

June 8, 2016

IN STRICT CONFIDENCE

WENDI DELMENDO, CHIEF COMPLIANCE OFFICER

SUBJECT: [REDACTED] vs. [REDACTED], UC Davis [REDACTED] Club, HDAC#150331

I. Introduction:

The University of California is committed to creating and maintaining a community where all individuals who participate in University programs and activities can work and learn together in an atmosphere free of sexual violence and sexual harassment. When allegations of sexual harassment are brought to the University's attention, the University reviews the allegations under the appropriate policies.

This report addresses allegations of sexual assault brought by former undergraduate student [REDACTED] against volunteer [REDACTED] club coach [REDACTED]. In this case the incident under review occurred on or about May 13, 2014¹ so these allegations, if substantiated, may have violated the UC Davis Policy on Sexual Harassment in place at the time, PPM 380-12.

This report also addresses allegations that [REDACTED] engaged in a pattern of abusive and inappropriate behavior towards the students he [REDACTED].

II. Summary of allegations:

On November 1, 2015, [REDACTED] emailed Wendi Delmendo and reported that on the night of May [REDACTED], 2014, [REDACTED] had touched her inappropriately by attempting to put his hand in her pants without her consent after he insisted on staying the night in her apartment. This investigation was charged on March 18, 2016.²

[REDACTED]

[REDACTED]

[REDACTED]

III: Executive Summary of Factual Findings:

The preponderance of the evidence substantiates the allegation that [REDACTED] engaged in physical conduct of a sexual nature toward [REDACTED] without her consent. The evidence also supports that [REDACTED] educational environment was adversely impacted as a result of this incident. Therefore, a violation of PPM 380-12 did occur.

Because the allegation that [REDACTED] sexually harassed [REDACTED] by engaging in unwelcome physical conduct of a sexual nature toward her has been substantiated, it follows that [REDACTED] also engaged in physically abusive behavior toward her in violation of the Department [REDACTED] [REDACTED]

[REDACTED]

[REDACTED]

IV. Investigative Background:

The University's previous Sexual Harassment policy, PPM 380-12 was in place at the time of this alleged incident and therefore applies. PPM 380-12 defined sexual harassment as: "...as unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature, when submission to or rejection of this conduct affects a person's employment or education, unreasonably interferes with a person's work or educational performance, or creates an intimidating, hostile, or offensive working or learning environment."

[REDACTED]

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Witnesses

All witnesses were advised of the confidential nature of the investigation, the expectation of honest responses to all questions, and the University's prohibition of retaliation for cooperating with an official investigation.

Name	Title	Date Interviewed
[REDACTED]	Former Undergraduate Student [REDACTED] [REDACTED]	4/[REDACTED]/2016
[REDACTED]	Director of [REDACTED] Services	3/[REDACTED]/2016
[REDACTED]	Assistant Director [REDACTED] [REDACTED]	3/[REDACTED]/2016
[REDACTED]	Former member of [REDACTED] [REDACTED] [REDACTED]	4/[REDACTED]/2016
[REDACTED]	Undergraduate student [REDACTED] [REDACTED] [REDACTED]	4/[REDACTED]/2016
[REDACTED]	Undergraduate student [REDACTED] [REDACTED] [REDACTED]	4/[REDACTED]/2016
[REDACTED]	Undergraduate student [REDACTED] [REDACTED] [REDACTED]	4/[REDACTED]/2016
[REDACTED]	Undergraduate student [REDACTED] [REDACTED] [REDACTED]	4/[REDACTED]/2016
[REDACTED]	Volunteer [REDACTED] Club [REDACTED]	4/[REDACTED]/2016
[REDACTED]	Former member of [REDACTED] [REDACTED], UCD Alumnus	5/[REDACTED]/2016
[REDACTED]	Undergraduate student, [REDACTED]	5/[REDACTED]/2016
[REDACTED]	Undergraduate student, [REDACTED] [REDACTED] [REDACTED]	5/[REDACTED]/2016
[REDACTED]	Undergraduate student, [REDACTED] [REDACTED]	5/[REDACTED]/2016

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Other Evidence Considered:

Email exchange between [REDACTED] and [REDACTED] dated March [REDACTED] and March [REDACTED], 2014.

[REDACTED]

Email from [REDACTED] to Wendi Delmendo dated November 1, 2015.

Evidence Not Considered:

[REDACTED]

Standard of Review

The conclusions in this report are based on the preponderance of the evidence, meaning that the evidence on one side outweighs, preponderates over, or is more than the evidence on the other side.

V. Summary of Witness Statements

[REDACTED] student at UC Davis in the [REDACTED]. She didn't know anyone at the University,

[REDACTED] said [REDACTED] was friendly and nice to her.

According to [REDACTED] [REDACTED] began giving her personal advice and he told her on several occasions that she should get over her boyfriend by "...having a fling. He asked me if I was interested in anyone in the club and offered to introduce me. He kept saying I needed a fling. I told him, no, that wasn't for me."

[REDACTED] said it was a tradition in the [REDACTED] club for the students to go out for [REDACTED] at [REDACTED] in [REDACTED] Davis after evening practice. On May [REDACTED], 2014, [REDACTED] went out with the club for the first time. She rode her bike to the [REDACTED] place and began socializing with the other students on the team. [REDACTED] said she normally doesn't drink but she had several large glasses of beer that night and became relatively intoxicated. [REDACTED] said she was "tipsy," but still in control of her faculties and her

³ [REDACTED]

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memory of the night is clear. [REDACTED] said [REDACTED] was drinking beer but she does not think he was intoxicated. Sometime between 11:00 p.m. and midnight, [REDACTED] said [REDACTED] told her he should take her home. She agreed and the two of them left the [REDACTED] on their bikes and rode back to her apartment on [REDACTED]. When they got to her apartment [REDACTED] asked if he could use the restroom. [REDACTED] said she thought that was fine so she let him in her apartment and they went to her room.⁴

[REDACTED] said when [REDACTED] came out of the bathroom, "We started talking. I told him I was grateful for the [REDACTED] club and new friends. I was [REDACTED] and I opened up about my past and past relationships. It was getting late, probably about 1:00 a.m. when he said I shouldn't be alone and he would stay over." [REDACTED] said she thought this was unusual but she was new to the club and he was the [REDACTED] so she didn't argue. She gave [REDACTED] a sleeping bag and told him he could sleep on the floor.

[REDACTED] said she got in her bed and [REDACTED] was in the sleeping bag on her bedroom floor when he began saying he couldn't sleep and she should come and lay down next to him. [REDACTED] said she did lay down next to [REDACTED] because she didn't know what else to do. [REDACTED] said soon after she laid down next to [REDACTED], he began touching her. He groped her chest and then he put his hand down her pants and touched her vagina. At that point [REDACTED] said she pushed him away, got up from the floor and said, "Stop. Don't touch me." [REDACTED] said, "I should have kicked him out but I didn't. I just told him don't touch me and went back to my bed. I don't remember if he said anything but he stayed on the floor until the next morning. I got up early around 6:00 or 7:00 and went to class and he left then too."

[REDACTED] said the next thing that happened was she received an email from [REDACTED] in which he said he thought because she was saying she didn't want to have a fling with anyone in the club that meant she was saying she did want to have a fling with him. [REDACTED] said [REDACTED] also asked her to become an officer in the [REDACTED] club, something she did not want to do as she had just joined. [REDACTED] responded to [REDACTED] that what he had done was wrong and he had violated her trust. Soon after that [REDACTED] decided she didn't want to have anything to do with the [REDACTED] club and she stopped going. She had no contact with [REDACTED] after that.

[REDACTED] said once she stopped going to the [REDACTED] club the other students she met there would no longer talk to her. There were only two other students she felt she knew well enough to tell what had happened. [REDACTED] said she told [REDACTED], her roommate and an old friend from [REDACTED]. [REDACTED] said [REDACTED] has since graduated and now works for the University. She also told [REDACTED] who has since graduated as well. [REDACTED] said she and [REDACTED] had joined the club at the same time and when she told him what had happened he said he was going to quit too.

[REDACTED] said she left UC Davis soon thereafter. [REDACTED] but this incident pushed her over the edge and made it even more difficult for her to

[REDACTED]

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study and concentrate. [REDACTED] said, "I had a whole host of issues and I didn't need this. I was in shock and that's why I didn't report it at the time. I loved [REDACTED] when I was [REDACTED] and wanted to go back to it at Davis but now I couldn't. Now I'm [REDACTED] I've been trying to forget about it but I can't. I kept thinking about it and then I started thinking about the other girls in the club so I came forward."

We went over my notes and [REDACTED] confirmed they were accurate. She said she had nothing further to add and does not wish to have any contact with [REDACTED] again.

[REDACTED] [REDACTED] [REDACTED] [REDACTED] said he had no idea who [REDACTED] is. [REDACTED] said, "I couldn't ID her if she was in the room right now. I had [REDACTED] kids last quarter. I ID them by their clothes and give them nicknames: soccer player, wrestler, blue shoes, things like that. When I read this I was so caught off guard. [REDACTED] of the members of the club are female. [REDACTED]. I don't grope female students. [REDACTED]. We talk about that all the time. [REDACTED]. I'm dumbfounded by this."

We discussed the nature of the allegations and [REDACTED] said the allegations that he touched a student's genitals while sleeping at her apartment were completely untrue. [REDACTED] said the [REDACTED] club members do regularly go out to [REDACTED] for beer and soft drinks after [REDACTED] practices, and he goes as well. [REDACTED] said, "In order for the club to succeed it has to also be a social event. Going to [REDACTED] after practice on [REDACTED] is a big part of that. All are welcome. Lots of kids come and go in the club. Some come back years later and I don't even remember them but they say they remember me." [REDACTED] said he does not socialize with the team members beyond that and he said he does not recall ever being at the apartment of a student named [REDACTED]. Nor does he recall riding her or anyone else home on their bikes after being at [REDACTED]. [REDACTED] said, "I still can't place her. Based on this (notifications letter) it's been two years. I don't remember."

I showed [REDACTED] the email exchange between him and [REDACTED]. He read it for several minutes and then responded, "Wow. I do not recall having this conversation with her." [REDACTED] agreed this was his email account. I asked [REDACTED] if there could be another explanation for the email exchange. He replied, "I have so many conversations with kids. I do not recall that conversation. She's saying I groped her? I don't do anything like that. Not one kid in the club would say I groped them."

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

On April [REDACTED], 2016 I received the following email from [REDACTED] in response to my offer for him to submit a written statement:

After a week of thought I have the following comments to add:

*The Facebook group for the [REDACTED] club currently has [REDACTED] members which include students, parents and alumni. It is a method of organizing events, communicating important information and hearing from all parties involved. The message shown to me was never posted in this group. [REDACTED]

[REDACTED]

[REDACTED]

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[REDACTED]

I take these responsibilities seriously and spend my time during [REDACTED] watching very closely to make sure all are prepared. When someone is not, I am required to tell them so.

[REDACTED]

I hope you get the chance to meet with other members of the club, past and present. Most value their time spent on the [REDACTED].

[REDACTED]

Director of Campus [REDACTED] said the [REDACTED] clubs tend to be very hierarchical in their structure and relationships between club members and with the coach. [REDACTED]

[REDACTED] said there are two issues here, one the potential sexual assault and the other is the potential for abusive behavior toward students. [REDACTED] said she doesn't know too much about the sexual assault allegations, nor does she know the student who made them because she apparently went straight to HDAAP and Wendi Delmendo. But [REDACTED] said these allegations do not surprise her. She is aware of an incident that took place in 2008 when Campus [REDACTED] received an email from the [REDACTED] of the then [REDACTED] club president alleging his sister was having an inappropriate relationship with [REDACTED]. [REDACTED] said she consulted with Lisa Brodkey and based on that conversation with Lisa, [REDACTED] said she drafted a consensual relations policy for inclusion in the Volunteer [REDACTED] Handbook where one had not existed before. [REDACTED]

█████ said, "I called him in and he said he would end the relationship.⁶ I never heard back from the family after that but I couldn't do anything more at the time because there was no policy. He's the only █████ club coach I've ever had to talk to."

██████████ said she and her assistant directors have heard rumors that ██████████ has no permanent residence in Davis and couch surfs at student apartments. She has also heard some students are afraid of ██████████. ██████████

Senior Assistant [REDACTED] Director [REDACTED] is the first line supervisor of the volunteer coaches. [REDACTED] said all he knows about the sexual assault allegations is that they have been made. [REDACTED] said he became involved in the other issues that have been raised when [REDACTED] approached him and said that she and other [REDACTED] members were being bullied by [REDACTED] and the club president, [REDACTED]. [REDACTED] gave [REDACTED] the Facebook pages. [REDACTED] said, "We'd had a few complaints about [REDACTED] in the past but when we would call in the club officers they would say everything was okay. I'd talk to [REDACTED] and he would say all the right things and with club [REDACTED] the team members do get to decide who their [REDACTED] will be. [REDACTED] is the first [REDACTED] club member who has come forward and identified herself."

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[REDACTED]

According to [REDACTED], "At first when [REDACTED] came here she was motivated and excited to be making friends in the [REDACTED] club. She's a caring, nice person. Then she all of a sudden did a 180. She told me she went to [REDACTED] with the club and got drunk and ended up taking [REDACTED] back to the apartment. From what I remember she said something about him trying to have sex with her and she pushed him away and he ended up sleeping on the floor. Then I think he either emailed or texted her. I don't remember the details of what she said, it was over two years ago. I think it was Spring quarter of 2014. [REDACTED]

[REDACTED]

[REDACTED] It was the last thing she needed and she changed completely. She dropped out and went back home [REDACTED]

[REDACTED]

[REDACTED] has graduated from UC Davis. [REDACTED] said his memory of what [REDACTED] told him is not clear entirely clear because it has been a couple of years. [REDACTED] said, "But I remember the jist of it. I think we were at dinner at [REDACTED] and she told me the club had gone out for drinks. She said she and [REDACTED] rode their bikes back to her place and she let him in. She said something non-specific about him acting improperly toward her. Like he was hitting on her and she told him to back off. She might have said he tried to touch her or something like that but I'm not sure. She didn't go into it too deep."

[REDACTED] said he and [REDACTED] only had this one conversation about this. [REDACTED] about this same time and after the injury, combined with what [REDACTED] experienced, [REDACTED] said he was done with the [REDACTED] club.⁷ He has not stayed in contact with anyone from the [REDACTED] since graduating last year.

[REDACTED] said she had been involved in [REDACTED] for many years and loved the [REDACTED] but she stopped participating in the [REDACTED] club in [REDACTED] 2015 largely due to the Facebook messages she received from [REDACTED]. [REDACTED] said she woke up to a post from [REDACTED] that was labeled "disciplinary action" which she interpreted as kicking her out of the [REDACTED] club. [REDACTED] sent [REDACTED] a message asking him why he was doing that and he responded it was because she had been

⁷ [REDACTED]

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badmouthing the club [REDACTED]. [REDACTED] said these kinds of communications were typical of [REDACTED] and she had had enough.

[REDACTED] said among the other issues she had with [REDACTED] handling of the [REDACTED] club was that he always finds fault with people and takes an accusatory tone. For example, [REDACTED] said [REDACTED] frequently will tell students they are no good at [REDACTED] or everything they do is wrong. [REDACTED] said [REDACTED] demeans students at [REDACTED] by swearing and yelling at them in front of everyone. He also pressured her to practice after she was still recovering from [REDACTED] at one point telling her to "quit complaining, shut up and train."

[REDACTED] say him dire [REDACTED].

[REDACTED] th [REDACTED] has decided that the club president will have all of [REDACTED] fees reimbursed and he will do the same thing for certain students based on their performance in [REDACTED]. [REDACTED] said she is uncertain where exactly [REDACTED] resides on a full time basis but he frequently "couch surfs" at the homes of team members and he had done that to her.⁸ [REDACTED] said [REDACTED] hand picks the club's officers instead of the students electing them. [REDACTED] said [REDACTED] does this as a way to control the club. [REDACTED] said, "He chooses the people he thinks won't rat him out as officers. I was told I would be the treasurer. You can't say no to him."⁹

[REDACTED] suggested I interview [REDACTED]. [REDACTED] said she started with the [REDACTED] club in the fall of [REDACTED]. [REDACTED] said her experience with the club was generally positive although, "He does yell at me a lot. The [REDACTED] are really intense and he does get upset. He yells and says things to me like, 'I've told you this a thousand times,' but I don't see it as derogatory. I know some people quit the team because they get scared when they hear him yell, but I don't think he's abusive. The team did qualify to go to [REDACTED]."

[REDACTED] is unfamiliar with the rules for [REDACTED] clubs and how they are supposed to be student run. [REDACTED] thinks [REDACTED] chooses who the club officers will be. She confirmed that the students pay [REDACTED] \$150 directly each quarter by cash or check.

[REDACTED] suggested I interview [REDACTED]. [REDACTED] said she had a lot of prior experience with [REDACTED] before coming to UC Davis and it had always been positive. [REDACTED] said, "But then I came here and it's all negative. He does

[REDACTED]
[REDACTED]
[REDACTED]

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yell and swear a lot. He doesn't do it to be heard, it's like he's mad. Like, we're too ignorant to understand what he's saying. He yells at me if I do a drill wrong and says things like I'm hopeless, unteachable, I'll never get it and he can't teach me anything. He swears all the time. Fuck is very common. He says 'What the fuck is wrong with you?' all the time. I finally quit in [REDACTED]."

[REDACTED] said she decided to quit the [REDACTED] club after she got sick and missed a week. When she came back to practice she felt [REDACTED] and told [REDACTED] she felt [REDACTED] and [REDACTED]. He replied that if she needed to [REDACTED] then go do it and get back out and practice. [REDACTED] said, "We're always taught to listen to your [REDACTED]"

[REDACTED] When I went to [REDACTED] I told him I was out for a couple of weeks. He said that's a [REDACTED] and he sounded sarcastic. I felt like I had let him down. I stayed and watched practice and went to [REDACTED] afterward. That's where he told me I wasn't cut out for [REDACTED] That I wasn't motivated enough to push through and it was my own damn fault for getting [REDACTED] all the time.¹⁰ A [REDACTED] I'd been doing for eight years and I'm not cut out for it? I just got up and left. I haven't talked to anyone in the club since."

[REDACTED] said she is happy someone has finally come forward and the University is looking into the issues with the [REDACTED] club. [REDACTED] said, "It's about time. I still feel ashamed because I left with an [REDACTED] and never came back. But I would come back if there was a different coach."

[REDACTED] suggested I interview [REDACTED] [REDACTED] said her experience with the [REDACTED] club has been very positive. [REDACTED] [REDACTED] is, "strict and harsh, but this is a [REDACTED] and he doesn't want us to get hurt. He needs to be sure we're ready [REDACTED] [REDACTED] can get terse when we're at [REDACTED] but he's supportive."

[REDACTED] said she thinks the atmosphere at [REDACTED] is "fantastic, we're like a family. It can be intense and stressful but it's still fun. He swears but it he doesn't do it to anyone specifically. It's more casual, like the occasional, 'what the fuck,' but he doesn't direct it personally." [REDACTED] also enjoys the social aspects of the club and the activities such as going to [REDACTED] after practices. [REDACTED] said her experience has been that [REDACTED] treats everyone fairly.

[REDACTED] asked that I interview [REDACTED] club president [REDACTED]. [REDACTED] said UC Davis has one of the best [REDACTED] teams in the nation and she credits [REDACTED] with that. [REDACTED] said [REDACTED] is a good and caring person and coach. Because the club employs the coach, [REDACTED] said she views this complaint as coming back to her. [REDACTED] said she is aware that other complaints

[REDACTED]

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have been made about the coach in the past and from her perspective they came from students who were disgruntled and taking it out on the coach unfairly.

██████████ said ██████████ does sometimes yell and swear at people. But ██████████ thinks it's justifiable because, "Sometimes he's trying to teach someone and they refuse to listen to him. People who don't want to learn can't be taught. We are a national level ██████████ but we take people who are just beginning ██████████. We get some people who refuse to train, ██████████. You have to be ██████████

██████████ said she recalls a former club member named ██████████ in particular. ██████████ said, "I tried to work with her. I said let's go ██████████ let's go ██████████. She wouldn't. I tried to offer her extra help. ██████████ finally had to tell her that she wasn't cut out for ██████████

As for swearing, ██████████ said, "He does do that every so often. When he's told someone twenty times to move left and they still go right, then yeah." ██████████ said ██████████ has not directed any swearing at her but he has toward others. ██████████ said, "I don't like swearing, I would prefer it not happen. And he knows that, but it's not like it happens every day."

██████████ said the ██████████ club selects its officers based on merit. Anyone can nominate someone to become an officer and as the club president she has selected officers as well. ██████████ said the senior club members, ██████████ are expected to assist in running the club.

██████████ has never observed ██████████ act inappropriately toward female club members. ██████████ said, "Our women's team is ranked because ██████████ does treat the women with respect. He creates a good environment." ██████████ said that in ██████████ ██████████ regularly reminds the club ██████████ and if anyone ever feels something is inappropriate let him know right away and he will put a stop to it. He makes women feel safe. I really appreciate that about him." ██████████ said ██████████ can be ██████████ tough on the women, but he treats the men the same way. ██████████ said when people get ██████████ and then just ██████████ will get rough with them by using techniques ██████████, "It's to teach them ██████████

██████████ is not aware of any times ██████████ has stayed at team members apartments except for when he briefly stayed with ██████████ to help her after ██████████ surgery. ██████████ has not heard anything about couch surfing.

██████████ said the ██████████ club's Facebook page is for everyone. The Facebook conversation between ██████████ and ██████████ was just between the club officers. ██████████ said it came about after, "I told ██████████ I couldn't deal with her

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anymore. I think that's why that happened. It was last fall in [REDACTED] 2015. We hosted a [REDACTED] and she was in charge of some tasks and didn't do them."

[REDACTED] said she keeps track of the [REDACTED] club's finances, not [REDACTED]. [REDACTED] said she was personally only reimbursed once and that was for a \$35 fee [REDACTED]. [REDACTED] said she went to Campus [REDACTED] and got the club allotted \$4500 instead of the previous [REDACTED] they had received under the former treasurer. She used up the allocation to help other students who needed money. [REDACTED] said, "They go to [REDACTED] if they need help financially and he comes to me and asks if we can help them." [REDACTED] said all of the finances go through Campus [REDACTED]. The club members do pay [REDACTED] directly \$150 as an instructional fee. [REDACTED] said that after she graduates [REDACTED] she plans on coming back to volunteer as an assistant coach for the [REDACTED] club.

[REDACTED] suggested I interview [REDACTED]. [REDACTED] said she is new to [REDACTED] and she is now a club officer and is enjoying the club. [REDACTED] said [REDACTED] does curse occasionally, "But it's to push us when he coaches. It's not abusive. He does it to work us to get stronger. He'll drop the f bomb, but I'm not offended by it."

[REDACTED] said the [REDACTED] club uses social media to communicate and coordinate travel and events. [REDACTED] mainly just posts videos from [REDACTED] and [REDACTED] and comments about them.

[REDACTED] said she goes to the club social events at [REDACTED] and finds it fun. They talk and chat and over [REDACTED] and [REDACTED] and [REDACTED] said [REDACTED] treats women the same as men. [REDACTED] said, "Sometimes new girls will try and slack off and then [REDACTED] will push them a bit harder because he sees this as an equal place in terms of gender." [REDACTED] said [REDACTED] has never made derogatory comments about women. [REDACTED] said, "People are being too sensitive. The way he talks and occasionally drops the f word to push people is to help them to do better. He's not abusive. It's like the military, people who aren't used to a drill sergeant barking orders may not understand at first."

[REDACTED] suggested that I interview [REDACTED]. [REDACTED] said [REDACTED] has been, "really kind to me and always offers to help. The same with our president, [REDACTED] is now a big part of my life. It helped change me [REDACTED]. This is all a misunderstanding about being yelled at, a miscommunication. [REDACTED] will yell if you're doing it wrong, but it's to make us better."

[REDACTED] said [REDACTED] does swears but, "He doesn't mean it in harsh way. [REDACTED] would never intentionally hurt someone. It's more casual and it doesn't bother

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me. It's not abusive, we all kid around like that a lot. Us students use a lot worse language than he does."

_____ goes to the _____ social events and she said they are mostly just casual conversation, not a party atmosphere. _____ might have a beer to relax but there isn't a lot of drinking going on. _____ has never seen _____ leave with any club members.

_____ said, "_____ stresses equality for males and females. Women can do anything in the _____. Males are more _____ but _____ doesn't see it like that. _____ It's a nice environment, everyone wants to move up."

VI. Credibility: On the key point of whether or not he touched former student _____ in a sexual manner and without her consent I do not find _____ credible. He does not directly deny having done so, instead he asserts that he does not remember her or the incident she describes. _____ offers only generalized responses that _____, he does not "grobe" his students. But _____ email exchanges with _____ the day after the alleged assault provides convincing evidence that what she alleges happened did in fact occur and serves to undermine his credibility. There are also text messages _____ exchanged with _____ that show that while _____ denies couch surfing at student's apartments, he has in fact done so. This serves to further call into question his credibility and it reinforces _____ assertion that _____ pressured her to spend the night at her apartment as well.

I do not find evidence that causes me to question the other witnesses, _____ and _____, who each have some knowledge of this incident and who also provided statements that tend to corroborate _____ account.

Based on these factors I find that in regard to the sexual assault allegation _____ is credible and _____ is not credible.

VII. Factual Findings and Analysis Regarding Sexual Harassment

Although these events took place over two years ago I am able to find by a preponderance of the evidence the following facts:

1. _____ was a _____ student when she joined the UC Davis _____ club to meet people. At some point she had confided in volunteer _____ club coach _____ that she had just broken up with her boyfriend. The two of them had several subsequent conversations whereby he suggested introducing her to certain male members of the club and told her she should have a "fling."

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2. After practice on the night of May [REDACTED], 2014, members of the [REDACTED] club went out to [REDACTED] pizza in [REDACTED] Davis. This is a regular social event for the club.
3. [REDACTED], who stated she normally does not drink, had several large cups of beer and became intoxicated to some extent.¹¹
4. When [REDACTED] decided to leave the restaurant at approximately 11:00 p.m. [REDACTED] accompanied her. They rode their bicycles back to her apartment [REDACTED] in Davis.¹²
5. When they arrived at [REDACTED]'s apartment [REDACTED] asked to use the restroom. She let him and they then began talking. [REDACTED] stated she became emotional when discussing her past relationships. [REDACTED] said she should not be alone and insisted on staying the night.
6. Because she was [REDACTED] to the club and [REDACTED] was her [REDACTED] [REDACTED] gave him a sleeping bag and told him he could sleep on the floor in her room while she was in her bed.
7. [REDACTED] stated that he could not sleep and told [REDACTED] she should come and lie down next to him. Unsure of herself and her situation, particularly considering the power dynamic in play here, [REDACTED] complied.
8. At that point [REDACTED] touched [REDACTED] in an unwelcome and sexual manner. Because I have found her more credible, I find it more likely than not that she is being truthful when she states [REDACTED] groped her chest and put his hand down her pants and touched her vagina.
9. [REDACTED] pushed [REDACTED] away and told him to stop and not to touch her. She got back in her bed and slept there. [REDACTED] spent the rest of the night on her floor. The next morning when she went to class sometime around [REDACTED] or [REDACTED] in the morning he also left her apartment.
10. [REDACTED] initiated the email exchange referenced below at 9:25 a.m. on May [REDACTED], 2016. The final email when [REDACTED] states that he is "speechless" is at 12:50 p.m. on May [REDACTED].¹³
11. On unspecified later dates [REDACTED] told [REDACTED] and [REDACTED] what had happened. The evidence suggests [REDACTED] provided greater detail to Ms. [REDACTED] and only a more general version of events to Mr. [REDACTED].
12. [REDACTED] subsequently quit the [REDACTED] club, dropped out of UC Davis and returned to [REDACTED].

Documentary Evidence: [REDACTED] provided the attached email exchange between her and [REDACTED] immediately after the incident in her apartment. [REDACTED] admits that these emails came from his email account and does not deny the email conversation occurred. Instead, he states that he does not recall the conversation.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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The emails start with the message immediately below from [REDACTED] and include the following statements:

- May [REDACTED], 2014, 9:25 a.m., [REDACTED]: "Last night I was overcome with not only the power of your story but the directness of your telling. I was very touched. I was not attempting to take advantage of you but was responding to an earlier conversation of you wanting a fling. It was not an attempt to take advantage of you. I am sorry it appeared that way. I do feel much closer to you and am glad you opened up. I hope (I) did not offend you."
- May [REDACTED], 2014, 10:07 a.m., [REDACTED]: "[REDACTED] it (is) really hard not to be offended. Yes we discussed the possibility that it would be a good idea for me to have a fling but never did we discuss that this was going to be between us. That is why I felt like I was being taken advantage of. It was nice of you to comfort me when I was sad but it was not nice to think it was ok to think that I had agreed to have a fling with you [REDACTED]. I opened up because I thought I could trust you [REDACTED] but in truth that trust has shrunk a little and I don't even know how to respond to what happened...."
- May [REDACTED], 2014, 1:37 p.m., [REDACTED]: "I was confused ... [and] [h]ad concluded you had said all that was needed if only I paid attention. I(n) all honesty it took a lot of thought on my part and none of it was about taking advantage of you. My logic was obviously faulty but I believe that is the only crime I should be punished for. As strange as it sounds my intent was honorable. Forgive me please."
- May [REDACTED], 2014, 3:20 p.m., [REDACTED]: "I understand people can have misunderstandings but truly, things could have gone a whole different way if you just told me flat out. Instead, without my consent nor knowledge (you) decided to act upon that assumption...I feel upset and uneasy. What happened was highly inappropriate especially because you are my [REDACTED] teacher. I was uncomfortable the whole night due to your persistence in trying to make me sleep next to you. I gave you hospitality with no intentions of anything further. I opened up because I believed to be safe with you. Whether it was the intoxication or bad judgment....You are my [REDACTED] teacher and I had trusted you, but now I do not feel safe."
- May [REDACTED], 12:37 p.m., [REDACTED]: "I do not wish to be [REDACTED] at this time....I will not be attending [REDACTED] class tonight neither attend the meeting. From here on out I am your student and nothing more. If anything ever were to happen again, I will report you. I do not take what happened lightly and it should not be taken lightly.... I believe it's in my best interest to stay disconnected at this time."
- May [REDACTED], 2014, 12:50 p.m., [REDACTED]: "I am speechless. I tried to explain how the situation developed from my perspective. I am very sorry it happened. If you feel these steps are necessary then ok. I am speechless."

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In addition to the evidence in the form of the witness statements, these emails show that [REDACTED] had been encouraging [REDACTED] to have a “fling” in the wake of her having confided in him about breaking up with her boyfriend which further corroborates [REDACTED] assertions. A reasonable person would find it inappropriate for a volunteer club coach to engage in conversations of this nature with a female student in the [REDACTED] club he coaches. The email exchange suggests [REDACTED] acted on his mistaken belief that [REDACTED] was romantically interested in him. He said, “I was not attempting to take advantage of you but was responding to an earlier conversation of you wanting a fling. It was not an attempt to take advantage of you.”

The emails further indicate that despite his claim not to remember either [REDACTED] or what happened that night, [REDACTED] did go home with her and convinced her to let him spend the night in her apartment. The emails indicate [REDACTED] pressured her to sleep next to him on her bedroom floor. She states: “...I was uncomfortable the whole night due to your persistence in trying to make me sleep next to you. I gave you hospitality with no intentions of anything further....” In the responding emails, he does not dispute this. Although [REDACTED] does not mention any touching by [REDACTED] in these messages, they both reference a “fling” and the overall language in the messages combined with [REDACTED] lack of credibility support her allegation that he groped her chest and put his hand down her pants and touched her vagina.

VII. Findings Regarding Sexual Harassment Policy 380-12 Violation

[REDACTED] actions meet the definition of sexual harassment as provided in policy 380-12 as unwelcome sexual advances and physical conduct of a sexual nature that negatively affected [REDACTED]. In her messages to [REDACTED] immediately after the incident she describes feeling upset and uneasy. She also immediately quit the [REDACTED] club, which demonstrates that this event affected her participation in a University program. Although she conceded she was having academic difficulties before this incident, the evidence indicates that [REDACTED] actions were a significant factor in [REDACTED] decision to leave UC Davis. [REDACTED] was a [REDACTED] who had joined the [REDACTED] club expressly to make friends, but then she cited this incident as a major factor in her decision to leave. [REDACTED] offered the same observation and said the incident with [REDACTED] started [REDACTED] “...on an emotional roller coaster. It was the last thing she needed and she changed completely.”

Therefore, the preponderance of the evidence leads to the conclusion that [REDACTED] conduct unreasonably interfered with [REDACTED] education and created an intimidating, hostile, and offensive learning environment in violation of the University’s Sexual Harassment policy in place at the time, PPM Section 380-12.

VIII. Factual Findings Regarding a Pattern of Inappropriate/Abusive Conduct

I am able to find by a preponderance of the evidence the following facts:

1. Interviewing a sample of the [REDACTED] club suggests there is not a consensus of opinion among the club members as to whether [REDACTED] has behaved inappropriately and/or abusively. Based on the interviews conducted it can be inferred that some students think he is a good [REDACTED], others do not.
2. The Facebook postings provided by [REDACTED] show that [REDACTED] did send remarks to students in 2014 that a reasonable person would find inappropriate for a collegiate coach to make. Although [REDACTED] characterized the emails as an exchange between him and [REDACTED] based upon a dispute between [REDACTED] and [REDACTED], several of the postings were sent to what appears to be a listserv of the club officers. Examples of [REDACTED] comments include:
 - January [REDACTED], 2014: "What the fuck is wrong with you?I am fucking tired of hearing your constant complaints. Shut up!!My next step will be to ask you to leave the [REDACTED] Shut up and change your behavior or leave." This communication from [REDACTED] upset [REDACTED] to the point that she responded: "I've literally been crying all day like someone died."
 - March [REDACTED], 2014: "wtf is happening here? ...selfish shits! ...Ok, It has been pointed out that selfish shits is a bit harsh....Let's scratch the selfish and leave it at shits. Deal?"
3. Although [REDACTED] denied "couch surfing" at students' apartments and stated he only stayed with [REDACTED] once when she was recovering from surgery, screen shots provided by her suggest this happened on several occasions in April and May of 2015 [REDACTED]. There is a pattern of [REDACTED] initiating text message requests to stay at [REDACTED] apartment just after midnight. Examples include:
 - April [REDACTED], 2015, 12:31 a.m.: "Do you have a couch available I could sleep on?"
 - April [REDACTED], 2015, 1:58 a.m.: "Can I use your couch again tonight?"
 - April [REDACTED], 2015, 12:09 a.m.: "I'll have another place starting tomorrow night but I need a couch tonight care for some wine?"
 - April [REDACTED], 2015, time uncertain: "[REDACTED]!! Can I stay there this evening?"
 - April [REDACTED], 2015, 12:14 a.m.: "Can I use the couch tonight?"
 - May [REDACTED], 2015, 12:10 a.m.: "Can I grab your couch tonight?"
 - May [REDACTED], 2015, 12:12 a.m.: "Hey!! Can I sleep on your couch tonight?"
4. In addition to staying at student's apartments, [REDACTED] attends regular events where drinking alcohol is involved. [REDACTED] also described a previous consensual relationship with a student club member. [REDACTED] said she added a section on consensual relations to the Coach/Instructor Handbook as a direct result of this previous incident.

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Respectfully submitted,



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Office of the Provost and Executive Vice Chancellor

