



CAMPUS COMPLIANCE
Title IX, EEO, AA
UNIVERSITY OF CALIFORNIA, MERCED
5200 N Lake Rd
MERCED, CALIFORNIA 95344-0039
(209) 228-4620

Investigation Report
00102-2016 combined 0008-2017

CONFIDENTIAL

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INTRODUCTION:

The University of California is committed to nondiscrimination in employment and creating and maintaining a workplace free of harassment and discrimination.

SUMMARY OF ALLEGATIONS:

On November 1, 2016, Director Salvador received the following italicized email from Complainant 1 (C1).

Hello Michael,

I am attaching three separate sexual harassment claims involving [REDACTED] who is a [REDACTED]. I am a [REDACTED] student. When the issues began, I was [REDACTED], and [REDACTED] was a [REDACTED]. It has taken me a long time to realize that what I have been suffering from is considered by university law sexual harassment. Each incident has made me uncomfortable, and there are many incidents that I have not bothered to report here as the email would be far too long. I have decided to stick to the most important cases, those that happened in the beginning when I first had interactions with this co-worker (because I still have record of the emails) and those that have happened most recently.

The thing that finally made me come forward is that this same co-worker has started sexually harassing [REDACTED] other [REDACTED] co-workers in our [REDACTED] as well. They will be filing individual claims tonight / tomorrow.



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I will try to be as thorough as possible. I have attached documents that will help, including the harassment forms which I have filled out and titled with the dates of the incidents I'm reporting.

The [redacted] we work for is [redacted]. The person I'm making this claim against is [redacted] [Respondent]. The two co-workers who are suffering from sexual harassment along side me are [Complainant 2] and [Complainant 3].

We have become so uncomfortable in the work place that we've been stressing over this matter for months now, we've finally agreed to come forward after getting advice from our close friends and family.

Please let me know how to proceed.

*Best,
Complainant 1.*

On November 1, 2016, C1 also submitted an additional complaint form, which articulated the following allegations of sexual harassment attributed to Respondent:

[Respondent] called me into his office so that he could read an article to me. The name of the article is called '[redacted]' and he proceeded to read the entire thing to me. For most of the article I sat, wondering why he was reading this to me. It became apparent by the end, that it was because he believes I have '[redacted]'. This made me so uncomfortable. He proceeded to accuse me of '[redacted]' accusing me of using my looks to get my way, and many other disrespectful claims. He continues to remind me of this in the office on a daily basis. I would like this behavior to stop - and I would like to know that he will not be able to treat other women so degradingly in the future especially because he is applying for teaching jobs.

On November 1, 2016, I confronted [Respondent] via text message about a statement he told one of my coworkers, [Complainant 3]. My coworker told me directly what he said to [redacted] because it made [redacted] uncomfortable. The statement made by [Respondent] to [Complainant 3], "[Complainant 1] is only in this group because [redacted]". When confronted, [Respondent] denied having said this, but held firm to the fact that I was suffering from '[redacted]' - words he's been using around the office towards me and another, that make both of us uncomfortable. He's mentioned many times that I suffer from '[redacted]'.

Also on November 1, 2016, C1 submitted a compliant form, identifying Respondent by name as the person responsible for the behavior, and identified C2 as a recipient of the alleged conduct:



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Many years ago, when I began working with my [REDACTED] [Respondent] was a [REDACTED] at the time, who was helping to advise me over my research. There were many occasions where he sent me emails that made me uncomfortable. I should have said something about them - at the time I never knew I could - I didn't want to jeopardize my opportunity working for the group. So I did my best to not let the contents of the emails get to me. I regret not saying something - now this same person is sending very inappropriate emails to a co-worker of mine [C2].

When prompted by the form to state an acceptable outcome or resolution, C1 stated:

I would like this behavior to stop - and I would like to know that he will not be able to treat other women so degradingly in the future especially because he is applying for teaching jobs.

Additional allegations from C1 and C3 regarding Respondent:

On February 3, 2017, I received a telephone call from C1. [REDACTED] advised me that Respondent had recently made inappropriate comments to [REDACTED] while in the office. [REDACTED] told me that Respondent had commented about [REDACTED] appearance to [REDACTED] students, and had also acted in a manner that [REDACTED] felt was inappropriate with C3.

On February 4, 2017, I received an email from C3, containing the italicized passages below:

Hi Jim,

I hope you are well. I have some information you may want to add to the investigation regarding [Respondent]

[REDACTED] [Respondent] hurt his leg while working out and he said "I need a massage" and he stared [REDACTED] for a while, and so [REDACTED] "then go get one...?" He then proceeded to say "I'm looking at one." So [REDACTED] no and walked away. Around 2:30, [Respondent] , (named male) [REDACTED] and he touched [REDACTED] hair, from the back, and said it was soft and silky. He also got upset when [REDACTED] was gonna donate it. And then [REDACTED] was pushing the cart and he went behind [REDACTED] and put one hand next to [REDACTED] right hand and the other next to [REDACTED] left hand. (If this part was unclear, I draw a picture for you.) So I went under and moved away from him. And then [REDACTED] "if people see [REDACTED] together they probably think [REDACTED] dad." Then he said "are you serious? More like [REDACTED] boyfriend." [REDACTED] replied no.

I'm not completely sure if this will be relevant to your investigation but [REDACTED] feel very uncomfortable, especially the part with the cart. If you would like to talk on the phone, please feel free to let me know. I am available on Monday. Thank you so much for your help - I really appreciate it.



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Sincerely,

[Complainant 3]

NOTICE OF PARTIES:

Respondent was issued a Charge Notice on November 1, 2016.

On February 13, 2017, Respondent was advised that the two cases were being consolidated. Respondent acknowledged the consolidation in writing that same day.

POLICY AND SCOPE:

Based upon the information revealed during the initial review of the complaint, and subsequent information developed throughout the investigation, the following policies were examined:

University of California Policy on Sexual Violence and Sexual Harassment:

In pertinent part, this policy states:

The University of California is committed to creating and maintaining a community dedicated to the advancement, application and transmission of knowledge and creative endeavors through academic excellence, where all individuals who participate in University programs and activities can work and learn together in an atmosphere free of harassment, exploitation, or intimidation. Every member of the community should be aware that the University prohibits sexual violence and sexual harassment, retaliation, and other prohibited behavior (“Prohibited Conduct”) that violates law and/or University policy.

Sexual Harassment:

Sexual harassment is unwelcome sexual advance, unwelcome requests for sexual favors, and other unwelcome verbal, nonverbal or physical conduct of a sexual nature.

Hostile Environment:

Such conduct is sufficiently severe or pervasive that it unreasonably denies, adversely limits, or interferes with a person’s participation in or benefit from the education, employment or other programs and services of the University and creates an environment that a reasonable person would find to be



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intimidating or offensive. Consideration is given to the totality of the circumstances in which the conduct occurred. Sexual harassment may include incidents between any members of the University community, including faculty and other academic appointees, staff, student employees, students, coaches, residents, interns, and non-student or non-employee participants in University programs (e.g., vendors, contractors, visitors, and patients); in hierarchical relationships and between peers; and between individuals of any gender or gender identity.

Nondiscrimination and Affirmative Action Policy Regarding Academic and Staff Employment:

In pertinent part, this policy states:

It is the policy of the University not to engage in discrimination against or harassment of any person employed or seeking employment with the University of California on the basis of race, color, national origin, religion, sex, gender, gender expression, gender identity, pregnancy, physical or mental disability, medical condition (cancer-related or genetic characteristics), genetic information (including family medical history), ancestry, marital status, age, sexual orientation, citizenship, or service in the uniformed services. This policy applies to all employment practices, including recruitment, selection, promotion, transfer, merit increase, salary, training and development, demotion, and separation. This policy is intended to be consistent with the provisions of applicable state and federal laws and University policies.

University policy also prohibits retaliation against any employee or person seeking employment for bringing a complaint of discrimination or harassment pursuant to this policy. This policy also prohibits retaliation against a person who assists someone with a complaint of discrimination or harassment, or participates in any manner in an investigation or resolution of a complaint of discrimination or harassment. Retaliation includes threats, intimidation, reprisals, and/or adverse actions related to employment.

All findings related to these specific policies were determined by a “preponderance of the evidence” standard.¹

Academic Personnel Manual (APM-015):

In pertinent part, this policy states:

¹ A standard of proof that requires that a fact be found when its occurrence, based upon the evidence, is more likely than not to have occurred.



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The Ethical Principles encompass major concerns traditionally and currently important to the profession. The examples of types of unacceptable faculty conduct set forth below are not exhaustive. It is expected that case adjudication, the lessons of experience and evolving standards of the profession will promote reasoned adaptation and change of this Code. Faculty may be subjected to disciplinary action under this Code for any type of conduct which, although not specifically enumerated herein, meets the standard for unacceptable faculty behavior set forth above. It should be noted, however, that no provision of the Code shall be construed as providing the basis for judging the propriety or impropriety of collective withholding of services by faculty. Rules and sanctions that presently exist to cover such actions derive from sources external to this Code.

Ethical Principles. “As teachers, the professors encourage the free pursuit of learning of their students. They hold before them the best scholarly standards of their discipline. Professors demonstrate respect for students as individuals and adhere to their proper roles as intellectual guides and counselors. Professors make every reasonable effort to foster honest academic conduct and to assure that their evaluations of students reflect each student’s true merit. They respect the confidential nature of the relationship between professor and student. They avoid any exploitation, harassment, or discriminatory treatment of students. They acknowledge significant academic or scholarly assistance from them. They protect their academic freedom.

Discrimination, including harassment, against a student on political grounds, or for reasons of race, color, religion, sex, sexual orientation, gender, gender expression, gender identity, ethnic origin, national origin, ancestry, marital status, pregnancy, physical or mental disability, medical condition (cancer-related or genetic characteristics), genetic information (including family medical history), or service in the uniformed services as defined by the Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA), as well as state military and naval service, or, within the limits imposed by law or University regulations, because of age or citizenship or for other arbitrary or personal reasons.

All findings related to this specific policy were determined by a “clear and convincing” standard of proof.²

STATEMENTS OF PARTIES AND WITNESSES:

Complainant 1 (C1): **November 7, 2016**

² A standard of proof that requires that a fact be found when it’s occurrence is substantially more likely than not to have occurred. Although as a post-doctoral employee, the “clear and convincing” standard of proof is not applied in evaluating Respondent’s alleged violations of APM-015, the evidence is nonetheless evaluated under the more stringent “clear and convincing” standard.



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I met with C1 in KL317. [REDACTED] told me that [REDACTED] has been a student at UC Merced since [REDACTED] and that [REDACTED] was presently in [REDACTED].

[REDACTED] said that [REDACTED] began to experience problems associated with [REDACTED] education at UC Merced when [REDACTED] began to work for [REDACTED]. [REDACTED] was assigned to work with Respondent, who at that time was a [REDACTED]. She said that Respondent was presently a [REDACTED] and still worked for [REDACTED].

C1 told me that Respondent's office is [REDACTED]. [REDACTED] said that Respondent has had frequent conversations with C1 that make [REDACTED] uncomfortable and seems as if he is giving [REDACTED] life advice, although his behavior toward [REDACTED] and others is problematic.

[REDACTED] said that Respondent began to send [REDACTED] emails that were personal in nature. [REDACTED] said that these communications have continued, and have included comments to [REDACTED] in person and via email in which he called Complainant attractive and told [REDACTED] that he was attracted to [REDACTED] and that he struggled with his attraction to [REDACTED]. [REDACTED] said that this began six years ago.

As [REDACTED] discussed the infringement by Respondent into [REDACTED] personal life, [REDACTED] provided an example when Respondent told [REDACTED] that it was inappropriate if [REDACTED]. [REDACTED] C1 said that Respondent would harass [REDACTED] and bully [REDACTED], calling [REDACTED] selfish.

[REDACTED] said that it got "really bad last year" when he sent an inappropriate email to C2. C1 said that Respondent would criticize everything about C2, citing [REDACTED] car, [REDACTED] clothes, and how [REDACTED] does her research. C1 said that [REDACTED] knows that C2 had never asked Respondent for advice.

C1 said that Respondent presently has authority over [REDACTED] as a [REDACTED].

C1 said that in the middle of September 2016, Respondent called [REDACTED] into his office and read [REDACTED] an entire article about [REDACTED]. [REDACTED] that the article pertained to using [REDACTED] looks to get [REDACTED] way. [REDACTED] that as he was reading this to [REDACTED] it was very upsetting, and that [REDACTED] "tried to tune it out".³

C1 said that over the next month, Respondent would call [REDACTED] and C2 "[REDACTED]".

I asked C1 how this made [REDACTED] feel. [REDACTED] told me, "I felt uncomfortable and very belittled. I am the first one in the office, work hard. I was frustrated and didn't know how to respond".

³ C1 provided a copy of the article, which is maintained in the master file.



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C1 said that the final straw for [REDACTED] was when C2 [REDACTED] that Respondent told [REDACTED] that C1 was only in the [REDACTED] because C1 was [REDACTED]

C1 said that [REDACTED] knew that Respondent sat C2 down and told [REDACTED] that he was really attracted to [REDACTED]. C1 said that Respondent had told her (C1) during previous conversations that he is attracted to [REDACTED]

C1 said that she believes that W1 witnessed Respondent making C2 watch a video.

C1 said that in [REDACTED] Respondent pulled [REDACTED] out of class to read [REDACTED] a hand written letter. [REDACTED] said in this letter, Respondent spoke about the personal feelings he had for [REDACTED]

I asked if [REDACTED] had ever spoken with W2 about Respondent. [REDACTED] told me that [REDACTED] had not and that [REDACTED] would feel uncomfortable speaking with [REDACTED] about Respondent. [REDACTED] said that W2 is fond of Respondent.

C1 said that when Respondent received the notice of complaint regarding this case, [REDACTED] and Respondent were in class together. Respondent asked [REDACTED] to be a witness or support person. [REDACTED] told him that [REDACTED] was not comfortable doing that and did not think that he knew that [REDACTED] was a complainant in the case.

[REDACTED] told me that [REDACTED] is worried that he will harass [REDACTED] and the other women, noting that since the complaint, he has ignored all [REDACTED] women [REDACTED]

According to C1, Respondent had told another person in the lab that he had been called to the police department twice to have them tell him to stay away from women.⁴

I asked [REDACTED] about Respondent taking pictures of [REDACTED] [REDACTED] said that he took pictures of [REDACTED] while they were conducting testing outside the [REDACTED] in preparation for a [REDACTED]. Respondent told [REDACTED] that he was going to delete the pictures from his computer. [REDACTED] said that [REDACTED] had not heard of him taking pictures of other women.

I asked C1 what [REDACTED] felt might be a good outcome to the complaint. [REDACTED] told me that [REDACTED] wanted to feel comfortable at work and didn't want this to happen to other women.

[REDACTED] told me that in the last two weeks, [REDACTED] believes that Respondent has started sending emails to C2 about [REDACTED] choice in clothing.

⁴ The UC Merced Police Department does not have a record of any contacts similar to what was described by C1.



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C1 said that [REDACTED] did not think that Respondent's supervisor knew about the incidents, and that W2 was paying for an attorney for Respondent to help him deal with [REDACTED]

[REDACTED] told me that [REDACTED] Respondent told [REDACTED] that he was no longer attracted to [REDACTED] because [REDACTED] was off the market, but told [REDACTED] that he was now attracted to C2.

[REDACTED] told me that while Respondent is [REDACTED] he has a strong understanding of the English language.

Complainant 2:
November 10, 2016

I met with C2 in KL317. [REDACTED] told me that [REDACTED] was a [REDACTED] student. [REDACTED] told me that [REDACTED] works and studies under W2. When asked whom [REDACTED] worked under beyond W2, [REDACTED] identified Respondent.

I asked if anything had happened under his supervision, and [REDACTED] told me that there were a number of inappropriate incidents that [REDACTED] recalled.

[REDACTED] said that [REDACTED] started [REDACTED] and began working under Respondent. [REDACTED] told me that on Sunday, May 8, 2016, Respondent and [REDACTED] were the only ones working in the office. [REDACTED] said that Respondent "sat me down" and told [REDACTED] "I find myself very, very attracted to [REDACTED]. Respondent told [REDACTED] that he was dealing with his attraction to [REDACTED] by fasting.

During this conversation, Respondent said that he depends on his girlfriend too much for his happiness. Respondent told C2 that C2's clothes and looks distracted him. He then told [REDACTED] that he would distance himself from [REDACTED] or ignore [REDACTED] to deal with his obsession with [REDACTED]

I asked if Respondent gave any other compliments or positive feedback to [REDACTED] [REDACTED] said that the only compliments he ever offered [REDACTED] related to [REDACTED] looks.

[REDACTED] told me that he later sent an apology to [REDACTED] [REDACTED] said that [REDACTED] accepted the apology but told him that his behavior had to stop.

[REDACTED] said that last semester, he showed [REDACTED] a YouTube video, which stated, "An ugly wife is a treasure at home". [REDACTED] said that [REDACTED] showed this video to [REDACTED] with W2, and other members of the [REDACTED] team.

C2 said that two weeks earlier, [REDACTED] had signed up for a gym membership. [REDACTED] said that Respondent learned that [REDACTED] did not say that he had recommended the club to her, and then he responded by sending [REDACTED] an email that said that being "a [REDACTED] won't last".



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I asked if [REDACTED] had ever heard the term "[REDACTED]" at work. [REDACTED] told me that during an office outing to [REDACTED] Respondent told [REDACTED] that [REDACTED] had [REDACTED] because nobody had ever made [REDACTED] get over [REDACTED] fear of spiders.

C2 said that during that same trip to [REDACTED] C3 had been very excited on the way out to the park from Merced. On the way back, C3 was distraught. C2 said that [REDACTED] asked C3 what was wrong, to which C3 said that during that day, Respondent had twice told C3 that [REDACTED] had "a nice ass" and hugged [REDACTED]

C2 stated, "The concept of consideration and professionalism is not in his dictionary". [REDACTED] told me that it has been [REDACTED] observation that Respondent only critiques the actions of women, and never criticizes men.

C2 said that Respondent has called C3 "A child bride" and that C3 had sent [REDACTED] a screenshot of a text from Respondent when he told C3, "I can't wait to ask [REDACTED] to marry me", referring to C3's [REDACTED] [REDACTED] When asked how old [REDACTED] thought Respondent was, [REDACTED] told me that he was "[REDACTED]"

C2 said that Respondent had been rude to C1, "Bagging on [REDACTED] for 30-40 minutes", saying that he was not surprised that [REDACTED] did not know something because [REDACTED] has [REDACTED]

C2 said that Respondent had tried to make [REDACTED] watch a video about homosexuality being bad while they were at work.

I asked [REDACTED] what [REDACTED] felt might be a good result to the complaint. [REDACTED] told me that [REDACTED] wanted Respondent's behavior to stop. [REDACTED] also told me that [REDACTED] is uncomfortable with the fact that Respondent talks about [REDACTED] all the time, like when [REDACTED] wears what Respondent calls "short, shorts", telling [REDACTED] "It makes me question my beliefs".

I asked [REDACTED] about the work environment since the complaint was filed. [REDACTED] said that Respondent no longer talks to any of the females, and that [REDACTED] is worried that he will tell W2 that [REDACTED] is a bad student.

Complainant 3:
November 10, 2016

I met C3 in KL317. [REDACTED] told me that [REDACTED] [REDACTED] student. [REDACTED] told me that [REDACTED]

[REDACTED] said that [REDACTED] works with a [REDACTED] whom [REDACTED] identified by name as Respondent. I asked if [REDACTED] had experienced anything abnormal while working with Respondent. [REDACTED] told me that [REDACTED]



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had [REDACTED] told me that the first time [REDACTED] met Respondent, he told [REDACTED] that he wanted to marry [REDACTED].

I asked [REDACTED] about this proposal, and if it had happened since that first time. [REDACTED] said that Respondent had proposed to [REDACTED] "At least once a month, so maybe 20 times". I asked [REDACTED] how this made [REDACTED] feel, to which [REDACTED] told me, "It makes me uncomfortable. I say [Respondent], you're making me uncomfortable". [REDACTED] said that he would respond by laughing at her.

C3 said that Respondent would talk about C2 often. [REDACTED] said that while the group was on an outing to [REDACTED] Respondent told [REDACTED] that he thought that C2 was interested in him. He also told [REDACTED] during this trip that C2 would, "Use [REDACTED] beauty to get what [REDACTED] wants".

C3 said that when Respondent talks about [REDACTED] C1 and C2, [REDACTED] would feel disgusted. [REDACTED] said that he told [REDACTED] that C1 was only in the research group because [REDACTED] was [REDACTED].

[REDACTED] told me that Respondent would often make inappropriate comments to her. [REDACTED] said that Respondent told her that he "couldn't wait" [REDACTED] old at the time of the comment.

C3 said that while at a work-sanctioned event on [REDACTED] was hiking up a hill, with Respondent behind [REDACTED] when he made an inappropriate comment to [REDACTED] about [REDACTED] body. I asked [REDACTED] what he had said, to which [REDACTED] said that [REDACTED] was not comfortable saying it to me. [REDACTED] agreed to write down on a piece of paper what Respondent said while [REDACTED] was climbing the hill, and then what he said when they reached the top.

Going up hill: "You have a nice ass".

At the top of the hill, about to descend: "Don't be offended but you really have a nice ass".

When he made the last comment, [REDACTED] told him, "[Respondent] you're making me uncomfortable". [REDACTED] said that he then laughed at [REDACTED] and hugged [REDACTED] said that the hug was not welcome, and that during his hugging of [REDACTED] was stiff and did not hug back.

C3 told me that Respondent speaks "degradingly to [C1], and that he makes [REDACTED] feel inferior.

I asked [REDACTED] if [REDACTED] had ever heard the [REDACTED] at work. [REDACTED] said of Respondent, "He says it all the time", and that he tells the women in the group, "you guys have it. You sit there and twirl your hair and you get what you want". [REDACTED] said that [REDACTED] told him that it was not a real thing.



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█ said that Respondent told █ that C2 had a crush on him, which █ knew was not true. █ said that one time at lunch, Respondent had told C2, “I want to get to know you. I have been so immersed in your beauty that I didn’t get to know you”.

I asked █ what would constitute a good result. █ told me, Respondent now ignores █ possibly because of the complaint. █ told me, “I just wish he would stop doing it. Stop making people uncomfortable”, and believes that he blames his █ culture for his inappropriate actions.

Respondent:
November 17, 2016

I spoke with Respondent on the phone. He told me that he thought that I wanted to talk with him about C1.

I asked him if he had ever told C1 that sh █ had “█”. He admitted that he had told █ that █ had this, but that his comments were offered in an academic setting.

I asked if he had ever sent any personal emails to C1 or C2, to which he said that he did. He admitted telling C2 that he was struggling with his attraction to both C1 and C2.

I asked if he had ever made a negative comment to C1 about mutual masturbation. He told me that he recalled telling █ that this did not constitute “ideal love”, and that he was just telling █ what he thought.

With respect to C1, he admitted criticizing █ about █ but did not recall specifically criticizing █ about her clothes. He told me, “I may have commented about her car because █ has a █ I was trying to be a friend”.

I asked him if he had ever told C3 that C1 was only in the group because █ was █. He responded, “100 percent I never said that”.

Related to C2, he told me, “I did tell [C2] that I was attracted to █. He acknowledged to me that it was not appropriate “if you take it out of context. I was trying to tell them that appearance is not relevant”.

He pointed to the clothing of the women in the █ as something that bothered him. Respondent explained that he noticed that in October, “They would come in in open back dresses. I was trying to be indirect”.



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Respondent admitted to me that in 2012, he pulled C1 out of class to “read [REDACTED] a note about my feelings because [REDACTED] had low self esteem. I didn’t have any romantic intentions”.⁵

I asked him questions about C3 and if he had ever said that he wanted to marry [REDACTED]. He admitted that he had made that comment to [REDACTED] saying that he needed to get a [REDACTED]. He said that he had also made the comment to a [REDACTED] colleague, and that it was a joke.

He admitted making the comment about wanting to marry [REDACTED], adding, “It was obviously a joke”. Respondent acknowledged calling C3 a “child-bride” and admitted making the comment about [REDACTED].

I asked if he had ever made comments to C1 getting [REDACTED] was no longer available to him. He admitted that in September of 2016, he commented that C1 was “off the market”, and that he was “attracted” to C2. He clarified that he had used the word “pretty” and not “attracted” when speaking to C1 about C2.

I asked him about any comments he may have made to C3 while at [REDACTED]. He admitted telling [REDACTED] “Don’t be offended but you really have a nice ass”. I asked him if this was appropriate, to which he told me, “Yes, it was inappropriate”. I asked him how he felt his comments impacted C3. He answered only, “I was so joking”.

I asked Respondent if he felt he had problems controlling his impulses. He responded, “I find it hard to say what I want to say”, explaining to me that he blamed his [REDACTED] skills in this difficulty, and that “I am constantly babbling”.

I asked if he had ever told C2 that he was attracted to [REDACTED]. He admitted telling [REDACTED] that he was attracted to [REDACTED] but wanted to convey to [REDACTED] that that beauty was not everything. He continued, “I did a bad job, and I regret it”.

He acknowledged that he had shown [REDACTED] the video related to an ugly wife being a treasure at home. He explained, [REDACTED] it’s part of my culture”.

I asked him if he believed that [REDACTED] was a real thing. He told me, “I don’t think it’s a real thing” but believes that some people put too much value on appearances.

He denied ever telling C2 that [REDACTED] wearing shorts made him question his beliefs.

⁵ Respondent sent C1 an email in May of 2012 which included comments about [REDACTED] appearance and “obsession” (see page 25 of this report under Evidence section)



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Witness 1:

January 19, 2017

I spoke with W1 on the telephone. [REDACTED] said that [REDACTED] has worked with Respondent at UC Merced [REDACTED]. [REDACTED] acknowledged that Respondent has made comments to [REDACTED] colleagues that [REDACTED] considered inappropriate. [REDACTED] said that [REDACTED] has heard these comments [REDACTED] and has been told of these comments by others.

W1 told me that Respondent has made comments to [REDACTED] about the way women dress in the workplace on [REDACTED] and how he feels that it is distracting and inappropriate. W1 said that [REDACTED] personally has not noticed anything wrong with the manner in which the women they work with have dressed.

In addition to his comments about the clothing selection of women in the workplace, W1 has witnessed Respondent saying that some of the women in the group get by based upon their looks. W1 told me that Respondent has said this specifically to [REDACTED] about C1.

W1 said that Respondent has said that C1 was in the group because [REDACTED] is pretty, and that [REDACTED] is used to getting [REDACTED] way because [REDACTED] and gets people to do things for [REDACTED] because of [REDACTED] looks.

I asked [REDACTED] if he had participated in any of the group [REDACTED] trips. [REDACTED] said that [REDACTED] had not attended, but had heard what had happened on one of the trips. [REDACTED] told me that [REDACTED] was told by either C2 or C3 that Respondent was commenting about, and looking at the “behind of a [REDACTED] colleague”. When asked which colleague, [REDACTED] told me that [REDACTED] knew that it was C3.

W1 acknowledged that [REDACTED] has heard Respondent talk about [REDACTED] specifically identifying C1, saying that [REDACTED] in this category use their looks to get by in the world.

I asked [REDACTED] how Respondent’s actions may have impacted the females in the group [REDACTED] told me, “I think that maybe he is a little less likely to give them (women) a larger workload”, and that Respondent thinks they, “don’t have the knowledge base that he has”. W1 reflected and added, “It does seem like he tends to look down on some female colleagues”, and “He is more likely to come to male colleagues for advise”.

[REDACTED] told me that it has been [REDACTED] observation that Respondent, “speaks to female colleagues as if he is educating them”. W1 said that [REDACTED] does not think that Respondent has ever gone to females for professional advice, but has done so for personal reasons.



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When asked if [REDACTED] had observed Respondent make overtly sexist comments to or about women, [REDACTED] told me that [REDACTED] has heard of them occurring in emails and text exchanges that [REDACTED] felt were private, and had only heard of them second hand.

[REDACTED] has heard Respondent say that he wants to marry women, then “giggle and laugh like a child”. W1 recalled that Respondent made this comment to [REDACTED] and [REDACTED]. I asked how old [REDACTED] was at the time. [REDACTED] told me that [REDACTED] didn’t know the age back then, but knows today [REDACTED] 13 years of age.

W1 said that Respondent, “can be derogatory at times, but can be caring. He is misguided. He has difficulty understanding when what he says has a negative impact on people”.

I asked if [REDACTED] had ever heard of Respondent taking pictures of women, to which he said that [REDACTED] had not heard of that, but added that [REDACTED] has heard of Respondent watching women as they sleep in the lab.

Witness 2:

January 19, 2017

I spoke with W2 on the phone. [REDACTED] told me that [REDACTED]

He told me that Respondent was a [REDACTED]

I asked if [REDACTED] had ever had any complaints about Respondent. [REDACTED] said that the only complaint [REDACTED] ever received about him had to do with students thinking that he was a tough grader.

W2 said that Respondent was “a critical member of our team”.

I asked if Respondent had ever come forward to tell [REDACTED] that someone had accused him of anything inappropriate, and [REDACTED] told me that [REDACTED] had not.

W2 said that Respondent and the student and staff of the [REDACTED] did lots of activities together, to include [REDACTED] in [REDACTED]

I asked [REDACTED] how well [REDACTED] knew Respondent, to which [REDACTED] told me, “I happen to know him well. I have the highest opinion of him”.

When asked how Respondent interacted with his students and others, W2 told me that Respondent was [REDACTED] and that there were cultural differences, adding, “He is learning what behavior is unwelcome and welcome. I know he doesn’t know what to do with the opposite sex”.



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W2 offered [redacted] opinion that Respondent, “is a really great person”, adding that once a week he works in a homeless shelter and has done missionary work.

W2 told me that [redacted] knew that Respondent had been putting quotes from the New Testament in the papers that he graded.

I asked [redacted] if he was aware of whether or not Respondent had ever asked a student to marry him to get a [redacted]. [redacted] said that was unaware of this happening with students, but acknowledged that Respondent has been trying to get a [redacted]. W2 added that [redacted] thought that it might be lighthearted conversation.

I asked if Respondent has ever dated any of his students, to which [redacted] told me that [redacted] did not think so. I asked if it would be ok for him to date one of his students, to which [redacted] told me, “It’s totally unacceptable”.

I asked if [redacted] was aware of, or had heard Respondent or anyone else using the term “[redacted]”, to which [redacted] said that [redacted] had not.

I asked about the female students that [redacted] and Respondent worked with. [redacted] said that they were all honest and would believe what they said. When asked again about any problems that Respondent may have had with female students, [redacted] named one who claimed that Respondent was not being supportive of [redacted]. W2 claimed that this student was not being productive.

[redacted] said that other than this one student, the rest of the women had “been around awhile”. [redacted] added, “I like them all. They are very decent”.

I asked [redacted] to name the students who had been around awhile. First [redacted] named C1, who [redacted] said had been with the group the [redacted]. I asked [redacted] about [redacted] level of honesty, to which [redacted] told me, “I would take it honestly. [redacted] has no axe to grind”.

[redacted] continued to talk about C1, stating to me, [redacted] has no reason to impugn. [redacted] is a star”.

[redacted] next named C2, and told me that [redacted] would believe what [redacted] said.

[redacted] next named C3, and told me that [redacted] was honest and, “Just as golden as they get”.

As our conversation ended, [redacted] told me, “I try to help all of my students to succeed, to include [Respondent]”.



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INTERVIEWS RELATED TO THE FEBRUARY 2017 ALLEGATIONS:

Complainant 1:

On February 8, 2017, I spoke with C1 on the phone. [REDACTED] told me that [REDACTED] needed to share with me a recent incident that had occurred with Respondent that made [REDACTED] uncomfortable.

[REDACTED] said that on February 1, 2017, in the morning, [REDACTED] had been sitting at [REDACTED] desk. An unrelated [REDACTED] employee was at [REDACTED] desk nearby.⁶ C1 said that the desks were set up as a cubicle.

She said that Respondent walked [REDACTED] students into the office while conducting a [REDACTED] tour. C1 said that Respondent introduced the students to [REDACTED] told me that [REDACTED] explained to them what [REDACTED] did at the office.

Respondent then told the [REDACTED] "If you want to talk to someone more beautiful than me, you can talk to [Complainant 1]".

C1 explained to me that there was "an awkward pause", after which the [REDACTED] chuckled.

I asked C1 how this made [REDACTED] feel. [REDACTED] told me, "Kind of uncomfortable. I don't like to be singled out because of my looks". C1 then added, "I don't see him singling out anyone else but women".

I asked [REDACTED] if there was anything else that I should know. With respect to Respondent, [REDACTED] told me, "He likes to give the girls hugs". [REDACTED] told me that he would walk around and ask the women, predominantly [REDACTED] and Complainant 3, "Can I have a hug". [REDACTED] said that it makes [REDACTED] and the other women uncomfortable and that it occurred frequently. [REDACTED] said that around the time of the office incident, Respondent asked three times for a hug in one day.

[REDACTED] told me that Respondent, "came over and hugged me" without permission.

C1 said that on Sunday, Respondent sent [REDACTED] and C3 an audio text regarding the previous complainant.⁷

⁶ This student had indicated to C1 that [REDACTED] did not want to become involved in this matter and was not interviewed.

⁷ Transcribed in Evidence section of this report.



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I asked [REDACTED] what [REDACTED] felt was an acceptable solution. [REDACTED] told me, "I just want to come to work and not worry about what he is going to do next".

Complainant 3:

On February 8, 2017, I spoke with C3 on the phone. Prior to the phone discussion I had reviewed an email sent to me by C3 related to recent alleged incidents with Respondent.

[REDACTED] told me that on Friday, February 3, 2017, [REDACTED] had been at a [REDACTED] at the office at the direction of Witness 2. C3 told me that Respondent had been complaining all day about his legs. C3 said that Respondent told [REDACTED] that he needed a massage. Sitting three feet from C3, Respondent lifted his leg toward C3, who was standing. C3 told him that if he needed to get a massage that he should go and get one. He then responded to [REDACTED] "I am looking at one", as he looked at [REDACTED] told me that [REDACTED] stated, "Ew" and walked away. I asked [REDACTED] what [REDACTED] thought that Respondent meant by this statement, to which [REDACTED] told me, "It was implying that he wanted a massage from [REDACTED]".

That same day, [REDACTED] said that [REDACTED] had to go to [REDACTED] with Respondent and a named [REDACTED] student.⁸ [REDACTED] told me that [REDACTED] needed to make some purchases for a project that [REDACTED] were working on at the office.

[REDACTED] said that the [REDACTED] student went to a different part of the [REDACTED] leaving Respondent with C3. While in the [REDACTED] Respondent began to touch the back of C3's head. [REDACTED] said that [REDACTED] turned around and saw him touching [REDACTED] hair.

When asked what conversation, if any, had taken place contemporaneous to this physical contact, [REDACTED] told me that [REDACTED] was mentioning that [REDACTED] was going to cut [REDACTED] hair and donate it. [REDACTED] told me that Respondent told [REDACTED] not to cut [REDACTED] hair, that he liked [REDACTED] hair, and that he would miss it if [REDACTED] cut it.

After this occurred, the [REDACTED] student took [REDACTED] that has been [REDACTED] to the car. [REDACTED] and Respondent were walking together and that they had a shopping cart. [REDACTED] said that [REDACTED] told Respondent that if anyone saw them together they would think that he [REDACTED] father. [REDACTED] said that Respondent seemed offended and responded that people would think he was [REDACTED] boyfriend.

[REDACTED] said that [REDACTED] was pushing the [REDACTED] which contained [REDACTED] [REDACTED] told me that the [REDACTED] was heavy. She was holding the handle and pushing the [REDACTED] [REDACTED] said that Respondent came up behind [REDACTED] and put his hands next to [REDACTED] on the handle. [REDACTED] said that [REDACTED] was surprised and that

⁸ This student had indicated to C3 that [REDACTED] did not want to become involved in this matter and was not interviewed.



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Respondent did not say anything. C3 said that [REDACTED] quickly crouched down and slipped out and under, away from him.

I asked [REDACTED] if [REDACTED] said anything to him, to which [REDACTED] said no, and that "I didn't know what to say".

I asked [REDACTED] what would be an acceptable resolution. [REDACTED] told me, "I just want him to stop. I don't want him to make anyone to feel uncomfortable".

Respondent:

On February 7, 2017 Director Salvador and I met with Respondent in the Campus Compliance Office. He acknowledged that he was in receipt of consolidation documents sent to him by Director Salvador.

Prior to discussing the allegations, we asked him questions about his status as a [REDACTED]. He told us that he did not presently teach classes, but that he assisted [REDACTED]. He described his responsibilities as assisting W2 with slides.

He told us that he had been maintaining professional relationships with the student employees.

I told him that I wanted to talk with him about something that was alleged to have occurred in [REDACTED]. He said that a named [REDACTED] student employee, C3 and Respondent went to the [REDACTED] for a project.

He said that when he and C3 were picking up the [REDACTED] the named [REDACTED] student was at the car, adding, "I called [REDACTED] to return".

He told me that C3 was pushing the [REDACTED] with the [REDACTED] in it, and that [REDACTED] was having a difficult time pushing it. Respondent said that the cart was small and that an assistant gave them a larger cart. He told me, "I was alone with [C3]. [REDACTED] was trying to do it was too heavy. I was trying to help".

I asked him what he had done to help [REDACTED]. He said that he wanted to demonstrate for us, and asked me to stand up. He then stood directly behind me with his hands extended, telling me, "I went around to help [REDACTED]".

I asked him if he touched [REDACTED] during this time. He told me that his shoulder touched [REDACTED] shoulder while he was pushing behind [REDACTED]. He denied his lower front coming in contact with [REDACTED] lower back. He said that he was only in this position for "two seconds".



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I asked him what if any comments C3 made at this time. He said that C3 told him, "If someone looked at [REDACTED] and you they would think you're [REDACTED] dad". He said that he laughed and said, "no way. I'm just not old". He went on to tell me that [REDACTED]

I asked him if he was offended by C3's comment. He responded, "Yes. I don't consider myself to be in that relationship with [REDACTED]. I treat [REDACTED] like my [REDACTED]. I treat [REDACTED] with kindness. I'm trying to love on [REDACTED] as a [REDACTED]".

Based upon his characterization of his view of the relationship as sibling-like, I asked if he recalled previously telling C3 that [REDACTED] has a "nice ass". He acknowledged making that statement, but added that he was, "Not trying to be sexually diminished lately".

I asked him if he had recently suffered any injuries. He told me that he had twisted his left leg. I asked him if he had asked anyone in the workplace for a massage. Respondent said, "I told all the people I need a massage". When asked whom he had asked for a massage, he named C3, Witness 2 and 2 named [REDACTED] employees and one named [REDACTED] employee.

He said that he recalled saying it in the car with C3 and the named [REDACTED] student, however when asked if he had asked for a massage while in the office, he said that he did not recall.

I reminded him of what C3 had said regarding him asking for a massage, and that it had specifically occurred in the office. He then recalled and admitted that he had asked [REDACTED] for a massage. He told me, "I expressed the need, I'm hurting, therefore I need a massage. I recalled saying, asking for a massage".

Respondent then told me that he had "some memory of it being a joke".

He then told me, "I remember saying I need a massage, can you help me?", and, "I remember requesting help".

I asked him what help he was asking for. He then grabbed the back of his leg and told me that he needed someone to rub the back of his leg. I asked him if it hurt in the place that he was holding, to which he said that it did. I asked why he didn't simply rub the leg himself, since he was able to easily hold it. He then said that what he meant was that he needed someone to help extend his toes.

When asked what C3 said to this request, he told me, "[C3] directly denied me".

I asked him if he felt it was appropriate to ask students to massage him in the workplace. He told me, "I was in pain. I requested for help to relieve my pain".



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I told him that he should not ask people in the workplace to massage him, to which he responded, "It sounds ridiculous to me".

I asked him how he felt this may have impacted C3, to which he told me, "It shouldn't impact [REDACTED] in any way. I was in pain. [REDACTED] didn't help me".

I mentioned that that he needed to consider the power imbalance in play and how his requests might impact the workplace. He then told me, "There are other people they can work for".

I asked him about giving tours of the office to students. He acknowledged that he had recently given a tour to [REDACTED] student from Witness 2's class. He thought that the tour had taken place on Wednesday or Thursday.

Respondent said that he recalled introducing the students to C1, and saying, "This is our [REDACTED] Any time you want to talk to someone more beautiful than me you can talk to [C1]".

He told me that he intended it as a joke. He said that the [REDACTED] students were smiling but that C1 didn't say anything.

I asked why he had said that about C1. He responded, "[REDACTED] is the face of the [REDACTED] is nicely dressed".

I asked him if he felt it was appropriate to talk about [REDACTED] appearance to students. He told me, "I did not mean to focus on appearance. I put [REDACTED] looks on the backburner".

Respondent added, "I used humor. I meant to infer that they should talk to [C1]". He again told me that he and the [REDACTED] students smiled after the comment, but that C1 did not.

I asked him if he recalled ever touching C3's hair, to which he said that he did not recall. He then denied touching [REDACTED] hair, but recalled telling [REDACTED] that [REDACTED] hair was "soft and silky".

I pointed out that he was referencing tactile observations, and asked him again if he had touched [REDACTED] hair. He then told me, "I may have bumped [REDACTED] hair".

When asked further about touching [REDACTED] hair, Respondent told me that C3 had told him that [REDACTED] was planning on cutting [REDACTED] hair and donating it. Respondent said that from "a [REDACTED] perspective, it [REDACTED]

When asked if he told this to C3, he said that he thought it, but did not say it to [REDACTED]



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I asked him additional follow up questions about the [REDACTED] cart in [REDACTED] and what he recalled [REDACTED] reaction when he got behind [REDACTED] and pushed.

Respondent told me, [REDACTED] jumped a little bit. I thought it was a failed effort. I was trying to grab the back of the cart. “

I asked if there was any other reaction from C3. He told me, [REDACTED] was a little bit startled. [REDACTED] gave me the impression of what are you doing?”

I asked him if there was anything else that he wanted to add. He told me that he had not heard anything about the investigation and has been terrified.

He also said that he did not have problems with [REDACTED] students but that with [REDACTED] students, it would turn to sex, and “I try to solicit affection from people”.

Witness 2:

On February 16, 2017, I spoke with W2 on the phone.

[REDACTED] said that he had recently had a conversation with a contractor associated with a [REDACTED] told me that he had learned that an employee of the company had possibly made a potentially inappropriate comment to C3.

W2 said that [REDACTED] had a conversation with the owner of the company, who got upset and had a “strong conversation with (the employee)”.

W2 said that he felt that C3’s allegations were “a matter of striking more than once”.

I explained to [REDACTED] that Respondent had allegedly, and admittedly, asked co-workers for massages in the workplace. I asked [REDACTED] if [REDACTED] had ever heard Respondent asking others in the workplace for massages, to which W2 said, “No, that has never happened”.

I asked him if Respondent had ever asked [REDACTED] for a massage. [REDACTED] responded, “Well, no. That would be inappropriate”.

[REDACTED] said that [REDACTED] was aware of the incident with the [REDACTED] cart. [REDACTED] said that [REDACTED] thought C3 was having “a tough time” pushing the [REDACTED] cart, and that Respondent was helping [REDACTED] push it.

With respect to C3 and [REDACTED] allegations, W2 told me, “I believe this [REDACTED] is making it up”.



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EVIDENCE:

All evidence provided to me was reviewed and considered in this investigation. This includes testimonial evidence of all parties and witnesses, and documents provided by parties in this matter.

C1 provided an email she received from Respondent on March 22, 2012, which is shown in italics below:

I hate to say this but you are recently becoming more and more attractive to me as I was running through [REDACTED] this morning, I had thoughts about what is happening. I am sensing your changes, although somehow you are ignoring what has been happening to you.

What is the last time you cried? For what reason were you deeply [REDACTED] last time? Do you remember the [REDACTED] who came to us [REDACTED] Do you remember how you were always grumbling about things, unsatisfied, feeling unloved? Do you realize that you are complaining about your [REDACTED] Do you know that you re becoming more and more quiet and gentle? Do you know that you are demonstrating patience and endurance more nowadays? Do you see how hard working and motivated you are instead of complaining about making no progress after hours of studying? I can see the peace and security in you and I rejoice for that.

Burt I do not want my passion and feelings for you to destroy what you are becoming, or get in the way of a friendship I am starting to like. I do not want my expectation and selfish need of a wife to become a burden for us to carry. Please keep me reminded of what I want to become, a man who wants to dedicate his life to God. This is where you can help me, this is one of the few things that I want to ask for a favor from you. If I am becoming demanding for you to do this or that, just remind me of what you want to become, and remind me that my desire is to help you become who you want to be. In this way we can keep each other good friends, instead of getting into the mutual masturbation of dating relationships.

[W2] just mentioned recently that [REDACTED] is very appreciative of what you are doing for the class. I was so happy for you. I look forward to a day that you will feel totally free to live. Instead of being driven by the pressure of surviving, or man pleasing.

*In Him is Freedom,
 [Respondent]*

C1 provided an email [REDACTED] received from Respondent on April 3, 2012, which is shown in italics below:

There were two rich girls. Both were born in rich and famous families. The first one spent her money on good ornaments and dressings, she had thousands of clothes in the closet. She dreamed of becoming a



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movie star, and she did become one, by buying her way through. Who hates money after all? Her movie, however, has less audiences than another video that she unintentionally made, which is available on every porn site. And people masturbate against it screaming her name with calling her a bitch. Her last name is on the famous hotels but her life is laughed by everyone. The other rich girl spent her money on a mission trip in Africa, she and her companions got robbed and beaten up, she was raped. But she still spent the rest of her life there translating the bible into the local language, people around her love her and respect her deeply. Both girls are still very rich up till today. They will both die one day, without taking a single penny with them. They will both become old, and physically unattractive. But if you are a righteous man, who will you love? Who will you find worthy of your total sacrifice? Who will you regard as pure and lovely despite of her age? A girl that is a prostitute in everyone's eye or a girl that is respected by everyone? How about God? It is not bad to have money. But it is bad to love money and show off your money. Because money will one day betray you, just as your physical attraction will pass away. If you want a marriage that will end up in divorce. The easiest way is to find some rich man who is physically attracted to you. Because one day you will not be sexy anymore and one day he will not be rich enough to satisfy all your need. Be wise and discern always the reason why a man loves you. Is it because of how you look or is it because of how you think? Find the one who appreciates your heart more than your body. [REDACTED] Don't misunderstand me, I am not saying I can appreciate your heart more than your [REDACTED] I have too many problems with girls with good lookings. However that doesn't mean there are not good men out there. Don't give up yourself to a man who is less than a true Christian. You deserve much more, and trust me you need him to be a Christian for you to even have a taste of good relationship in this culture. Stay faithful but also sin not with him. If you are only looking for self satisfaction, the he is doing the same thing. Mutual masturbation will make you look older and destroy your ability to trust. It is not sexually healthy to play around. Try to understand this early in your life. Better to stay single and hopeful for a good marriage, than living wildly and destroy your chances of getting a good man, which will cause many more miserable years to follow. What kind of person you are will determine what kind of person you get. If you are playing around, you can be pretty sure your husband will sleep around more. If you have had countless bf, you will probably not get someone who is a virgin. What goes around, comes around. Your beauty will not make yourself truly successful in [REDACTED] either. A person needs to love the [REDACTED] not the pride of being a [REDACTED] in order to be truly good. Beauty or family advantage only give the pride, but hard work gives the joy of doing the [REDACTED] almost never boasts about what [REDACTED] knows, but [REDACTED] wins the respect of many. I go around giving orders even though I know nothing. Therefore I am not really good at what I do. Pride will only get in the way. Don't be like me. I am not happy when I see your [REDACTED] style like today's. That gives me a bad mood, feeling like you are dishonoring your own body. I love it when you are in plain dresses and neat hair style with very little makeup, that is so much more lovely, simple and graceful. That look makes you a decent, modest friend that I will be proud to be with. That makes me feel happy to have your companion, and to be honest, a little arrogant to be your friend too, especially when you are showing a humbled heart with radiant beauty. Your look today, or the heart that is reflected by your look today, makes me want to stay away



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from you, even as a friend. And I cannot imagine a good man of principles can ever live with a [REDACTED] having such a look which is of no taste and weird to the eyes. For your future husband's sake, please get some taste in your style. I hope I am doing some helping there. I thought I told you what kind of dress up make you attractive to a person with good taste and good heart. If you are a millionair, a mature man or woman, will you love girls with black nails? Or like some other girls, with holes in the tongue? I just don't know what got into the mind of people who is so hungry in the heart to be somewhat different. And buying thousands of dollars jewllery, that is really beyond me. If you have enough money, who cares about having a coach bag or a tiffany jewllery? That is really ranking yourself with a bunch of idiots who are controlled by others' opinions about wealth and desperately trying to show off. The real rich people such as Bill Gates are busy helping the poor. It is such a joke to line up in front of luxurious store. I am so sorry to be grumpy about this. You are someone I still feel safe to grumble to. At least you have been tolerating me beyond my imagination :-P and please ignore the parts where I am just plainly jealous.

Best,

[Respondent]

C1 provided an email [REDACTED] received from Respondent on May 8, 2012, which is shown in italics below:

I miss the time when you were just a [REDACTED] that I could help, that I had the freedom to talk to about all my naive understandings of life and faith. I miss the time that when I helped you, I didn't feel being enslaved by my obsession about your appearance. I could tell the truth without worrying about my selfish needs. I miss the time when you did not wear any make up, and you were so much easier to be a friend with. I miss the time when you were [REDACTED] and I could listen to you without worrying. I miss the time when you did not need to prove anything in front of me, that you would accept my help knowing that it is just because I love God. I miss the time to see you wear [REDACTED] it is a graceful picture that I will keep in my mind forever. Now, I can not look at you without struggling with my desires. I have asked for God to take out this thorn, but He is keeping it to humble me. So I take up my cross. And I made a covenant, that I WILL protect you from my lust! Until the day I can love you purely for Christ, without being attracted to your appearance, I will keep my distance. I am not giving in until I can love you for who you are: a daughter of the God I love.

In His grip.

C1 provided a Word document containing text exchanges in 2016 between [REDACTED] and Respondent about comments that he was alleged to have made to [REDACTED] directly, and about [REDACTED] to other people. Respondent provided screenshots of this discussion thread, dated November 1, 2016. That document is italicized below:

C1: You told [C3] (twice!?!) that the only reason I'm in the group is because I'm [REDACTED]

⁹ Texts are contained in appendix and available upon request to Director of Compliance.



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R: What??? You are in the group because you started working with us as [REDACTED] We are also encouraging all other [REDACTED] apply [REDACTED] school with us, including [C3], [C2]. And that is also how [W1] and [named person] got in. Also funding situations. Who is big mouthing??!! Is it [C3]? I'll talk to [C3] about this.

C1: Don't lie to me. The situation is NOT THAT [C3] opened [REDACTED] mouth. The situation is you said this. That is the situation we are addressing. Why are you lying to me now, you can't cover up what you said. And I know [C3] isn't lying. You dug your own hole here buddy And how dare you call [REDACTED] out for telling me what [REDACTED] told you!?! How dare you! I had every right to know that you said that to [REDACTED] when [REDACTED] first started working for the group, and again when you were in the car after [REDACTED] If you can say it behind my back, you better be able to say it to my face. Did you, or did you not say to [C3]"[C1] is only in the group because [REDACTED]"

R: I fucking didn't say that! Let me say it again, you are in the group because you have been working with us since [REDACTED] And it was [W2] who valued and recruited you into the group. You do have [REDACTED] and I have called it out many times, but that is not the reason you are able to enter the group.

C1: So [C3] lied to me? You didn't say that to [REDACTED] just made it up?

[REDACTED] There are many [REDACTED] girls out there and would not get in this group. I don't know how [REDACTED] interpreted things I said. And I don't remember saying that to [REDACTED]

[REDACTED]: [C3] would not simply make things like that up.

R: And you were not our topic on the [REDACTED]

C1: [C3] said that you said those exact words. I'm speaking with [REDACTED] at this moment.

R: Put me on the third party call

C1: [REDACTED] said there was no interpretation necessary. [REDACTED] said you said those exact words "[C1] is only in the group because [REDACTED] Absolutely not.

R: Put me on the phone Merge the calls

C1: Absolutely not. Whatever.

R: Truth is truth

C1: The fact that you claim that I have [REDACTED] is disrespectful.

R: I'm sorry, you do, and that's what I think. End of the conversation, sorry. I won't go on to explain how much I respect you again.

C1: Are you aware that telling me repeatedly in the work place that I have [REDACTED] is defined under university law as sexual harassment? Aside from that - I find it incredibly insulting. I should have said that when you had me in your office to read to me the [REDACTED] article.

R: If you are not my [REDACTED] in Christ, my friend, and a person that I treasure dearly. Do you think I am THAT dumb to violate a bunch of rules and put my name and career on the line to tell you the truth?! You by far underestimated me, or my determination to care for you and help you. Persecute me as you want, hang me! I will still tell you the truth. True love is not to cater for every need of the other person. True love is to carry out truth on the bridge of love. And [C1], you have been loved like that by many



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people, stop being a [REDACTED] and look around. Who truly cares about you beyond your [REDACTED] [W2] and I both sacrificed our time, energy, resources. Because you are [REDACTED] Because you earned it? Because we simply choose to love you! And that is the truth. True love cannot be earned. Please treasure it instead of tramping on it. I am wrong in many things, and I fail, but my desire to care for you has always been truthful towards you without compromise. Because I know the God who loves you more than I do is a God of truth. I have absolute peace about what I said or didn't say. I just pray that you will learn about His love more and more through this. And tell me the truth, did you first hear from [C3] directly or did you hear from someone else who is big mouthing and gossiping?

C1: [C3] told me directly.

R: Ok good. I'll talk to [REDACTED] about this once I get a chance.

C1: Why? So you can make [REDACTED] uncomfortable?

R: No, I need to know how I can help [REDACTED]

C1: So you will force [REDACTED] to talk to you?

R: I said I will talk to [REDACTED] when I get the chance. If [REDACTED] doesn't give me a chance. God has a better plan, remember?

C1: Yep, understood.

R: And please forgive me if I was rude or stupid. I care for you too much sometimes. It's my sin. 2:03 PM

The following text exchanges between C3 and Respondent in 2016 reflect a discussion in which Respondent asks to marry [REDACTED]. Respondent's comments are on the left side (gray text) while the texts from C3 are on the right side (blue text):



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Relevant correspondence from Respondent:

On November 17, 2017, Respondent forwarded a number of emails, noted below:

Hi Jim,

I remembered the contexts about what I said to [C3]. Hopefully this will help with your investigation. We were in [REDACTED] was in front of me when we were going up. And [REDACTED] was wearing a yoga pant, so [REDACTED] bottom was at my eye level constantly. I had my shirt tied around me like an apron. I was feeling embarrassed (as you would know about me from our conversations) so I offered by saying: "Let me walk in front of you, my bottom is covered, you can't see it." And we chuckled about it. When on the mountain top coming back. [REDACTED] suddenly asked me if I think [REDACTED] is fat. Giving the experience coming up, that's when I commented with a light heart: "I hope it doesn't offend you, but you do have a nice ass." I only intended to build [REDACTED] up. But of course if taken out of context, this will be a very offensive thing to say to a [REDACTED]. Just like all the members of my group, regardless of gender, I care about [C3] just like I care about [REDACTED]. I jokingly asked to marry for a [REDACTED] I have called [REDACTED] my little [REDACTED] because [REDACTED] joined our group the [REDACTED] UC Merced, and has since volunteered to work with us [REDACTED]. We are a very tight group in the sense that we would jump in to help each other even if it's not our own project. I really want them all to be successful academically. That's why most of the time I didn't pay too much attention to how they would perceive my comments on their appearances. Because after all, that's not what scientific efforts are about, and I tend to disregard it as jokes. To the extend, as you can see, that at first I cannot even recall what happened. Generally I don't take it seriously unless I see an over pursuing of appearances becoming a threat to our team atmosphere and our academic efforts. Please convey my apologies to anyone hurt by my dismissive comments in your investigation. All my life I have been trained to be insensitive and dull towards these nuanced understandings of how people pays attention to appearances. I simply wanted all of us to focus on research/academic works and I probably have said many inappropriate things in the process.

Best,

[Respondent]

From: [Respondent]

Date: 11/17/16 6:41 PM (GMT-08:00)

To: Jim O'Connell <joconnell@ucmerced.edu>

Subject: Re: Request to Meet

Hi Jim,

Thank you for taking time to talk to me. I surely regret a lot of the things I have said. From now on I would follow your advice on looking to respect all people equally in my words and deeds. Before I open



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my mouth, I will carefully consider what the other person will feel by standing in their shoes. That is the teaching of my belief too.

Attached is the record of my text messages with [C1] as we talked about. If you need any further information, feel free to let me know.

Again, as always, I appreciate your work and how you have helped me with constructive criticisms. Forgive me for being so slow to learn.

Best,

[Respondent]

Voicemail from Respondent to Complainants 1 and 3:

On Sunday, February 5, 2017, the following voicemail was received by C1 and C3 in the form of an audio attachment to an email.

I reviewed the recording, recognized the voice as Respondent, and transcribed it in italics below:

Good morning [REDACTED] at least I hope you guys are having a good morning. Ok, I just wanted to update you on the school's investigation on me, about the sexual harassment allegation you have put forward. As you know last November the charge was put into place and last December the school investigator called me and we had a long conversation about it. Ok, I did lose several nights, a couple nights sleep over this and it was really, really terrifying.

I looked over the law and it turns out I did not offend any of the law. So I apologized to [C1] formally already. And um, Ok, through the whole thing what I really wanted to convey was that our group puts emphasis on the performance, not the appearances. So, it doesn't matter how you dress or how you look like, its your persistence, your work, that is gonna matter eventually. I don't know how that got so twisted in your conversations, and sorry about that. I hope in the future we can all improve from this. I just want to let you know that I am feeling pretty lonely and sad because of this. I hope you guys can forgive me and we can all move on. Please, consider in the future that you would not share such gossips with each other and keep on lovely, (Mentions a passage from the Bible) anything to be praised, then God for his creation, all things, hold on to the goodness and the justice that god has given us. Amen.

The audio file was uploaded to the master document file.



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ANALYSIS:

Did Respondent's statements to Complainant 1 constitute a violation of the University Policy on Sexual Violence and Sexual Harassment?

The evidence provided by C1 provides a clear and consistent narrative of the comments and actions of Respondent, dating back to when he was a [REDACTED] and C1 was an [REDACTED]

Respondent has made comments to C1 admitted being attracted to [REDACTED] and has told [REDACTED] that he has struggled with that attraction. According to C1, and consistent with the statements of C2, Respondent has asserted his belief that they [REDACTED] applied to them. Additionally, Respondent's requests for hugs, his comments about the sexual relationships of C1, and the written statement below corroborate the allegations and paint a picture of a long-running pattern of behavior by Respondent.

In 2012, Respondent sent C1 an email that stated in part:

I am not happy when I see your [REDACTED] style like today's. That gives me a bad mood, feeling like you are dishonoring your own body. I love it when you are in plain dresses and neat hair style with very little makeup, that is so much more lovely, simple and graceful. That look makes you a decent, modest friend that I will be proud to be with. That makes me feel happy to have your companion, and to be honest, a little arrogant to be your friend too, especially when you are showing a humbled heart with radiant beauty. Your look today, or the heart that is reflected by your look today, makes me want to stay away from you, even as a friend. And I cannot imagine a good man of principles can ever live with a woman having such a look which is of no taste and weird to the eyes. For your future husband's sake, please get some taste in your style.

In another 2012 email, Respondent wrote the following to C1, in part:

I miss the time to see you wear the [REDACTED] it is a graceful picture that I will keep in my mind forever. Now, I can not look at you without struggling with my desires.

These comments were inappropriately focused on the physical appearance of Respondent's female colleagues and are written in a romanticized or sexualized tone, referring to his "desires", apparently of a physical or sexual nature. The continued pattern of these comments created an inappropriately sexualized atmosphere in the workplace and served no legitimate workplace or academic purpose. The evidence is clear that Respondent has made similar comments to others, including at least C2, about [REDACTED] and how he felt that these [REDACTED] students were impacted by his "diagnosis" of their [REDACTED], repeatedly tying it to his own desires or attraction to them.



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Respondent has admitted to making these comments, although during his interview, he claimed that he made this statement to C1 for academic purposes. Given the totality and consistency of Respondent's comments to all of the Complainants, his assertion that this comment was made for academic purposes is not credible or supported by any evidence.

Respondent acknowledged that he had taken C1 out of class to read [REDACTED] a letter about his feelings for [REDACTED] although he claimed that he was not attracted to [REDACTED]

While many of C1's allegations date back to 2012, this and similar conduct related to C1 and the others has continued throughout 2016. Most recently, the admitted comment by Respondent to [REDACTED] student touring the lab that they could talk to C1 if they wanted to talk to someone more beautiful than Respondent represents a behavioral pattern consistent with other comments and actions by Respondent specifically directed at the appearance and gender of C1.

Alone, without the compounding effect of all of the behaviors noted above, his comment to those [REDACTED] students might not have had the strongly negative impact on C1 as it did. But C1 has been subjected to frequent comments from Respondent about [REDACTED] appearance, about his belief that [REDACTED] had " [REDACTED] or " [REDACTED] comments about [REDACTED] sex life and [REDACTED] clothing, as well as requests for, and unwanted hugging.

It is clear that the actions of Respondent represent a pattern of behavior that created an uncomfortable, even hostile, environment, and has resulted in C1 being treated differently than others in the group, specifically [REDACTED], based upon [REDACTED] gender. Respondent seemed to at times obsess over the appearance and clothing of C1, at times identifying his personal struggles with [REDACTED] appearance.

While he frequently referenced religious beliefs and the hope that his faith would guide him, the mention of his faith when considered with his behavior and treatment of C1 and others, is of no significance and simply not relevant. It is not a license for his behavior.

Based upon the statements of C1, and the statements of others, it is reasonable to believe that Respondent's treatment of C1 has negatively impacted [REDACTED] educational and research experience at UC Merced, based upon [REDACTED] gender.

As noted in the University policy on Sexual Violence and Sexual Harassment, "*Sexual Harassment is unwelcome sexual advances, unwelcome requests for sexual favors, and other unwelcome verbal, nonverbal or physical conduct of a sexual nature*". Respondent's comments about C1's sex life, [REDACTED] clothing, his comments about being attracted to [REDACTED] unwanted requests for hugs, and comments about " [REDACTED] constitute actions that have negatively impacted C1's educational and research experience at UC Merced.



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The facts clearly support a finding that Respondent's actions, based upon a preponderance of the evidence standard, represented a violation of University policy.

Did Respondent's statements to Complainant 2 constitute a violation of the University Policy on Sexual Violence and Sexual Harassment?

While working with Respondent, C2 recalled that on a weekend day when only [REDACTED] and Respondent were working in the office, he "sat me down" and told [REDACTED] "I find myself very, very attracted to you". He then told [REDACTED] that he was dealing with that attraction by fasting.

Respondent would go on to tell C2 that [REDACTED] appearance and clothing distracted him, telling [REDACTED] that he would distance himself from [REDACTED] or ignore [REDACTED] to deal with his obsession with her. Respondent has made repeated comments about [REDACTED] appearance, including the statement that being "a [REDACTED] won't last", and that he felt that [REDACTED] had "[REDACTED]". The following summarizes the most salient episodes.

While serving as a [REDACTED] Respondent acknowledged telling C2 that he was attracted to [REDACTED]. While he admitted that it was not appropriate, he claimed that he was telling this to C2 to relay a message that appearances were "not relevant".

Specifically, Respondent made inappropriate comments to C2 when they were alone at the [REDACTED] facility. C2 recounted with clarity when Respondent "sat me down" on Sunday, May 8, 2016 and told [REDACTED] "I find myself very, very attracted to you". He then told [REDACTED] that he was dealing with his attraction to [REDACTED] by fasting. He also told [REDACTED] that [REDACTED] looks and clothes distracted him, and that he would distance himself, or ignore [REDACTED] to deal with his obsession with [REDACTED].

These comments were inappropriate and served no legitimate academic or workplace purpose and contributed to a sexualized atmosphere created by Respondent. These comments further clearly communicate that Respondent would treat C2 differently than others, because of [REDACTED] gender, and [REDACTED] appearance.

I asked if Respondent gave any other compliments or positive feedback to [REDACTED] said that the only compliments he ever offered [REDACTED] related to [REDACTED] looks.

Based upon the statements of C2, and the statements of others, it is reasonable to believe that Respondent's treatment of C2 has negatively impacted [REDACTED] educational and research experience at UC Merced, based upon [REDACTED] gender.



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As noted in the University policy on Sexual Violence and Sexual Harassment, *“Sexual Harassment is unwelcome sexual advances, unwelcome requests for sexual favors, and other unwelcome verbal, nonverbal or physical conduct of a sexual nature”*.

Respondent’s admission to C2 that he was attracted to [REDACTED] that he was dealing with his attraction to [REDACTED] by fasting, coupled with his statement to [REDACTED] that her clothes and appearance distracted him and that he would distance himself from [REDACTED] or ignore [REDACTED] to deal with his attraction to [REDACTED] constitute actions that have negatively impacted C2’s educational and research experience at UC Merced.

The facts clearly support a finding that Respondent’s actions, based upon a preponderance of the evidence standard, represented a violation of University policy.

Did Respondent’s statements to Complainant 3 constitute a violation of the University Policy on Sexual Violence and Sexual Harassment?

The statements of C3, corroborated in many instances by C1 and C2, point to actions by Respondent that were highly sexualized. He commented about [REDACTED] body parts while walking behind her, made repeated propositions, and touched her hair in an inappropriate manner.

When C3 started working with Respondent [REDACTED] was a [REDACTED] C3 recalled that the first time [REDACTED] met Respondent, he began to propose marriage to [REDACTED]. According to C3, and confirmed by others, including the other Complainants and W1, Respondent has repeatedly asked C3 to marry him. During his interview, Respondent acknowledged asking [REDACTED] to marry him, saying that he needed a [REDACTED]. Respondent also stated that he had made the same proposal to a [REDACTED] colleague, and that it was a joke.

As evidenced by the text exchanges included in this report, Respondent also made comments about wanting to ask [REDACTED] to marry him, a statement he does not deny, but again claimed that it was a joke.

Both C3 and Respondent also provide a consistent account of what Respondent said to C3 as [REDACTED] hiked a hill ahead of him. According to Respondent, he admitted telling [REDACTED], “Don’t be offended but you really have a nice ass”. While he acknowledged that it was inappropriate, when asked the impact he felt the comment had on C3, he answered only, “I was so joking”.

A clear pattern emerged surrounding the actions of Respondent toward C3. If we are to accept his version, all of the inappropriate comments are dismissed as jokes. He claimed it was a joke when he called her a teenage bride, when he said that he wanted to propose to [REDACTED] and lastly, he claimed it was a joke and dismissed the events occurring at [REDACTED].



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As a [REDACTED] there is a tremendous power imbalance between Respondent and C3. Recognizing this uneven power dynamic, the impact on C3 is obvious. Calling these comments a joke, to include calling a [REDACTED] a “child-bride” and commenting on intimate parts of the body, dismisses the impact on C3 and brings into serious doubt the veracity of his repeated claims of innocence.

The evidence supports that Respondent also engaged in other behavior toward C3, that when taken together, contributed to a demeaning, sexualized, and discriminatory workplace environment.

The facts appear clear that Respondent asked C3 to massage his leg, an area that he was able to easily reach and hold when speaking with me. Respondent acknowledged making this request as a joke, but also said that he was in pain and needed assistance.

When discussing his requests for a massage, Respondent said that he had also asked his [REDACTED] Witness 2, for a massage. When asked to confirm if Respondent had ever asked [REDACTED] for a massage, Witness 2 vigorously denied that Respondent had ever made that request of [REDACTED] saying, “Well, no. That would be inappropriate”.

Respondent’s versions vary from his requests being a joke, to his belief that he needed some sort of medical assistance from those in the lab. These shifting explanations and rationalizations, and uncorroborated assertions about asking a [REDACTED] the same question, bring into doubt the veracity of his explanations. Although Respondent’s statements were contradictory, it is important to note that there are no circumstances that a [REDACTED] should be asked students to massage his leg.

Respondent acknowledged talking about C3’s hair while in [REDACTED] but denied touching [REDACTED] hair. This contradicts C3’s clear observations and recollection that Respondent touched [REDACTED] hair. While Respondent initially denied touching [REDACTED] hair, through further discussion he told me, “I may have bumped [REDACTED] hair”. He also admitted telling C3 at that time that [REDACTED] hair was “soft and silky”.

C3’s recollection of what occurred with respect to Respondent touching her hair is consistent and more plausible than Respondent’s statements, and it seems more likely than not that Respondent did in fact touch [REDACTED] hair, given his shifting recollection of the incident.

The actions with respect to the [REDACTED] cart as described by C3, and partially confirmed by Respondent, that involved approaching C3 from behind and holding [REDACTED] between his body and the cart, might not stand alone as a violation of a University policy regarding sexual harassment or sexual violence, but in the context of his other comments and touching, are part of a pattern of inappropriate and sexualized treatment of C3.



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Importantly in this matter, the incidents in [REDACTED] are not isolated. Instead, viewed in light of the other allegations and admissions of Respondent, this incident represents a repeated pattern that contributes to the overall treatment of C3 and other women by Respondent.

Based upon the statements of C3, and the statements of others, it is reasonable to believe that Respondent’s treatment of C3 has negatively impacted [REDACTED] educational and research experience at UC Merced, based upon [REDACTED] gender.

As noted in the University policy on Sexual Violence and Sexual Harassment, “*Sexual Harassment is unwelcome sexual advances, unwelcome requests for sexual favors, and other unwelcome verbal, nonverbal or physical conduct of a sexual nature*”. Respondent’s admitted comments about [REDACTED] body parts, repeated marriage proposals, requests for massages, and unwelcome touching constitute actions that have negatively impacted C3’s educational and research experience at UC Merced.

Based upon the totality of the evidence reviewed in this case, including Respondent’s own words, his conduct has been severe and pervasive, and clearly created a work environment that a reasonable person would find intimidating, hostile and abusive.

The facts clearly support a finding that Respondent’s actions, based upon a preponderance of the evidence standard, represented a violation of University policy.

Was the treatment of Complainants 1, 2, and 3 compliant with APM-015 and the Nondiscrimination and Affirmative Action Policy Regarding Academic and Staff Employment?

Respondent is a [REDACTED] and as such, his conduct has been evaluated during this investigation with respect to APM-015.

APM-015 states, “*They (faculty) avoid any exploitation, harassment, or discriminatory treatment of students.*”

[REDACTED]

[REDACTED]



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[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

FINDINGS:

University Policy on Sexual Violence and Sexual Harassment:

The evidence supports, to a preponderance of the evidence standard of proof, that Respondent's actions as outlined in this investigation, violated this policy. **The allegations are sustained.**

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]



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Respectfully submitted,

Jim O'Connell
Lead Investigator
Department of Compliance
University of California Merced



University of California, Merced
5200 N. Lake Road | Merced, CA 95343
PHONE: 209-228-4021
FAX: 209-228-4047

[REDACTED]

July 14, 2017

[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]
University of California, Merced
Email: [REDACTED]

RE: Warning Letter

Dear [REDACTED]

I am issuing this letter of warning in accordance with Article [REDACTED] Discipline and Dismissal, of the collective bargaining agreement between the University of California and the [REDACTED] for violation of the University Policy on Sexual Violence and Sexual Harassment and the Nondiscrimination and Affirmative Action Policy Regarding Academic and Staff Employment, and expectation for interactions with students as outlined in the Academic Personnel Manual, Section 015.

The reasons for this warning are in line with the investigation report sent to you on May 24, 2017, which referenced the following misconduct:

The University Sexual Violence and Sexual Harassment Policy states, "*Sexual Harassment is unwelcome sexual advances, unwelcome requests for sexual favors, and other unwelcome verbal, nonverbal or physical conduct of a sexual nature*". Based on a thorough investigation your conduct has met this definition and has been severe and pervasive, clearly creating a work environment that a reasonable person would find intimidating, hostile and abusive.

Your actions, ranging back to 2012 and continuing through February 2017, have clearly and consistently demonstrated harassing and discriminatory treatment of female students. Your conduct has been deemed enduring and offensive, clearly demonstrating that you treat women differently and subject them to discriminatory and offensive treatment in the workplace. Discriminatory treatment on the basis of gender toward "any person employed or seeking employment" is a violation of the University Nondiscrimination and Affirmative Action Policy Regarding Academic and Staff Employment.

In addition, your conduct is not aligned with the University of California, Merced Principles of Community which, "reflect our ongoing efforts to increase access and inclusion." All employees are encouraged to, "*affirm the inherent dignity and value of every person while cultivating a campus climate*

rooted in mutual respect and compassion,” and to “take pride in building, sustaining, and sharing a culture that is founded on these principles of unity and respect.”

With this letter, I am reminding you of your obligation to comply with all University & Departmental Policies, Procedures, Guidelines, and Protocols. In addition, you must comply with the following expectations, on an immediate and sustained basis:

1. Take the two-hour sexual harassment prevention training for faculty and supervisors annually.
2. Meetings with female students require the presence of your faculty supervisor or other senior supervisory staff member.
3. All e-mail and written communications with female students must be sent with a copy to your faculty supervisor or other senior supervisory staff member.

Failure to meet expectations can lead to further discipline up to and including termination of your employment. This letter will remain in your official personnel file for a two-year period if no other disciplinary actions of the same or a similar kind have occurred.

Sincerely,

[Redacted signature]

[Redacted name]

[Redacted title]

c.

[Redacted name]

Becky Gubser, Assistant Vice Provost for Academic Personnel

Paul Garza, Employee and Labor Relations Consultant

[Redacted contact information]