence would be assisting Mr. Husted and Mr. Asturias. Ms. Lawrence said that during this introduction by Mr. Husted in the staff meeting, it was apparent that Ms. Samuel became very upset when Mr. Husted brought up the issue that Ms. Lawrence would be handling employee benefit reconciliations. Ms. Lawrence said that Ms. Samuel was obviously unhappy and went on to say that she had been conducting the benefit reconciliations for many years and challenged Mr. Husted as to why this task was being taken away from her and given to Ms. Lawrence.

 Ms. Lawrence said that the following day, January 24, 2019, Donna Gregg’s (Ms. Gregg), a co‑worker, had requested the day off as it was her birthday. At the same time Ms. Bush asked Ms. Lawrence to place some sort of document on Ms. Gregg’s desk. Ms. Lawrence said that she did not look at the document but merely took it from Ms. Bush, who was working at the front desk area, walked over, and left it on Ms. Gregg’s desk. Ms. Lawrence said that she left for lunch soon thereafter.

 Ms. Lawrence said that Ms. Bush has worked at the District for many years and is familiar with Ms. Samuel's personality and behavior. Ms. Lawrence said that Ms. Bush had a belief based on her experience with Ms. Samuel, that Ms. Samuel would become somewhat nosey and interested in the document that Ms. Lawrence had placed on Ms. Gregg’s desk. Ms. Bush told Ms. Lawrence that soon thereafter, she observed Ms. Samuel arise from her desk and go over to Ms. Gregg’s desk and examine the document that Ms. Lawrence had left there. Ms. Lawrence said that this sort of behavior is consistent with Ms. Samuel's intrusive and nosey behavior concerning activities and job tasks in the workplace.

 Ms. Lawrence said that after this, she lost a degree of trust with Ms. Samuel and had asked Ms. Bush to attempt to locate a key to Ms. Lawrence's desk so that she could lock up important documents as she was concerned that Ms. Samuel would begin to "snoop" and look through her things when she was away from her desk.

 On January 29, 2019, Ms. Lawrence said that Ms. Samuel had returned to work after taking the previous day off for her birthday. Ms. Lawrence said that when Ms. Samuel returned to the office and saw some of the bills and invoices in her inbox on her desk, she became quite upset and her demeanor was quite rude and disrespectful. Ms. Lawrence indicated that she had placed those items as part of her duties in Ms. Samuel's inbox.

 Ms. Lawrence said that Mr. Jones, the General Manager, has asked her to attend a Board Meeting on February 5, 2019, in order for Ms. Lawrence to become familiar with the operations and the meeting procedures of the District's Board of Directors. Ms. Lawrence indicated that she could not attend on that date but Mr. Jones indicated that she could thereafter attend on February 19, 2019, which she did. Ms. Lawrence explained that Mr. Jones said that her attendance there would of course be compensated, and for which she received overtime compensation above her normal hourly wage.

 Ms. Lawrence said that on March 7, 2019, in the morning hours, she heard Ms. Samuel lash out and question her as to why she was paid overtime and what the overtime was for. Ms. Lawrence said that she found Ms. Samuel's behavior to be confrontational and inappropriate, and for a moment there was no communication. Ms. Lawrence said that she then informed Ms. Samuel that she had attended a Board meeting whereupon Ms. Samuel merely stared at Ms. Lawrence for approximately 10 seconds glaring at her as if she had done something wrong. Thereafter, Ms. Samuel asked Ms. Lawrence why she was paid overtime, to which Ms. Lawrence informed her that Mr. Jones had asked her to attend the Board meeting and had told her that she would receive overtime compensation for her attendance. Ms. Lawrence noted that Ms. Samuel was rather upset and claimed that any attendance at a Board meeting was voluntary and was not compensated. Ms. Samuel said that in the past when she attended Board meetings she was never paid overtime or compensated.

 Ms. Lawrence said that on March 26, 2019, there had been a conversation concerning the idea that Ms. Lawrence should clock into the employee timecard system early when she arrived. Ms. Lawrence said that she and Ms. Bush had both arrived to work slightly early and were merely chatting at the front desk area prior to the District opening for business. Ms. Samuel had asked them whether they had clocked in on the timecard system, to which they indicated that they had not and were waiting until the appropriate time prior to starting the workday. Ms. Samuel told the two that they should have clocked in when they arrived and that they would be compensated for that, further indicating that this is the type of thing she does. Ms. Lawrence said that she thought this was rather inappropriate considering the fact that neither of them should be compensated for merely coming into work early unless they're directed to do so by their supervisor.

 On the same day, Ms. Lawrence asked Mr. Jones if she could look in the toolbox he keeps in his office in order to obtain a measuring tape so she could measure a wall in the breakroom area because she had to order boards for display purposes for that room. During this inquiry, Ms. Samuel inserted herself into the issue and began to ask Ms. Lawrence why she was asking for tape measures, for which she explained to Ms. Samuel that one of the tape measures was for Mr. Asturias and one was for her. Ms. Lawrence said that this was another example of Ms. Samuel's inappropriate and intrusive questioning and tendency to act nosey and want to know everybody else's business. Ms. Lawrence said that these questions are always asked in a challenging fashion, as if Ms. Lawrence has made a mistake or overstepped her authority.

 After which, Ms. Lawrence returned the tape measures to Mr. Jones' office which prompted Ms. Samuel to again make inquiries as to Ms. Lawrence's activity, asking her what she was doing in Mr. Jones' office. Ms. Lawrence said that the question was posed with Ms. Samuel asking her if "she needed help." Again, Ms. Lawrence pointed out that this was an example of Ms. Samuel attempting to question and challenge anything that Ms. Lawrence was doing in the workplace.

 During this same day, Ms. Lawrence recalled that Ms. Samuel had gotten into a discussion with Ms. Gregg about the subject of children and child rearing. Ms. Lawrence said that Ms. Gregg has children and had remarked that when you do have children their presence in your life tends to change things. Ms. Gregg had also remarked that raising children can cause a parent to be tired each day, which prompted Ms. Samuel to insert herself in the conversation and disagree with Ms. Gregg’s perspective. Ms. Lawrence recalled that Ms. Gregg had responded back reminding Ms. Samuel that she did not have her own children and that she might not know the entire details of raising a child. Ms. Lawrence said that Ms. Samuel made some sort of snide remark in response, acting somewhat derogatory towards Ms. Gregg.

 Still later that day, the District had received a call from a customer whose daughter had called in days earlier and who spoke to Ms. Lawrence indicating that her father had two bulky items, consisting of two couches, that needed to be picked up. The father called on March 26, but was a Spanish speaker, so the call was transferred to Ms. Samuel, who speaks Spanish. At the end of the conversation, Ms. Samuel began to challenge Ms. Lawrence concerning her previous conversation with the caller's daughter, attempting to claim that somehow Ms. Lawrence had misunderstood what the caller's daughter had requested to be picked up, as the father indicated that he wanted two mattresses picked up as opposed to two couches. Ms. Lawrence said that this was another example of Ms. Samuel overstepping her bounds and engaging in accusatory questioning behavior and challenging of Ms. Lawrence's job tasks.

 The following day on March 27, 2019, Ms. Lawrence was speaking on the phone with Denise Spangler to which Ms. Samuel began to inquire what the conversation was about. Ms. Lawrence indicated that Ms. Samuel continually questions and asks her what calls are about and thereafter attempts to critique how Ms. Lawrence handled particular calls. In this case, the telephone call did not pertain to Ms. Samuel, nor did Ms. Lawrence come to her and ask her for assistance regarding this call.

 Later that day, Ms. Samuel had asked Ms. Lawrence why it was that she was date stamping certain invoices that are received by email, since they were not traditionally mailed. Ms. Lawrence told Ms. Samuel that she time stamped them as Mr. Husted had asked her to do so, which prompted Ms. Samuel to begin laughing in a dismissive and mocking fashion, as if to indicate Ms. Lawrence had done something foolish. Ms. Lawrence said that Ms. Samuel went on to say that such stamping of emailed invoices has never been done in the past, to which Ms. Lawrence directed her to speak to Mr. Husted should she have any sort of questions about the issue.

 Ms. Lawrence also recalled the circumstance where there had been an employee recognition luncheon where various individuals had been recognized. A local Vietnamese reporter also attended this event. Ms. Lawrence recognized this reporter as she had been introduced to him before with one of the Directors during a community outreach program. Ms. Lawrence said that she felt it polite to go up to this reporter and recognize him and welcome him to the event. Ms. Lawrence said that she did not have any specific conversation with the reporter, but that later Ms. Samuel became somewhat critical that Ms. Lawrence was communicating with a news reporter, implying that somehow the reporter was there to attempt to derive some negative information about the District and publish it in his newspaper. Again, Ms. Lawrence felt that this was an opportunity for Ms. Samuel to somehow criticize her in an unwarranted and inappropriate fashion.

More recently, Ms. Lawrence recounted a circumstance where Ms. Samuel was looking through various invoices and documents and suddenly confronted Ms. Lawrence asking why it was that she was issued a District credit card. Ms. Lawrence was unaware of having been issued a District credit card but found out later that Mr. Husted had in fact issued one in her name for general business purposes. Ms. Lawrence said that she was unaware why Ms. Samuel became so upset with the fact that she had been issued a credit card.

 In summary, Ms. Lawrence said that Ms. Samuel has treated her quite poorly since her full‑time employment at the District. Ms. Lawrence noted that once Mr. Husted had announced at the staff meeting that Ms. Lawrence would be taking over certain assignments that were apparently previously completed by Ms. Samuel, that Ms. Samuel became incensed and upset. Ever since that time, Ms. Lawrence said Ms. Samuel has been accusatory, condescending and constantly questions everything that Ms. Lawrence does.

Ms. Lawrence said that it is apparent that Ms. Samuel is an intrusively inquisitive individual who attempts to ask questions about issues and circumstances that do not concern her. Ms. Lawrence said she is not certain if Ms. Samuel is jealous or insecure based on the fact that Ms. Lawrence's position is a new position at the agency and she somehow feels threatened that some part of Ms. Samuel's job duties has been reassigned to Ms. Lawrence. Ms. Lawrence said that she merely wants to work in a peaceful work environment and not be subject to challenging questions, dismissive remarks or other forms of bullying behavior. Ms. Lawrence pointed out that Ms. Samuel is not her supervisor but seemingly conducts herself as if she has some authority over Ms. Lawrence by virtue of her continual questions and challenging of her work.

1. **Summary of Interview of Robert Husted**

On April 4, 2019, this factfinder conducted an audio-recorded interview of Robert Husted (Mr. Husted) who is the Director of Finance and Human Resources at the District.

 Mr. Husted said that he is familiar with Ms. Lawrence and Ms. Samuel and that recently Ms. Lawrence had come into his office and closed the door, asking to speak with him briefly. Mr. Husted said that Ms. Lawrence shared her concern that Ms. Samuel was treating her poorly by making comments of a confrontational nature as if inquiring as to what Ms. Lawrence was doing and attempting to second guess her job activities. Ms. Lawrence also expressed that she did not trust Ms. Samuel and was concerned that she may be going through her and other individuals' personal effects. Ms. Lawrence said that she was afraid that Ms. Samuel may be attempting to undermine her work at the District and place her in a false light.

 Mr. Husted said he recalls a recent staff meeting where he introduced that Ms. Lawrence would be hired as a full-time employee and detailed some of the activities that she would be assigned in the workplace largely concerning the human resources' function. Mr. Husted recalled that Ms. Samuel became somewhat incensed and upset by the fact that Ms. Lawrence would be undertaking these tasks claiming that they had been tasks that she had been assigned in the past. Mr. Husted indicated that that was not entirely true and that Ms. Samuel was only occasionally asked to help with certain activities that touched on or concerned the human resources' function. Mr. Husted indicated that essentially Ms. Samuel has always been assigned to engage in accounts receivable and payable accounting activities at the District.

 Mr. Husted recalls recently that Ms. Samuel became somewhat incensed and inquisitive that Ms. Lawrence had been issued a District credit card. When Mr. Husted told Ms. Samuel that Ms. Lawrence had in fact been issued a credit card, Ms. Samuel made a dismissive comment stating words to the effect, "Well, Linda doesn’t know that…". Mr. Husted indicated that this is an example where Ms. Samuel inserts herself in activities and information in the workplace that does not actually concern her. Mr. Husted indicates that Ms. Samuel only became aware of Ms. Lawrence being assigned a department credit card as she was copied in an email due to the fact that Ms. Samuel has to reconcile credit card statements and would need to know that Ms. Lawrence was issued a credit card.

 Mr. Husted said that Ms. Samuel can act a bit abrasive and has a rough communication style. Mr. Husted said he does not exactly know what concerns that Ms. Samuel had, however her behaviors in the workplace demonstrate that perhaps she is somewhat unhappy or jealous of Ms. Lawrence.

 Mr. Husted said that after the time that Ms. Lawrence had come to him with concerns, he had encouraged her to take some contemporaneous notes of issues so that they could be addressed when necessary. Mr. Husted also indicated that Ms. Bush, who works at the front desk area with Ms. Samuel and Ms. Lawrence, encouraged Ms. Lawrence to additionally document the incidents where Ms. Samuel had engaged in inappropriate communication style directed towards Ms. Lawrence.

 Mr. Husted indicated that after events transpired leading to this factfinding investigation, he encouraged Ms. Bush, Mr. Asturias and Ms. Gregg to make a written documentation of their observations and provide those to Mr. Jones, the General Manager. Mr. Husted indicated that he advised them to provide those documents directly to Mr. Jones.

 Mr. Husted also said that Ms. Lawrence had advised him that she became aware that Ms. Samuel acted in a rather intrusively inquisitive nature and that Ms. Lawrence had concerns regarding leaving her personal belongings in or about her desk as she is somewhat fearful that Ms. Samuel would go through her belongings. Mr. Husted indicates that it seems that Ms. Samuel's poor treatment of Ms. Lawrence has tended to escalate since Ms. Lawrence had been hired as a full-time employee at the District. Mr. Husted indicated that Ms. Lawrence had been hired as the District has somewhat expanded its services and that they needed assistance in dealing with additional regulations, new reports and other activities that Ms. Lawrence can assist in. In addition, Mr. Husted said that Ms. Lawrence is fluent in Vietnamese and a large portion of their customer base at the District are Vietnamese-speaking individuals.

 Mr. Husted also mentioned that Ms. Samuel had made some accusations or voiced concerns about Mr. Husted's treatment of her in the workplace. Mr. Husted said as a protective measure, Ms. Samuel was asked to report directly to Mr. Jones such that Mr. Husted would not have to have any personal interactions with her in order to avoid any hint of impropriety. Mr. Husted said that Ms. Samuel has been given a great deal of opportunity to grow as an employee and has been sent to various trainings. Mr. Husted said that unfortunately the District has been somewhat disappointed with the fact that her behaviors have not improved and her performance has been somewhat substandard in certain areas. Mr. Husted also indicated that Ms. Samuel has failed to meet certain deadlines and then has not been entirely truthful about those projects that she has not finished.

 Mr. Husted said he cannot recall if Ms. Samuel had been sent or allowed to attend any of the Board meetings at the District or whether she was provided any overtime compensation for any Board meeting that she may have attended.

 In summary, Mr. Husted said that Ms. Samuel can be rude and abrasive in her communication style. Mr. Husted said that Ms. Samuel can also be quite dismissive and rude in her tone as she makes comments and then walks away from the person to whom she was speaking. Ms. Samuel also tends to not deal well with any sort of changes in the workplace and begins to question any sort of changes in systems, internal controls or procedures.

1. **Summary of Interview of Donna Gregg**

On April 4, 2019, this factfinder conducted an audio-recorded interview of Ms. Gregg. Ms. Gregg is the Executive Board Secretary and was called as a potential witness in this matter.

 Prior to beginning the formal recorded interview, Ms. Gregg expressed her concern about speaking with this factfinder. Ms. Gregg opined that she did not feel that the investigation was warranted, however had not been told what the investigation concerned. Once Ms. Gregg was advised that this factfinder was reviewing behavior by Ms. Samuel directed towards Ms. Lawrence, Ms. Gregg indicated that "people have bad days" but she did not believe that a formal investigation was warranted.

 Once the formal interview was conducted and the recorder was turned on, Ms. Gregg seemed somewhat dismissive concerning any significant concerns between Ms. Samuel and Ms. Lawrence. Ms. Gregg noted though that Ms. Lawrence had, on one occasion, made reference to the fact that Ms. Samuel had spoken to her in a rude and condescending tone. Ms. Gregg said she could not recall the details of what Ms. Lawrence had told her.

 Ms. Gregg indicated that from time to time they receive calls from difficult customers concerning various services that the District provides such as picking up large items such as sofas or mattresses.

1. **Summary of Interview of Julietta Bush**

On April 8, 2019, I spoke with Julietta Bush (Ms. Bush), an Administrative Clerk/Operator for the District. Ms. Bush has worked for the District for approximately 10 years. The phone call was not recorded.

 Ms. Bush said she is familiar with Ms. Samuel as well as Ms. Lawrence. Ms. Bush said that Ms. Lawrence is a relatively new employee and it appears that Ms. Samuel has been treating her poorly by seemingly questioning her activities and speaking with her in a reprimanding style of tone.

 More recently, on or about March 28, 2019, Ms. Bush was at her position at the entry of the District headquarters building where she serves as a receptionist. Ms. Bush said that Ms. Samuel, Ms. Lawrence as well as Ms. Gregg sit in a room to her left where their work spaces are located. Ms. Bush said that she suddenly heard Ms. Samuel yelling at Ms. Lawrence stating, "Did you get permission to do that!?". Ms. Bush said that she was rather shocked by Ms. Samuel's tone and leaned back in her chair affording her a view into the room where the two work. Ms. Bush observed that Ms. Samuel walked over towards Ms. Lawrence's work space and stood adjacent to her in what Ms. Bush said appeared to be somewhat of a bullying or intimidating stance close to Ms. Lawrence's physical position seated at her desk. Ms. Bush noted that Ms. Lawrence seemed somewhat fearful or intimidated by Ms. Samuel's yelling, her accusatory tone and then her physical presence standing over her.

 Ms. Bush said that she has heard Ms. Samuel speak in a similar fashion to Ms. Lawrence on several occasions since Ms. Lawrence was hired full time at the District. Ms. Bush said that even Ms. Gregg has reacted negatively to hearing Ms. Samuel's comments and tone directed towards Ms. Lawrence.

 Ms. Bush said she has had a great deal of experience dealing with Ms. Samuel, who she indicates can take a bullying approach with individuals and can be unnecessarily direct and rude. Ms. Bush said that Ms. Samuel is also incredibly nosy in the sense that she tries to involve herself in other people's workplace activities. Ms. Bush said that on occasion when she is speaking with a customer at the front desk, Ms. Samuel will walk up, eavesdrop on the conversation, will stand adjacent to where Ms. Bush is speaking with a customer and at times interject herself and/or take over the conversation. Ms. Bush also indicated that Ms. Samuel is also somewhat nosy and overly inquisitive in regard to other matters. Ms. Bush said that there are times when Mr. Husted is out of his office that Ms. Samuel will go into his office area and look at various documents that are sitting out in the open. Ms. Bush said she does not know if Ms. Samuel actually looks through Mr. Husted's files or uncovers anything that is not open to view while standing adjacent to his desk.

 Ms. Bush also indicated that Ms. Samuel can be somewhat intrusive in the sense that she has looked at Ms. Bush's cell phone and will also look over Ms. Bush's shoulder if Ms. Bush is operating her cell phone engaged in such things as text messaging or social media posts.

 More recently, Ms. Bush recalls a time that she had asked Ms. Lawrence to place some sort of document on Ms. Gregg’s desk as Ms. Lawrence was leaving to go to lunch for the day. Ms. Bush said that after Ms. Lawrence had left the document on Ms. Gregg's desk and left the building, Ms. Samuel stood up, went over to Ms. Gregg's desk and began viewing and reading the document.

 Ms. Bush also said that she recalls Ms. Samuel challenging Ms. Lawrence concerning overtime that Ms. Lawrence had earned while attending a Board meeting. Ms. Bush recalls that Ms. Samuel made some sort of snide and sarcastic comment to Ms. Lawrence, indicating words to the effect, "I was never offered overtime to attend a Board meeting." Ms. Bush said that the comment was sarcastic, condescending and seemingly made to cause Ms. Lawrence some concern or apprehension.

 Ms. Bush said that Ms. Lawrence has come to her with some concerns about the way Ms. Samuel has treated her. Ms. Bush said that she reassured Ms. Lawrence to merely complete her tasks as Mr. Jones has directed her. Ms. Bush said that Ms. Samuel has a history of being somewhat aggressive, overly nosy and inquisitive concerning other people's activities and business as well as being dictatorial, condescending and sarcastic to others.

1. **Summary of Interview of Judy Samuel**

On April 4, 2019, this fact finder conducted an audio recorded interview of Judy Samuel (Ms. Samuel), an Administrative Secretary/Accountant for the District. Ms. Samuel was called as a subject employee in this matter, as it had been reported that she had mistreated Ms. Lawrence, a coworker, in the workplace.

 Ms. Samuel indicated that she has not had any concerns or difficulties with Ms. Lawrence in the workplace. Ms. Samuel indicated that she felt that it was "kind of shocking" that there had been any concern that she had had difficulties with Ms. Lawrence. Ms. Samuel indicated that Ms. Lawrence had been hired as a temporary employee, then she had been made "permanent" and then "they started taking away my responsibilities and giving them to her." Ms. Samuel claims that job activities that were traditionally hers have been shifted to Ms. Lawrence including "tonnage tickets" as well as part of her accounting activities with spreadsheets concerning some of the billing.

 Ms. Samuel indicated that the reason that she had heard that Ms. Lawrence had been hired was that the District needed additional assistance answering the telephones in regard to the new "organics program." Ms. Samuel indicates that the organics program is related to the collection of green items such as shrubbery and grass trimmings that are now being picked up separately by the District.

 Ms. Samuel acknowledged that there had been a staff meeting where Mr. Husted had reported that Ms. Lawrence had been hired as a full-time employee and detailed her new assignments. Ms. Samuel acknowledged that she had openly remarked that she was not comfortable with Mr. Husted's announcement of Ms. Lawrence's job assignments and that she was not comfortable with Ms. Lawrence taking over any part of her job responsibilities. Ms. Samuel clarified that she was not comfortable with the way Mr. Husted had presented this information at the meeting.

 Ms. Samuel indicated that she believes that the District has hired Ms. Lawrence as they are "trying to replace" her with Ms. Lawrence. Ms. Samuel pointed to the fact that they both have the same job description. Ms. Samuel said that both Mr. Jones and Mr. Husted have told her that this is not the case and that they are not attempting to replace Ms. Samuel.

 Ms. Samuel believes that they are attempting to replace her with Ms. Lawrence based on an incident that occurred last year where she alleges Mr. Husted "yelled" at her and that she reported this behavior to Mr. Jones. Ms. Samuel provided this fact finder with an email which she read aloud during the interview.[[3]](#footnote-3) Essentially, Ms. Samuel claimed that Mr. Husted had yelled at her and that she had reported this incident to Mr. Jones, who eventually had cleared Mr. Husted as having not acted inappropriately. Ms. Samuel pointed out that not long after that, she received a written reprimand.[[4]](#footnote-4) Ms. Samuel believes that because she had received the written reprimand in August, the purpose of this fact finder's investigation was to further investigate Ms. Samuel's misconduct as detailed in the written reprimand. Ms. Samuel said that she was not aware that this fact finder was investigating her treatment of Ms. Lawrence in the workplace until the beginning of the interview with this fact finder. Ms. Samuel went on to make claims and allegations against Mr. Jones and Mr. Husted that were not part of this fact finding investigation.[[5]](#footnote-5)

 Ms. Samuel generally denied that she had engaged in any sort of abusive or inappropriate communications or behavior directed towards Ms. Lawrence. Ms. Samuel acknowledged that she had spoken to Ms. Lawrence concerning Ms. Lawrence's attendance at a Board meeting where she had received overtime. Ms. Samuel indicated that she had merely asked Ms. Lawrence if she had gotten paid to go to the Board meeting, to which Ms. Lawrence indicated she had. Ms. Samuel then remarked stating, "And, I said oh, okay. That was it." Upon further examination, Ms. Samuel acknowledged that she had mentioned to Ms. Lawrence that she had gone to a Board meeting where she had not been paid for going. Ms. Samuel acknowledged that she told Ms. Lawrence that her attendance at the Board meeting should have been on a voluntary basis. Ms. Samuel said that there was no degree of unpleasantness or inappropriate communication in regard to her discussion with Ms. Lawrence concerning this overtime issue.

 Ms. Samuel indicated that there had been some discussion concerning when employees were to clock in the timekeeping system. Ms. Samuel was asked if she had ever suggested that an employee could clock in if they arrived early and receive overtime compensation for the time that they arrive even though they may be scheduled to start work at a later time. Ms. Samuel indicated that Ms. Lawrence had mentioned to her that Mr. Husted had instructed her to clock in at 8:00 a.m. when her workday was to begin. Ms. Samuel said that there was not any disagreement or heated discussions concerning that issue. Ms. Samuel claims that she has never raised her voice to Ms. Lawrence during any discussions that she has had with her.

 Ms. Samuel claims that she has never made any comments to Ms. Lawrence concerning Ms. Lawrence going into Mr. Jones' office to obtain anything or specifically a measuring tape. Upon clarification and further questioning, Ms. Samuel indicates that she believes there may have been a time that Ms. Lawrence had gone into Mr. Jones' office where Ms. Samuel may have inquired as to whether Ms. Lawrence needed any assistance. Ms. Samuel clarified that this remark to Ms. Lawrence concerned her attempting to be "helpful" to Ms. Lawrence.

 Ms. Samuel recalls a conversation with a Spanish-speaking customer in relation to a large item pickup consisting of two couches or sofas. Ms. Samuel said that there had been some confusion concerning whether the items to be picked up would be the couches or a couple of mattresses. Ms. Samuel said that Ms. Lawrence had taken the initial call. Ms. Samuel acknowledged though that she was not aware as to whether Ms. Lawrence who took the initial call had spoken to the individual in English. Ms. Samuel indicated that the daughter of the caller for which she had spoken to in Spanish had been the initial person to call in to the District where she spoke with Ms. Lawrence in order to have the items picked up at the curb. Ms. Samuel said that she never spoke to the daughter but merely had spoken to the father doing so in Spanish.

 Ms. Samuel said that there have been occasions where Ms. Lawrence has been on the phone or speaking with a customer during a call where Ms. Samuel has questioned her about the call after the fact. Ms. Samuel could not recall the specific circumstances of those discussions after Ms. Lawrence had been on a call with a customer, but indicated that Ms. Samuel was providing some sort of training to Ms. Lawrence such that she would not be giving out improper information to customers.

 Ms. Samuel recalled a time where Ms. Lawrence had time-stamped spreadsheets that had been emailed in to the District. Ms. Samuel recalled that Ms. Lawrence had told her that Mr. Husted had asked her to time stamp these invoices even though they had been emailed to the District. Ms. Samuel acknowledged that she had laughed at Ms. Lawrence, but when asked why it was that she laughed at her, Ms. Samuel stated, "I have no idea." Upon further questioning, Ms. Samuel indicated that she had found the idea of time stamping invoices that had been emailed to the District somewhat humorous as doing this is a "new thing."

 Ms. Samuel had in her possession a multipage document that she referred to as "notes." Ms. Samuel claimed that these notes were something that she had initially intended to file with the District in rebuttal to her written reprimand from August 2018. Ms. Samuel was asked if she wanted to provide those notes to this fact finder to assist in this matter. Ms. Samuel indicated that she did not want to provide them at this point. Ms. Samuel was asked if she intended to provide those notes to the District at some point in the future to which she indicated, "I don't know."

 Ms. Samuel indicated that she had brought the documents including the notes into the meeting with this fact finder as she claimed that she did not know what the nature of the inquiry was. Ms. Samuel further provided this fact finder with a document that detailed her job responsibilities that she indicated was provided to her by Mr. Jones in December 2018. Ms. Samuel said that at the time she asked Mr. Jones if everyone else in the District was getting these same job responsibilities. Ms. Samuel indicated Mr. Jones said that others were not, and that they were crafted specifically for Ms. Samuel, to which she indicated she felt that she was being "picked on."

 Ms. Samuel acknowledged that her duties are more aligned with the accounts payable and accounts receivable aspects of the District's work, whereas Ms. Lawrence had been brought in to assist on the human resources aspects, working with the Finance and Human Resources Director, Mr. Husted. Ms. Samuel indicated that Ms. Lawrence also was hired in part due to her ability to read and speak fluent Vietnamese.

## **FACTUAL ANALYSIS AND FINDINGS**

1. **Did Judy Samuel (Ms. Samuel) engage in workplace behavior concerning her treatment and/or communication of Linda Lawrence (Ms. Lawrence) that would violate the rules of the District?**

Short Answer: **YES[[6]](#footnote-6)**

*Discussion*

* 1. **Background**

 This matter related to an administrative investigation undertaken on behalf of the District. This matter concerned issues in the workplace regarding Ms. Samuel's behavior as directed towards Ms. Lawrence. Ms. Lawrence was a relatively new full-time employee who had worked for the District since late 2018 as a temporary employee. More recently in January 2019, Ms. Lawrence was hired as a full-time employee and has worked in close proximity of Ms. Samuel.

 Ms. Samuel has worked for the District for approximately 8 years and has experienced workplace performance difficulties, having received a written reprimand in August 2018 detailing poor performance in her duties. Ms. Samuel was seen as being an intrusively inquisitive individual where she would engage in inappropriate behavior such as reviewing documents that did not concern her, viewing co-workers' private cell phones and looking at or reviewing documents in the Director of human resource's office when he was absent.

 The focus of this investigation was to determine if Ms. Samuel engaged in misconduct concerning her workplace behavior and treatment, as directed towards Ms. Lawrence.

* 1. **Timeline**

| **Date** | **Event** |
| --- | --- |
| August 30, 2018 | Mr. Samuel is issued a Written Reprimand for “Inefficiency in the performance of her duties, Not performing work up to established standards; and/or Insubordination or failure to carry out orders.” |
| September 17, 2018 | Ms. Lawrence is hired though a temp agency know as HB Staffing Temps. |
| January 14, 2019 | Ms. Lawrence is hired full time with the District as an Administrative Secretary/Accountant  |
| January 23, 2019 | During a staff meeting, Mr. Husted announces that Ms. Lawrence is now full-time employee with the District and explained what her tasks would be. Ms. Samuel becomes defiant and angry claiming that she was did not agree with Ms. Lawrence being given tasks that were allegedly traditionally hers. |
| January 24, 2019 | Ms. Bush asks Ms. Lawrence to place a document on Ms. Gregg’s Desk, whereupon Ms. Samuel immediately moves to Ms. Gregg’s desk and reviews the document. |
| January 29, 2019 | Ms. Samuel acts in a rude fashion concerning finding the bills prepared by Ms. Lawrence in her (Ms. Samuel’s) inbox. |
| February 19, 2019 | At Mr. Jones direction, Ms. Lawrence attends a District Board Meeting for familiarization and training. Ms. Lawrence receives overtime compensation for this work. |
| March 7, 2019 | Ms. Samuel lashes out at Ms. Lawrence when she sees in the payroll records that Ms. Lawrence received overtime compensation for attending the District Board Meeting on February 19, 2019. |
| March 26, 2019 | Ms. Samuel questions Ms. Lawrence concerning activities including obtaining measuring tapes, being in Mr. Robbin’s office, and concerning a call from a customer regarding a large item pick up. |
| March 26, 2019 @ 1:00 p.m. | Ms. Lawrence speaks to Mr. Asturias concerning Ms. Samuel’s poor attitude towards her and continual questioning of her work activities in an aggressive fashion. |
| March 27, 2019 @ morning time | Ms. Gregg contacts Mr. Husted and reports that Ms. Samuel has been “rude and snappy” with her. |
| March 27, 2019 @ 10:45 a.m. | Ms. Bush contacted Mr. Husted stating that Ms. Samuel is continually acting in a rude and inappropriate fashion towards Ms. Lawrence.[[7]](#footnote-7) |
| March 27, 2019 | Ms. Samuel questions Ms. Lawrence concerning activities regarding a phone call and time stamping invoices. |
| April 2, 2019 | This fact finder is engaged to conduct an administrative investigation. |
| July 21, 2020 | This fact finder concludes this fact finding investigation. |

* 1. **Ms. Samuel’s Treatment of Ms. Lawrence**

The issue here presented in the scope of this investigation is to examine whether Ms. Samuel has treated Ms. Lawrence inappropriately in the workplace. The facts demonstrate that Ms. Lawrence started her work relationship with the District in September of 2018 when she was hired through a temporary employment agency. Ms. Lawrence was thereafter hired as a full-time employee on January 14, 2019, as an Administrative Secretary/Accountant. Ms. Lawrence and Ms. Samuel have the same exact job title.

 Ms. Samuel has worked for the District for approximately 8 years and, in the recent past, had employment difficulties that resulted in the issuance of a written reprimand for "inefficiency in the performance of her duties, not performing work up to established standards and/or insubordination or failure to carry out orders." This written reprimand was given to Ms. Samuel on August 30, 2018, before Ms. Lawrence was hired through a temporary agency for the District.

 The facts in this matter demonstrate that Ms. Samuel has a history of engaging in at times unnecessarily direct and rude communications with co‑workers as well as customers. Credible witnesses stated that Ms. Samuel has been overheard speaking in a condescending and aggressive fashion with customers during phone calls. Additionally, Ms. Samuel has been known to be inappropriately inquisitive and or nosey towards work and non‑work related activities amongst her co‑workers. For instance, Ms. Bush, who has worked with the District for over 10 years, indicated that Ms. Samuel often asks inappropriate personal questions, attempts to observe what Ms. Bush is writing or texting in her phone and has even looked through Ms. Bush's phone at her test messages and/or social media posts. Ms. Bush said she has also observed Ms. Samuel going in to Mr. Husted’s, the Director of Human Resources, office when he is away reviewing documents that are left on his desk.

 Ms. Lawrence observed that Ms. Samuel was overly interested and nosey concerning her work in the District offices. Ms. Lawrence recalled a time when Ms. Bush asked her to place a document on Ms. Gregg's desk prior to Ms. Lawrence leaving for lunch. When Ms. Lawrence returned from lunch, she heard from Ms. Bush that almost immediately after Ms. Lawrence had placed the document on Ms. Gregg's desk, Ms. Encino got up from her chair, went over to Ms. Gregg's desk and began examining the document. Ms. Bush confirmed this event to this fact finder.

 Ms. Lawrence said that this sort of inappropriate interest in activities that did not concern Ms. Samuel caused Ms. Lawrence to be concerned that Ms. Samuel would go through Ms. Lawrence's personal effects, such as her purse or other items. Because of that, Ms. Lawrence began to not leave these sorts of items in the office or in her desk drawer.

 Ms. Lawrence said that as soon as she began working full-time at the District, Ms. Samuel became more aggressive and hostile towards her. Ms. Lawrence explained that this began essentially during a staff meeting that was held on January 23, 2019, where Mr. Husted announced that Ms. Lawrence was now a full-time employee with the District and thereafter explained some of the tasks with which she would be assisting. Ms. Lawrence said that Ms. Samuel became immediately confrontational concerning Mr. Husted's announcement, and said that she did not agree with Ms. Lawrence being given certain tasks that were allegedly or traditionally Ms. Samuel's tasks. Ms. Lawrence said that Ms. Samuel's behavior seemed disrespectful and insubordinate to Mr. Husted in front of the other employees who were at this particular staff meeting.

 It was not long after the incident at the staff meeting that Ms. Samuel began acting in a rude and condescending fashion towards Ms. Lawrence. These sorts of rude and abusive remarks consisted of Ms. Samuel continually questioning Ms. Lawrence in an aggressive and rude fashion and inquiring as to what right Ms. Lawrence had to do the task that she was doing. Ms. Lawrence said it was as if Ms. Samuel was her supervisor and was providing some form of oversight and rough supervision. Ms. Lawrence cited several instances which she additionally detailed in contemporaneous notes where Ms. Samuel had engaged in rude and abusive verbal behavior towards her. Ms. Samuel seemed convinced that Ms. Lawrence was either exceeding her authority or was being provided additional rights or benefits that Ms. Samuel did not feel were appropriate or fair.

 For instance, Mr. Jones, the General Manager of the District, directed Ms. Lawrence to attend a District Board meeting for familiarization and training purposes. Ms. Lawrence said that Mr. Jones told her that she would receive overtime compensation for this work, and on February 19, 2019, she attended a District Board meeting. Not long after that on March 7, 2019, Ms. Samuel was reviewing payroll records as part of her duties, and lashed out at Ms. Lawrence when she observed in the payroll records that Ms. Lawrence had received overtime compensation for attending the District Board meeting on February 19, 2019.

 Ms. Lawrence said that Ms. Samuel became aggressive demanding to know why she received overtime compensation for attending this meeting, offering that Ms. Samuel had gone to various District Board meetings and had never been paid, and claimed that those sorts of meetings are on a volunteer basis only. Ms. Lawrence said that Ms. Samuel's aggressive behavior was troubling and it seemed as though Ms. Samuel was attempting to find that Ms. Lawrence had done something improper.

 Ms. Lawrence recalled also that Ms. Samuel would continually question her in the workplace concerning her various activities. Ms. Lawrence recalled on March 26, 2019, that she had obtained tape measures from Mr. Jones' office in order for her and Mr. Asturias to mount bulletin Boards in the employee lounge area. Ms. Lawrence said that she had permission to obtain the tape measures, however Ms. Samuel felt it necessary to question Ms. Lawrence as to why she needed the tape measures and further why she was in Mr. Jones' office. Ms. Lawrence said that Ms. Samuel's interrogation and questions about her activities had a feeling of insinuation and accusation that Ms. Lawrence was somehow doing something improper.

 Ms. Lawrence also recalled a time that Ms. Samuel had learned that Ms. Lawrence had been issued a department credit card and became incensed and upset. Mr. Husted recalled that Ms. Samuel had challenged him as to why Ms. Lawrence was issued a District credit card. At the time that Mr. Husted had made this decision, he had not yet informed Ms. Lawrence that she would be obtaining a card, however Ms. Samuel observed that Ms. Lawrence was on the credit card holder list in an email that Ms. Samuel received as part of her credit card reconciliation work. Mr. Husted said that Ms. Samuel immediately went to Ms. Lawrence and abruptly confronted her about the notion that she had been issued a department credit card. At the time, Ms. Lawrence was unaware that she had been issued such a card and informed Ms. Samuel of this. Mr. Husted recalls that when Ms. Samuel challenged him concerning why Ms. Lawrence was issued a department credit card that she made a dismissive and derogatory toned remark concerning Ms. Lawrence not being aware that she had been issued such a card.

 Ms. Lawrence also noted that Ms. Samuel challenged her as to why she was time stamping various invoices that were received by email. Ms. Lawrence indicated that Mr. Husted had asked that all invoices whether they are received by conventional mail or by email should be time stamped in a similar fashion for consistency. Ms. Lawrence said that she had done so on March 27, 2019, only to have Ms. Samuel begin to challenge her as to why she was time stamping these emailed invoices. Even though Ms. Lawrence advised Ms. Samuel that Mr. Husted had asked her to process the invoices in that fashion, Ms. Samuel laughed at Ms. Lawrence in a mocking fashion in what Ms. Lawrence indicated was a patent attempt to make her appear foolish or that she was improperly processing her work.

In summary, Ms. Lawrence indicated that she feels that Ms. Samuel has treated her very poorly since her employment at the District and more specifically since their full‑time employment as a District employee. Ms. Lawrence said that Ms. Samuel has gone about attempting to undermine her, sabotage her work and acts in aggressive and an intimidating fashion, constantly challenging her and acting as if Ms. Samuel is some sort of supervisory authority over Ms. Lawrence, and that Ms. Lawrence is incompetent and/or overstepping her authority and tasks.

 Ms. Samuel generally denied that she had engaged in any form of negative behavior towards Ms. Lawrence. Ms. Samuel was essentially dismissive of Ms. Lawrence's concerns and attempted to focus instead on how she had been allegedly treated by Mr. Jones and/or Mr. Husted in the past. Ms. Samuel claims that she had been wrongfully charged with inefficiency in her work and given a written reprimand unjustly. Ms. Samuel remarked that she concludes that Ms. Lawrence has been hired at the District in order to ultimately replace her, whereupon Ms. Samuel would be fired from her position. Even so, Ms. Samuel insists that she has not reacted with Ms. Lawrence improperly and generally denied abusive behavior, a threatening demeanor or attempts to undermine Ms. Lawrence in the workplace.

 Even so, other credible witnesses such as Mr. Husted, Mr. Jones and Ms. Bush tended to corroborate Ms. Lawrence's observations in the workplace. Indeed, Ms. Bush had observed Ms. Samuel yelling at and challenging Ms. Lawrence on a number of occasions and, on at least one occasion, observed Ms. Samuel walk to Ms. Lawrence's workspace area and stand next to her in what appeared to Ms. Bush to be an aggressive and bullying posture. During that event, Ms. Bush observed that Ms. Lawrence appeared to be somewhat intimidated and/or frightened by Ms. Samuel's physical presence coupled with her aggressive verbal abuse.

 Even though Ms. Samuel generally denies Ms. Lawrence's claims, the greater weight of the credible evidence stands to demonstrate that Ms. Lawrence's version of events are believable and true.

* 1. **Rules of the District**

The District has rules detailed in Article 20 titled, *"Work Rule Violation Disciplinary Procedure."* These various rule violations are detailed as "major offenses" as well as "infractions." Concerning this fact-finding investigation, those "major offenses" detailed in Section A of Article 20, the *Work Rule Violation Disciplinary Procedure* includes, in relevant part:

*4. Threatening or intimidating other employees, supervisors or customers.*

*15. Other acts of serious misconduct.*

As to violations of District safety rules under Section B, as “infractions,” the rules related to this fact-finding investigation, state, in relevant part:

 *1. Dishonesty.*

 *2. Insubordinate acts or statements, or failure to carry out orders.*

*14. Interfering with, or purposeful distraction of, another employee in the performance of his/her work.*

Additionally, California law defines "abusive conduct" as follows:

*Abusive conduct means conduct of an employer or employee in the workplace, with malice, that a reasonable person would find hostile, offensive, and unrelated to the employer's legitimate business interests. Abusive conduct may include repeated infliction of verbal abuse such as the use of derogatory remarks, insults, and epithets, verbal or physical conduct that a reasonable person would find threatening, intimidating, or humiliating, or the gratuitous sabotage or undermining of a person's work performance. A single act shall not constitute abusive conduct, unless especially severe or egregious.[[8]](#footnote-8)*

* 1. **Findings**

Here, the facts in this matter demonstrate that Ms. Samuel has engaged in inappropriate behavior towards Ms. Lawrence. This inappropriate behavior tended to accelerate and get worse after Ms. Lawrence was hired as a full-time employee and peer of Ms. Samuel. Credible witnesses have observed that Ms. Samuel has attempted to impose her will and direction on Ms. Lawrence even though she is not her supervisor nor has she been bestowed with those powers.

The facts demonstrate that Ms. Samuel has gone about engaging in abusive conduct of Ms. Lawrence. This abusive conduct has consisted of largely verbal abuse such as the use of derogatory remarks, insults and other verbal conduct that a reasonable person would find either threatening, intimidating or humiliating. The facts also demonstrate that Ms. Samuel has engaged in open and gratuitous sabotage or undermining of Ms. Lawrence's work by questioning her work activities in an abusive and overly suspicious manner. The facts demonstrate that this abusive conduct has continued since Ms. Lawrence was hired as a full-time employee in January of 2019.

 Ms. Samuel says that she believes that Ms. Lawrence was hired at the agency in order to ultimately replace Ms. Samuel. Ms. Samuel had no reasonable basis to conclude that that was the case. Ms. Samuel was aware that Ms. Lawrence had been working for the District as a temporary employee for a number of months until she was brought on full-time in order to assist with expanding programs as well as utilizing her language skills in Vietnamese. The District serves a large Vietnamese community and Ms. Lawrence's ability to speak and read Vietnamese has been quite helpful.

 In addition to this verbal abusive conduct, Ms. Bush observed that Ms. Samuel had engaged in threatening and/or intimidating physical behavior towards Ms. Lawrence. Ms. Bush recalled that Ms. Samuel, after loudly criticizing Ms. Lawrence, walked to Ms. Lawrence's workspace and stood over her in close proximity to Ms. Lawrence. Ms. Bush observed that Ms. Lawrence appeared to be genuinely intimidated or frightened by Ms. Samuel's physical presence coupled with her aggressive and negative attitude towards Ms. Lawrence. This fact-finder observed that Ms. Samuel is a large woman and much larger and heavier than Ms. Lawrence.

 The rules of the District under Article 20, Work Rule Violation Disciplinary Procedure Section A (4) indicates that "threatening or intimidating other employees, supervisors, or customers" is considered a "major offence." Here, Ms. Samuel has engaged in repeated behavior seemingly berating, questioning, domineering and attempting to intimidate Ms. Lawrence by virtue of engaging in abusive verbal conduct, as well as physical intimidation, as observed by Ms. Bush.

 Furthermore, the District's work rule violation policy Section B14 states that "interfering with, or purposeful distraction of, another employee in the performance of his/her work" is a violation of the District's work rules and subject to sanctions. Here, Ms. Samuel's continual questioning, interrogation, bullying and other authoritative remarks concerning Ms. Lawrence's work has caused a distraction and interference for Ms. Lawrence in completing her tasks. Indeed, Ms. Lawrence indicated that Ms. Samuel's continual attempts to seemingly undermine Ms. Lawrence's job duties by questioning her authority to complete certain tasks has caused Ms. Lawrence a degree of consternation and concern, causing her to speak with her supervisors in order to be certain that she was performing her duties properly. Ms. Samuel's behavior in this regard tended to be aimed at sabotaging or undermining Ms. Lawrence's work performance and/or her confidence in her work product.

 It appeared to this fact finder that Ms. Samuel, who admitted that she believed Ms. Lawrence had been hired to take over Ms. Samuel's position whereupon Ms. Samuel would be terminated, has gone about engaging in abusive conduct directed towards Ms. Lawrence in order to intimidate her, to undermine her workmanship or otherwise attempt to sabotage her position at the District. Ms. Samuel has gone about doing so by engaging and ridiculing behavior, bullying Ms. Lawrence and raising her voice at Ms. Lawrence in a hostile and loud fashion. Ms. Samuel has further engaged in belittling statements and frequent criticism of Ms. Lawrence's work that tends to undermine her ability to perform her duties. In addition to this, Ms. Samuel also has engaged in non‑verbal abusive behavior such as dismissive and/or aggressive glances and glaring and other facial gestures communicating Ms. Samuel's disrespect and contempt for Ms. Lawrence.

 Over the months since Ms. Lawrence had been hired as a full-time employee, she has suffered abuse by Ms. Samuel and, at the direction of a co‑worker and Mr. Husted, the Director of Human Resources, she has detailed Ms. Samuel's behavior by making contemporaneous notes. [[9]](#footnote-9) Even though Ms. Lawrence made no formal complaint against Ms. Samuel, she initially contacted Mr. Asturias in order to gain his perspective in regard to Ms. Samuel's behavior. After which, Ms. Lawrence further spoke with Mr. Husted expressing her concern that Ms. Samuel's behavior was continuing and at times getting worse.

 In summary, Ms. Samuel violated the rules of the District by engaging in abusive conduct towards Ms. Lawrence, doing so by virtue of verbal abuse, non‑verbal abuse and physical intimidation. Because of Ms. Samuel's abusive behavior, she has interfered with Ms. Lawrence's ability to effectively and efficiently perform her duties without fear of unreasonable ridicule, harassment and criticism. The allegations are therefore, **Sustained**.

## **TABLE OF EXHIBITS**

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| --- | --- |
| **ITEM** | **NUMBER** |
| Investigative Report of Findings | 1 |
| Transcript of Interview of Jeff Asturias | 2 |
| Transcript of Interview of Linda Lawrence | 3 |
| Transcript of Interview of Robert Husted | 4 |
| Transcript of Interview of Donna Gregg | 5 |
| Transcript of Interview of Judy Samuel | 6 |
| E-mail from Mr. Jones to Mr. Larson concerning Ms. Samuel’s behavior toward Mr. Lawrence – March 28, 2019 | 7 |
| Notes from Ms. Lawrence (Provided by Ms. Lawrence at her Interview) | 8 |
| Ms. Samuel’s Job Expectations (Provided by Ms. Samuel at her Interview) | 9 |
| Written Reprimand to Ms. Samuel – August 30, 2018 (Provided by Ms. Samuel at her Interview) | 10 |
| E-mail from Mr. Jones to Ms. Samuel – “RE: Incident During Lunch on August 21, 2018” – August 27, 2018 | 11 |
| Written Statement by Ms. Bush – March 27, 2019 | 12 |
| District Rules – Article 20, “Work Rule Violation Disciplinary Procedure” | 13 |

1. See the attached District Work Rule Violation Disciplinary Procedure, Article 20. [↑](#footnote-ref-1)
2. See *California Civil Jury Instruction* Section 5003. [↑](#footnote-ref-2)
3. See the attached e-mail provided by Ms. Samuel. [↑](#footnote-ref-3)
4. See the attached written reprimand provided by Ms. Samuel dated August 30, 2018. [↑](#footnote-ref-4)
5. See the attached transcript of Ms. Samuel's interview for further details. [↑](#footnote-ref-5)
6. The greater weight of the credible evidence demonstrates that Ms. Samuel’s workplace behavior towards Ms. Lawrence violated the rules cited in Section A 2. [↑](#footnote-ref-6)
7. See the attached written statement by Ms. Bush. [↑](#footnote-ref-7)
8. See California Government Code § 12950.1 (g)(2). [↑](#footnote-ref-8)
9. See Ms. Lawrence's contemporaneous notes, as attached. [↑](#footnote-ref-9)