

MEMORANDUM

August 15, 2013

TO: Zhengxin Wang, Ph.D.
Associate Professor, Department of Cancer Biology

FROM: Ethan Dmitrovsky, M.D. *Ethan Dmitrovsky*
Provost and Executive Vice President

Subject: A review of the non-renewal of your Appointment

On June 28, 2013 you submitted to Dr. Thomas Buchholz, Provost and EVP ad Interim, documentation highlighting qualifications to support the renewal of term tenure.

I have reviewed the documentation you submitted and after careful consideration of the materials you have provided and based on the previous reviews and decisions by Dr. Thomas Buchholz, Provost and EVP ad interim, and Dr. Ronald DePinho, I have decided to uphold the decision to not renew your term tenure appointment. Your appointment will not be renewed beyond the date of August 31, 2014.

Pursuant to the Faculty Appeal Policy, since the non-renewal of your appointment action has been upheld and has not been rescinded, you may request a meeting with the President, if you wish to do so. This request must be submitted in writing to the President within five business days of your receipt of this Memorandum.

ED/avb

CC: Dr. Raghu Kalluri
Dr. Helen Piwnicka-Worms
Dr. Oliver Bogler

CHARGE OF DISCRIMINATION

This form is affected by the Privacy Act of 1974. See enclosed Privacy Act Statement and other information before completing this form.

Charge Presented To: Agency(ies) Charge No(s):

FEPA

EEOC

460-2013-03444

Texas Workforce Commission Civil Rights Division

and EEOC

State or local Agency, if any

Name (indicate Mr., Ms., Mrs.)

Dr. Zhengxin Wang

Home Phone (Incl. Area Code)

(832) 232-8842

Date of Birth

05-28-1962

Street Address

City, State and ZIP Code

2316 Shadow Canyon Court, Pearland, TX 77584

Named is the Employer, Labor Organization, Employment Agency, Apprenticeship Committee, or State or Local Government Agency That I Believe Discriminated Against Me or Others. (If more than two, list under PARTICULARS below.)

Name

THE UNIVERSITY OF TEXAS, M.D. ANDERSON CANCER CENTER

No. Employees, Members

500 or More

Phone No. (Include Area Code)

(713) 745-0450

Street Address

City, State and ZIP Code

1515 Holcombe Boulevard, Houston, TX 77030

DISCRIMINATION BASED ON (Check appropriate box(es).)

DATE(S) DISCRIMINATION TOOK PLACE

Earliest

Latest

RACE COLOR SEX RELIGION NATIONAL ORIGIN

06-01-2012

08-08-2013

RETALIATION AGE DISABILITY GENETIC INFORMATION

OTHER (Specify)

CONTINUING ACTION

THE PARTICULARS ARE (If additional paper is needed, attach extra sheet(s)):

- I. I began my employment with the Respondent in November 2001 and my most recent job title is Associate Professor. It is my belief that I have always met or exceeded all performance standards.
- II. During the summer of 2012, my department (Cancer Biology) received a new chairman, Dr. Kalluri. It was not long before that the school brought in a new president, Dr. DePinho. It is my belief that the new president knew Dr. Kalluri and recruited him for the position. Since the new chairman arrived, I have had problems with him and the way he treated me compared to other professors. I feel it created a hostile work environment for me. In the spring of 2013, I complained to Faculty Affairs and Human Resources about the treatment I was subjected to at work. During these discussions, I made mention of there being a discriminatory basis behind these actions.
- III. On May 28, 2013, a letter was sent to me from the Provost, Dr. Buchholz, to notify me that my tenure appointment was not approved for renewal beyond August 31, 2014. Three days later, I sent him an e-mail to ask for the reasons, but never received a response. On June 18, 2013, I appealed this decision because I had proof that I met all of the posted qualifications for approval. The next day I made a public records request to Faculty Affairs for the Term Table for FY 2013, but I never got any reply. As instructed, I provided the provost with all of my supporting documentation by the deadline of July 3rd. As of today, I have not heard anything about my appeal.
- IV. According to school records, another professor who is white and European, Dr. Jill Schumacher, was approved for tenure renewal recently. I have researched and compared our qualifications, which my information exceeds her in nearly every way possible. For the basis of tenure, I have more research articles (24 to 6), Senior Author Articles (12 to 4), Total Impact Factors (50.386 to 31.589), and Grant Numbers (5 to 2). Also, my employment has been continuous for 13 years, where as she had a two year gap from 2010-2012. My work and research is directly related to cancer, which is the primary mission of the hospital, but her duties are not. In April 2013, I was notified by the Chair of the Promotion and Tenure Committee, Dr. Sturgis, that they voted unanimously (11 to 0) that I was qualified for renewal of term tenure and gave a favorable recommendation to the President and Provost. It was their decision to deny approval.
- V. I believe I have been discriminated against based on my race, Asian, and National Origin, China, in violation of Title VII of the Civil Rights Act of 1964, as amended. Additionally, I feel that I was retaliated against for participating in the protected activity of reporting discrimination to Human Resources and Faculty Affairs.

I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or phone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures.

NOTARY - When necessary for State and Local Agency Requirements

Ryan J. Mays

I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief.

SIGNATURE OF COMPLAINANT

Zhengxin Wang

SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE (month, day, year)

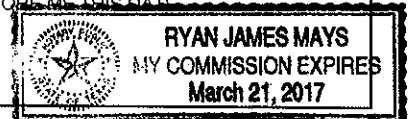
AUGUST 8, 2013

I declare under penalty of perjury that the above is true and correct.

Aug 08, 2013

Date

Zhengxin Wang
Charging Party Signature





U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
Houston District Office

Total Plaza
1201 Louisiana Street, Suite 600
Houston, Texas 77002
Main: (713) 651-4900
TTY: (713) 651-4901
Fax: (713) 651-4902

August 8, 2013

Dr. Zhengxin Wang
2316 Shadow Canyon Court
Pearland, Texas 77584

RE: Charge Number ~ 460-2013-03444

Dear Dr. Wang:

This letter is to inform you that your charge has been assigned to me, Ryan J. Mays. I will be contacting you to discuss the specifics of your case, and to provide you with the opportunity to offer information in rebuttal to the Respondent's defense. You may be anxious to discuss your case with me immediately, however, please try to be patient, since there are charges prior to yours that I am currently investigating.

If you have any information relating to your charge which you have not provided to the EEOC, please have this information ready for discussion. You may also mail in, e-mail or fax copies of documents or other pertinent information at any time. You should provide names of witnesses or other employees who were treated more favorably than you under similar circumstances, along with their contact information, if available. Please keep a log or diary of any ongoing events related to your charge.

We encourage settlement throughout the administrative processing of any charge filed with the Commission. Keep track of any loss of pay or other benefits. If your case involves allegations of termination, you are required to mitigate your damages by seeking other employment while your charge is pending. Even if the employer declines a cash settlement, we may be able to obtain other benefits on your behalf, which in the long run may be worth far more than cash. These may include a letter of reference, changing a discharge to voluntary resignation, agreement to not contest unemployment benefits, reinstatement, reassignment, removal of discipline from your record, continuation of health insurance, reasonable accommodation, training, change in policy, or free/reduced prices on the goods/services provided by the company. It is important, however, to understand that there is no guarantee that an employer will agree to your demands.

The EEOC cannot require any employer to pay fines or agree to settle a case, but sometimes employers make a business decision to resolve a charge rather than spend the time, effort and money it may take to defend their position, even if they believe they will prevail. Be prepared to discuss the relief you would be willing to accept in resolution of your charge.

If you have changed your address or telephone number since you have filed your charge, please provide your current address and phone number, or a contact person through which you can be reached. My office hours are 7:30 a.m. to 4:30 p.m., Monday through Friday, and you may contact me at (713) 651-4948. If for some reason I do not answer, please leave a voicemail message. It may take a couple of days to respond, but rest assured that I will reply as soon as I am able.

If you are represented by counsel, be sure to ask your attorney to send me a "Letter of Representation" so that I can deal with them directly. Your patience in this matter is appreciated.

Sincerely,

A handwritten signature in black ink that reads "Ryan J. Mays".

Ryan J. Mays
Federal EO Investigator



03444

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION INTAKE QUESTIONNAIRE

RECEIVED 834 AUG 08 2013

HOUSTON DISTRICT OFFICE

Please immediately complete the entire form and return it to the U.S. Equal Employment Opportunity Commission ("EEOC"). REMEMBER, a charge of employment discrimination must be filed within the time limits imposed by EEOC, generally within 180 days or in some places 300 days of the alleged discrimination. Upon receipt, this form will be reviewed to determine EEOC coverage. Answer all questions as completely as possible, and attach additional pages if needed to complete your response(s). If you do not know the answer to a question, answer by stating "not known." If a question is not applicable, write "n/a." Please Print.

I. Personal Information

Last Name: Wang First Name: Zhengxin MI:
Street or Mailing Address: 2316 Shadow Canyon CT Apt Or Unit #:
City: Pearland County: Brazoria State: Texas ZIP: 77584
Phone Numbers: Home: () Work: (713) 794-1035
Cell: (832) 232-8842 Email Address: zhenwang@mdanderson.org
Date of Birth: 05/28/1962 Sex: Male [X] Female [] Do You Have a Disability? [] Yes [X] No

Please answer each of the next three questions.
i. Are you Hispanic or Latino? [] Yes [X] No
ii. What is your Race? Please choose all that apply. [] American Indian or Alaska Native [X] Asian [] White [] Black or African American [] Native Hawaiian or Other Pacific Islander
iii. What is your National Origin (country of origin or ancestry)? China

Please Provide The Name Of A Person We Can Contact If We Are Unable To Reach You:

Name: Yihuan Hong Relationship: Spouse
Address: 2316 Shadow Canyon CT City: Pearland State: TX Zip Code: 77584
Home Phone: () Other Phone: (832) 397-9952

2. I believe that I was discriminated against by the following organization(s): (Check those that apply)

[X] Employer [] Union [] Employment Agency [] Other (Please Specify)

Organization Contact Information (If the organization is an employer, provide the address where you actually worked. If you work from home, check here [] and provide the address of the office to which you reported.) If more than one employer is involved, attach additional sheets.

Organization Name: The University of Texas MD Anderson Cancer Center
Address: 1515 Holcombe BLVD County: Harris
City: Houston State: TX Zip: 77030 Phone: (713) 745-0450
Type of Business: Patient care and research Job Location if different from Org. Address:
Human Resources Director or Owner Name: Shibu Varghese Phone: 713-745-7300

Number of Employees in the Organization at All Locations: Please Check (v) One

[] Fewer Than 15 [] 15 - 100 [] 101 - 200 [] 201 - 500 [X] More than 500

3. Your Employment Data (Complete as many items as you can) Are you a Federal Employee? [] Yes [X] No

Date Hired: November 1, 2001 Job Title At Hire: Assistant Professor
Pay Rate When Hired: \$78,000 Last or Current Pay Rate: \$115,937
Job Title at Time of Alleged Discrimination: Associate Professor Date Quit/Discharged:
Name and Title of Immediate Supervisor: Raghu Kalluri, Professor and Chairman of Department of Cancer Biology

If Job Applicant, Date You Applied for Job _____ Job Title Applied For _____

4. What is the reason (basis) for your claim of employment discrimination?

FOR EXAMPLE, if you feel that you were treated worse than someone else because of race, you should check the box next to Race. If you feel you were treated worse for several reasons, such as your sex, religion and national origin, you should check all that apply. If you complained about discrimination, participated in someone else's complaint, or filed a charge of discrimination, and a negative action was threatened or taken, you should check the box next to Retaliation.

- Checkboxes for Race, Sex, Age, Disability, National Origin, Religion, Retaliation, Pregnancy, Color, Genetic Information, etc.

If you checked color, religion or national origin, please specify: _____

If you checked genetic information, how did the employer obtain the genetic information? _____

Other reason (basis) for discrimination (Explain). _____

5. What happened to you that you believe was discriminatory? Include the date(s) of harm, the action(s), and the name(s) and title(s) of the person(s) who you believe discriminated against you. Please attach additional pages if needed.

(Example: 10/02/06 - Discharged by Mr. John Soto, Production Supervisor)

A) Date: 05/31/2013 Action: Received a letter (Appendix 1) from Dr. Thomas Buchholz, the Provost & Executive Vice President, which informed me that my current appointment will not be renewed.

Name and Title of Person(s) Responsible: Ronald DePinho, the President of UT MD Anderson Cancer Center

B) Date: Action:

Name and Title of Person(s) Responsible: _____

6. Why do you believe these actions were discriminatory? Please attach additional pages if needed.

I have met the criteria and qualifications for the renewal of term tenure as listed on the Faculty Term Tenure Policy (Appendix 2; Appendix 3). The Promotion and Tenure Committee also recognized my qualifications and found that, by unanimous vote (11:00:00), that I am qualified for the renewal of term tenure at the rank of associate professor (Appendix 4). Thus, denial of my renewal of term tenure is an arbitrary and discriminatory action.

7. What reason(s) were given to you for the acts you consider discriminatory? By whom? His or Her Job Title?

Dr. Jill Schumacher, an associate professor in the Department of Genetics, was awarded for the renewal of term tenure. By comparison (Appendix 5, Appendix 6, Appendix 7, Appendix 8), I have higher scientific productivity and more extramural grant supports than Dr. Schumacher (Appendix 9). In addition, my research directly contributes to the institute's goal -- making cancer history. The denial of my renewal of term tenure by the President Ronald DePinho is discriminatory.

8. Describe who was in the same or similar situation as you and how they were treated. For example, who else applied for the same job you did, who else had the same attendance record, or who else had the same performance? Provide the race, sex, age, national origin, religion, or disability of these individuals, if known, and if it relates to your claim of discrimination. For example, if your complaint alleges race discrimination, provide the race of each person; if it alleges sex discrimination, provide the sex of each person; and so on. Use additional sheets if needed.

Of the persons in the same or similar situation as you, who was treated better than you?

Table with 3 columns: Full Name, Race, sex, age, national origin, religion or disability, Job Title. Row 1: Jill Schumacher, White, Female, USA/Europe, Associate Professor

Description of Treatment Awarded the renewal of term tenure by the President Donald DePinho.

Table with 3 columns: Full Name, Race, sex, age, national origin, religion or disability, Job Title. Row 2: (Empty)

Description of Treatment

Of the persons in the same or similar situation as you, who was treated *worse* than you?

A. <u>Full Name</u>	<u>Race, sex, age, national origin, religion or disability</u>	<u>Job Title</u>
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Description of Treatment

B. <u>Full Name</u>	<u>Race, sex, age, national origin, religion or disability</u>	<u>Job Title</u>
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Description of Treatment**Of the persons in the same or similar situation as you, who was treated the *same* as you?**

A. <u>Full Name</u>	<u>Race, sex, age, national origin, religion or disability</u>	<u>Job Title</u>
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Description of Treatment

B. <u>Full Name</u>	<u>Race, sex, age, national origin, religion or disability</u>	<u>Job Title</u>
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Description of Treatment

Answer questions 9-12 only if you are claiming discrimination based on disability. If not, skip to question 13. Please tell us if you have more than one disability. Please add additional pages if needed.

9. Please check all that apply:
- Yes, I have a disability
- I do not have a disability now but I did have one
- No disability but the organization treats me as if I am disabled

10. What is the disability that you believe is the reason for the adverse action taken against you? Does this disability prevent or limit you from doing anything? (e.g., lifting, sleeping, breathing, walking, caring for yourself, working, etc.).

11. Do you use medications, medical equipment or anything else to lessen or eliminate the symptoms of your disability?

Yes No

If "Yes," what medication, medical equipment or other assistance do you use?

12. Did you ask your employer for any changes or assistance to do your job because of your disability?

Yes No

If "YES", when did you ask? _____ How did you ask (verbally or in writing)? _____

Who did you ask? (Provide full name and job title of person)

Describe the changes or assistance that you asked for:

How did your employer respond to your request?

13. Are there any witnesses to the alleged discriminatory incidents? If yes, please identify them below and tell us what they will say. (Please attach additional pages if needed to complete your response)

A. Full Name	Job Title	Address & Phone Number
Douglas Boyd	Professor	1515 Holcombe BLVD - 173, Houston, TX 77030 Tel: 713-563-4918

What do you believe this person will tell us?

He will tell you my credentials as well as Dr. Schumacher's. He has been worked in MD Anderson Cancer Center for over 20 years and knows this institute very well.

B. Full Name	Job Title	Address & Phone Number

What do you believe this person will tell us?

14. Have you filed a charge previously in this matter with EEOC or another agency? Yes No

15. If you have filed a complaint with another agency, provide name of agency and date of filing:
No.

16. Have you sought help about this situation from a union, an attorney, or any other source? Yes No

Provide name of organization, name of person you spoke with and date of contact. Results, if any?
On 08/07/2013, I contacted Julie C. Allen at the Texas Faculty Association and was suggested to file a charge of employment discrimination with EEOC.

Please check one of the boxes below to tell us what you would like us to do with the information you are providing on this questionnaire. If you would like to file a charge of job discrimination, you must do so either within 180 days from the day you knew about the discrimination, or within 300 days from the day you knew about the discrimination if the employer is located in a place where a state or local government agency enforces laws similar to the EEOC's laws. If you do not file a charge of discrimination within the time limits, you will lose your rights. If you would like more information before filing a charge or you have concerns about EEOC's notifying the employer, union, or employment agency about your charge, you may wish to check Box 1. If you want to file a charge, you should check Box 2.

Box 1 I want to talk to an EEOC employee before deciding whether to file a charge. I understand that by checking this box, I have not filed a charge with the EEOC. I also understand that I could lose my rights if I do not file a charge in time.

Box 2 I want to file a charge of discrimination, and I authorize the EEOC to look into the discrimination I described above. I understand that the EEOC must give the employer, union, or employment agency that I accuse of discrimination information about the charge, including my name. I also understand that the EEOC can only accept charges of job discrimination based on race, color, religion, sex, national origin, disability, age, genetic information, or retaliation for opposing discrimination.

Zhenxin Wang
Signature

August 8, 2013
Today's Date

PRIVACY ACT STATEMENT: This form is covered by the Privacy Act of 1974: Public Law 93-579. Authority for requesting personal data and the uses thereof are:
1. FORM NUMBER/TITLE/DATE. EEOC Intake Questionnaire (9/20/08).
2. AUTHORITY. 42 U.S.C. § 2000e-5(b), 29 U.S.C. § 211, 29 U.S.C. § 626, 42 U.S.C. 12117(a), 42 USC §2000ff-6.
3. PRINCIPAL PURPOSE. The purpose of this questionnaire is to solicit information about claims of employment discrimination, determine whether the EEOC has jurisdiction over those claims, and provide charge filing counseling, as appropriate. Consistent with 29 CFR 1601.12(b) and 29 CFR 1626.8(c), this questionnaire may serve as a charge if it meets the elements of a charge.
4. ROUTINE USES. EEOC may disclose information from this form to other state, local and federal agencies as appropriate or necessary to carry out the Commission's functions, or if EEOC becomes aware of a civil or criminal law violation. EEOC may also disclose information to respondents in litigation, to congressional offices in response to inquiries from parties to the charge, to disciplinary committees investigating complaints against attorneys representing the parties to the charge, or to federal agencies inquiring about hiring or security clearance matters
5. WHETHER DISCLOSURE IS MANDATORY OR VOLUNTARY AND EFFECT ON INDIVIDUAL FOR NOT PROVIDING INFORMATION. Providing of this information is voluntary but the failure to do so may hamper the Commission's investigation of a charge. It is not mandatory that this form be used to provide the requested information.