



CONFIDENTIAL INVESTIGATION REPORT

Subject: [REDACTED], [REDACTED]
Prepared for: University of California, Davis
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Table of Contents

I.	Introduction	4
II.	Issues Presented and Summary of Findings	4
A.	ISSUE ONE: Did [REDACTED] Engage in Inappropriate Conduct of a Sexual Nature with Student Interns at the [REDACTED] or Off Campus?	4
B.	ISSUE TWO: Did [REDACTED] Conduct in Issue One Violate the University Policies Prohibiting Sexual Harassment?	4
C.	ISSUE THREE: [REDACTED]	5
D.	ISSUE [REDACTED]	5
E.	ISSUE FIVE: [REDACTED]	5
III.	Investigation Background	6
A.	Independence	6
B.	Investigative Standard	6
C.	Credibility Determinations	6
D.	Witnesses	6
E.	Admonitions to Witnesses	8
F.	Documents	8
IV.	Factual Background	8
V.	ISSUE ONE: Did [REDACTED] Engage in Inappropriate Conduct of a Sexual Nature with Student Interns at the [REDACTED] or Off Campus?	10
A.	Allegation One: [REDACTED] Made, Encouraged Interns to Make, and Ignored, Offensive Sexual Comments and Jokes	10
B.	Allegation Two: [REDACTED] Watched Videos and Movies with Interns, Which Some Interns Found Offensive	18
C.	Allegation Three: [REDACTED] Helped [REDACTED] Contact and Accost [REDACTED] While She was in Her Hotel Room	21
D.	Allegation Four: [REDACTED] Created Performances for the [REDACTED] Demonstration During [REDACTED] Day that Included Sexual Innuendo	24
E.	Allegation Five: [REDACTED] Sexualized Performances by Interns for [REDACTED] Days	30
F.	Allegation Six: [REDACTED] Engaged in Close Personal Relationships with Interns	33

VI.	ISSUE TWO: Did [REDACTED] Conduct in Issue One Violate the University Policies Prohibiting Sexual Harassment?	38
	A. Relevant Policies	38
	B. Analysis and Finding	40
VII.	ISSUE THREE: [REDACTED]	43
	A. Allegation One: [REDACTED]	43
	B. Allegation Two: [REDACTED]	48
VIII.	ISSUE FOUR: [REDACTED]	52
	A. Witness Accounts	52
	B. [REDACTED] Account.....	54
	C. Analysis and Findings.....	55
IX.	ISSUE FIVE: [REDACTED]	55
	A. Witness Accounts	55
	B. [REDACTED] Account.....	62
	C. Analysis and Findings.....	63
X.	Conclusion	64

I. Introduction

The University of California, Davis (UCD) retained Ellis Buehler Makus LLP to conduct an impartial investigation into allegations against [REDACTED] at the UCD [REDACTED]. Specifically, six undergraduate students who were interns at the [REDACTED] filed complaints with UCD and alleged that [REDACTED] (1) engaged in conduct of a sexual nature with student interns at the [REDACTED] and off [REDACTED]

[REDACTED] The investigation commenced on May 23, 2016.

This Confidential Investigation Report (Report) contains detailed information, witness accounts, relevant documentation, and findings relating to the allegations. It is anticipated that this Report will be maintained confidentially by the decision makers and will not be disseminated except as required by law or as determined by UCD and its attorneys. A separate communication should be prepared to notify the parties of the completion of the investigation and the summary of the findings.

II. Issues Presented and Summary of Findings

The issues and findings are detailed in full in this Report, but summarized here for the convenience of the readers:

A. ISSUE ONE: Did [REDACTED] Engage in Inappropriate Conduct of a Sexual Nature with Student Interns at the [REDACTED] or Off Campus?

Yes. [REDACTED] engaged in conduct of a sexual nature that interns, faculty, and staff members found offensive. He made sexual jokes and innuendo, watched videos containing sexual content, and organized performances on campus that were sexual in nature.

B. ISSUE TWO: Did [REDACTED] Conduct in Issue One Violate the University Policies Prohibiting Sexual Harassment?

Yes. [REDACTED] engaged in conduct that violated UCD's Sexual Violence and Sexual Harassment policies, including making sexual jokes and comments, watching videos of a sexual nature, and arranging performances at UCD [REDACTED] Day that were laced with sexual innuendo. The conduct was offensive to reasonable people including several interns, faculty, and UCD staff.

[REDACTED] engaged in other conduct that did not violate UCD's Sexual Violence and Sexual Harassment policies. [REDACTED]

[REDACTED]

C. ISSUE THREE:

[REDACTED]

[REDACTED]

D. ISSUE FOUR:

[REDACTED]

[REDACTED]

E. ISSUE FIVE:

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

III. Investigation Background

A. Independence

UCD allowed the investigator discretion to conduct the investigation as determined to be necessary. UCD did not attempt to influence or direct the outcome of the investigation, but instead appropriately deferred to the investigator in all respects, including in granting access to witnesses and documents.

B. Investigative Standard

The findings in this Confidential Investigation Report are not legal determinations, but instead address factual findings regarding the allegations. The investigator did not make legal conclusions. The investigator made findings with respect to whether [REDACTED] violated UCD's Sexual Violence and Sexual Harassment Policy (Section VI, below.)

The investigator reviewed, compared and analyzed the evidence to determine whether the allegations were with or without merit under a preponderance of the evidence standard. Preponderance of the evidence, for purposes of this Report, means that the evidence on one side outweighs, or is more than, the evidence on the other side.

The investigator considered and weighed the rights of all parties to ensure both fairness and vigilance in the event that corrective action results from the investigation. The investigator did not obtain recorded testimony or testimony given under oath. Nonetheless, the investigation proceeded under the good faith expectation that witnesses would answer truthfully. The conclusions in this Report are drawn from the totality of the evidence and a thorough analysis of all the facts, and, where necessary, credibility determinations are made.

C. Credibility Determinations

The investigator considers several factors to assess the credibility of witnesses when there are factual disputes: (1) demeanor; (2) inherent plausibility; (3) motive to lie; (4) corroboration and (5) past record of conduct. Because a witness's demeanor during an interview can be affected by many factors, such as nervousness, stress, or emotion, the investigator does not rely on demeanor as a determinative factor in assessing credibility. Where necessary to resolve disputed facts, the investigator evaluated credibility on one or more of the remaining factors.

D. Witnesses

The following individuals were interviewed as witnesses in this investigation and provided information relevant to this Report:

Name of Witness	Title	Dates Interviewed
[REDACTED]	[REDACTED] Coordinator	May 23, 2016 June 30, 2016 (by telephone)
[REDACTED]	Business Office Supervisor and Chief Administrative Officer, [REDACTED]	May 23, 2016 June 30, 2016 (both by telephone)
[REDACTED]	Full Intern [REDACTED] "[REDACTED] Intern [REDACTED]"	May 24, 2016 June 30, 2016 (by telephone)
[REDACTED]	Employee and Labor Relations Coordinator	May 25, 2016
[REDACTED]	Intern [REDACTED]	June 3, 2016
[REDACTED]	Professor [REDACTED]	June 6, 2016
[REDACTED]	Assistant Professor [REDACTED]	June 6, 2016
[REDACTED]	Lecturer, [REDACTED]	June 13, 2016
[REDACTED]	Manager Intern [REDACTED]	June 8, 2016
[REDACTED]	Manager Intern [REDACTED]	June 8, 2016
[REDACTED]	Manager Intern [REDACTED]	June 8, 2016 (by Facetime)
[REDACTED]	Professor [REDACTED]	June 9, 2016
[REDACTED]	Manager Intern [REDACTED]	June 9, 2016
[REDACTED]	Manager [REDACTED] Manager Intern [REDACTED]	June 9, 2016
[REDACTED]	Manager [REDACTED] Manager [REDACTED]	June 13, 2016 June 30, 2016 (by telephone)
[REDACTED]	[REDACTED]	June 14, 2016 June 16, 2016

The investigator interviewed directly involved witnesses or witnesses found to have relevant information. The investigator did not interview other individuals mentioned in

"Full interns" received course credit for their internships; "[REDACTED] interns" were volunteers who received no course credit. [REDACTED]

the course of the investigation if, in the assessment of the investigator, they did not have direct, significant and relevant information related to the specific incidents within the investigation scope; or if the investigator already obtained the information the witnesses would have provided; or if the information would not affect the outcome of the investigation.²

E. Admonitions to Witnesses

The investigator advised all witnesses that the investigator is an attorney retained by UCD to conduct the investigation. The investigator advised witnesses to keep the contents of the interview and the nature of the investigation confidential. The investigator admonished witnesses that the investigator could not guarantee confidentiality in return. The investigator also advised witnesses that retaliation is prohibited – both retaliation for bringing a claim and for participating in an investigation.

F. Documents

The investigator reviewed numerous documents during the investigation. Those listed below contain information relevant to the findings outlined in this Report.

Description	Attachment
[REDACTED]	1
[REDACTED]	2
[REDACTED]	3
[REDACTED]	4
[REDACTED]	5
[REDACTED]	6

IV. Factual Background

At the time of this investigation, [REDACTED] was the [REDACTED] [REDACTED] [REDACTED] was in this position for approximately [REDACTED] years.

The [REDACTED] was an [REDACTED] facility where students in the Department of [REDACTED] (the Department) had an opportunity to learn about [REDACTED] [REDACTED] was the sole manager at the [REDACTED] and supervised about twenty interns

² The University and the investigator were unable to schedule interviews with the following former interns: [REDACTED]

[REDACTED]

[REDACTED] At [REDACTED] Days, [REDACTED] interns participated in a [REDACTED] competition against teams from other colleges and universities. Interns also showed [REDACTED] [REDACTED] and participated in other ways during the week long competition. [REDACTED] did not accompany the interns to [REDACTED] days in 2016.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

V. **ISSUE ONE: Did [REDACTED] Engage in Inappropriate Conduct of a Sexual Nature with Student Interns at the [REDACTED] or Off Campus?**

A. **Allegation One: [REDACTED] Made, Encouraged Interns to Make, and Ignored, Offensive Sexual Comments and Jokes**

1. **[REDACTED]'s Account**

[REDACTED] was an intern at the [REDACTED] from January [REDACTED] to June [REDACTED]. Prior to becoming an intern, she volunteered as a "[REDACTED] intern" from fall [REDACTED] to January [REDACTED], taking occasional summers off. The purpose of the [REDACTED] internship was to learn how to [REDACTED], which involved collecting [REDACTED] from [REDACTED] and [REDACTED]. The work was "odd" and it was okay to laugh because it was weird. [REDACTED] never "tried anything" with [REDACTED], but encouraged interns to regularly make offensive, sexual jokes about their [REDACTED] work.

One of the running jokes, that [REDACTED] heard on several occasions, involved [REDACTED]. [REDACTED] was able to [REDACTED] and collect [REDACTED] quickly. Several interns, including those with whom [REDACTED] had a close relationship, made fun of [REDACTED] by saying that she was good at [REDACTED] because of the practice she had with [REDACTED]. [REDACTED] found these jokes embarrassing, but reluctantly participated in them because she did not know how to react. [REDACTED] was aware and often present when interns made sexual jokes about [REDACTED], and laughed if he heard them. He made no effort to discourage the other interns. Interns [REDACTED], [REDACTED], [REDACTED], and [REDACTED] were among [REDACTED] favorite interns. They were also the ones who made sexual jokes most frequently.

A second running joke was directed almost exclusively at [REDACTED]. To collect [REDACTED] from a [REDACTED] the interns used a [REDACTED] which the [REDACTED]. The interns then collected [REDACTED] in a [REDACTED]. For the [REDACTED] demonstration on [REDACTED] Day, the [REDACTED]. To make sure the [REDACTED] did not [REDACTED], the interns [REDACTED]. The interns [REDACTED] was close to joked in front of [REDACTED] her sex life [REDACTED]. This joke was almost always reserved for [REDACTED] who was very embarrassed by it. [REDACTED] did not make this joke about her but, if he were present when the interns made the joke, he laughed along with them. [REDACTED] herself laughed at times but did not feel comfortable with the joke.

Sex jokes and sex talk were common at the [REDACTED]. [REDACTED] cracked a joke once or twice a week, but the interns made sex jokes among themselves daily. [REDACTED] made sexual jokes with the interns he was more comfortable with but did not make jokes with [REDACTED] when they were alone. Sometimes the sex jokes did not bother [REDACTED].

but when interns made jokes that were directed at her and implicated her personal life, she found the jokes offensive.

2. [REDACTED]'s Account

[REDACTED] was associated with the [REDACTED] since her [REDACTED] year at UCD in fall [REDACTED]. Professor [REDACTED] and [REDACTED] recruited her to build a [REDACTED] team at the [REDACTED] while she was in [REDACTED]. [REDACTED] was not a [REDACTED] or [REDACTED] intern and her primary responsibility was to show [REDACTED] and [REDACTED] at the [REDACTED] to encourage sales of the [REDACTED]. [REDACTED] was also a resident at the [REDACTED] during winter and spring quarters [REDACTED] and moved out of the [REDACTED] in August [REDACTED] when she and [REDACTED] had a professional disagreement.

[REDACTED] heard [REDACTED] cracking sexual jokes and making sexual comments. He seemed to enjoy doing so. The atmosphere at the [REDACTED] was always sexual when [REDACTED] was around. If there was something he tried to explain he related it to something sexual or to a body part. [REDACTED] also drew attention to [REDACTED] tasks. If an intern needed to collect [REDACTED] [REDACTED] made a comment about it, and then everyone laughed.

3. [REDACTED]'s Account

[REDACTED] was a [REDACTED] manager from January [REDACTED] to June [REDACTED]. Prior to that she was a [REDACTED] intern during fall [REDACTED].

[REDACTED] heard [REDACTED] make sexual jokes and he acted as if he enjoyed making them. He directed most jokes toward interns who tolerated or enjoyed them. He regularly hung out with some interns outside of school. He was naturally more comfortable with them. [REDACTED] did not laugh at [REDACTED] sexual jokes and stared at him when he made jokes she did not like. Therefore, it became clear to [REDACTED] that she did not enjoy sexual jokes. [REDACTED] As a [REDACTED] manager, [REDACTED] dealt with [REDACTED], which did not lend itself as readily to sexual humor. She heard [REDACTED] make inappropriate jokes about biological processes like collecting [REDACTED] and [REDACTED]. He joked all the time. He could have been more professional and used biological terms instead of slang or sexual terms. The interns he was close to also made sexual jokes. For interns like [REDACTED] who did not enjoy sexual jokes, the environment became intimidating.

At the start of winter quarter 2015, [REDACTED] made sexual remarks about body scores. One of the tasks the interns learned was to evaluate how [REDACTED] [REDACTED]. They visually observed the [REDACTED] to evaluate its [REDACTED] and other [REDACTED] characteristics. Once, while walking back to the [REDACTED] after evaluating [REDACTED], [REDACTED] remarked to [REDACTED], "my old interns would know better than to

walk in front of me.” The way he said it was body related and sexual because he was looking at the interns’ bodies and evaluating them, like the interns just evaluated the [REDACTED]

There was another instance in May or June 2015, when [REDACTED] said in [REDACTED] presence that he wished he could body score the interns like they body scored [REDACTED]. He said that the interns built muscles and got fit during the internship. [REDACTED] felt that he said it in a creepy, not professional, way as if he was measuring the interns’ body parts.

[REDACTED] often prefaced comments by saying “I don’t want to go to sexual harassment training again,” implying that he had been to training because of the comments he made in the past. [REDACTED] was good about not crossing the line with [REDACTED] because she made it clear she did not appreciate his humor. [REDACTED] observed that [REDACTED] made most sexual comments to his favored interns, who seemed to appreciate his humor.

[REDACTED] confided in [REDACTED] that she did not appreciate sexual jokes that were directed at her by [REDACTED] favored interns. A popular joke that [REDACTED] heard the interns make, which was directed at [REDACTED], involved her using [REDACTED]. The interns referenced “[REDACTED],” as if she liked using [REDACTED] in her personal life [REDACTED]. On a different occasion, [REDACTED] saw another student trying to [REDACTED]. [REDACTED] was resistant. [REDACTED] said, “let [REDACTED] do it, she has a lot of experience.” [REDACTED] even brought up her [REDACTED] in that context. [REDACTED] was reserved and [REDACTED] should have known she did not appreciate his humor. Other interns may not have wanted to make fun of her, but joined in to be “cool” since [REDACTED] did it.

4. [REDACTED] Account

[REDACTED] and she was a [REDACTED] intern at the [REDACTED]. She heard [REDACTED] make sexual jokes about the [REDACTED] and what the interns did to them. For example, [REDACTED] liked to say that he “[REDACTED].”

Sometime in 2015, [REDACTED] accidentally sent a text to the interns, including [REDACTED], that she intended for her boyfriend. One of the interns responded to the group text with something along the lines of, “someone is not getting [REDACTED] tonight,” insinuating that [REDACTED] and her [REDACTED] used [REDACTED] in their sex life. After [REDACTED] sent the text, the interns often joked about her and her ability in using [REDACTED]. To [REDACTED] knowledge [REDACTED] was not aware of the text, but did little to prevent the jokes. [REDACTED] favored interns including [REDACTED] and [REDACTED] mostly made jokes about the [REDACTED]. [REDACTED] both heard jokes on occasion and [REDACTED] told her about the jokes.

5. [REDACTED] Account

[REDACTED]. Prior to becoming a [REDACTED] she was a [REDACTED] intern during spring [REDACTED] and also took [REDACTED] for one quarter. At the end of the internship in [REDACTED], some of the interns watched the [REDACTED] on the [REDACTED]. [REDACTED] remarked as the interns watched the [REDACTED] "I bet you guys are buffer now" and "I wish I could body score you before and after the internship to see what has changed, and how much muscle you have built, and how much fat you lost." [REDACTED] did not think this was appropriate. The internship was not a fitness program. [REDACTED] job was not to make them look good physically. He wanted to measure their bodies to satisfy his curiosity, which was inappropriate.

[REDACTED] heard [REDACTED] favored interns joke about [REDACTED] using [REDACTED] with her boyfriend. They also referenced the movie "[REDACTED]" in relation to [REDACTED] work with [REDACTED]. [REDACTED] heard some of the comments and saw that [REDACTED] was uncomfortable, although she seemed to go along with the jokes.

During winter or spring quarter 2015 [REDACTED] accidentally sent a text to the entire group of interns, including [REDACTED], which was meant for her [REDACTED]. The other [REDACTED] including [REDACTED] and E [REDACTED] made jokes about her sending that text and also using [REDACTED] with her [REDACTED]. [REDACTED] was around when they made these jokes, but he did nothing to stop them.

[REDACTED] felt that the way to get on [REDACTED] good side was to make, or at least tolerate, these sexual jokes.

6. [REDACTED] Account

[REDACTED] She was a [REDACTED] and a [REDACTED] was a volunteer at the [REDACTED] when she did not intern there formally. The interns made sexual jokes when they [REDACTED] because it would get creepy if the interns took the work too seriously. When the interns made jokes, no one was targeted and everyone laughed. [REDACTED] laughed too or made jokes, but it was not a big deal.

[REDACTED] The interns only used [REDACTED] for the [REDACTED] Day demonstration, so it was not a usual occurrence. [REDACTED] may have sent a text with a joke about [REDACTED] in it, but [REDACTED] did not recall it specifically.

She did not hear anyone make sexual jokes or comments to or about [REDACTED] using [REDACTED]

7. [REDACTED] Account

[REDACTED] On one occasion, when [REDACTED], [REDACTED] said, "[REDACTED]." [REDACTED] turned to a female intern, he could not recall who, and said "he likes it better with [REDACTED] [REDACTED] said to [REDACTED] "you have experience." [REDACTED] found the comment so funny he stepped away from the [REDACTED] because he laughed so hard. He did not find the joke offensive. It was true that the goal of [REDACTED] was to make it feel good and [REDACTED] merely acknowledged that [REDACTED] was doing a good job. The other interns also made similar sexual jokes. The jokes were funny and not offensive to [REDACTED].

Sometimes, when [REDACTED] made sexual jokes or interns made sexual jokes, [REDACTED] said, "I've had to go to sexual harassment class two times a year." [REDACTED] thought [REDACTED] was joking that the interns thought they were being funny, but he got blamed for sexual harassment. [REDACTED] did not tell the interns to stop making sexual jokes.

8. [REDACTED] Account

[REDACTED]. She was a coach at the [REDACTED] center and a researcher for [REDACTED], who was previously in charge of the internships at the [REDACTED]. [REDACTED] was also a student in several of [REDACTED] classes as an undergraduate at UCD about [REDACTED] years ago. [REDACTED] believed the environment at the [REDACTED] was sexually charged, fueled by [REDACTED] sexual jokes and comments. [REDACTED] often used sexual terms to explain biological processes. [REDACTED] observed this on her visits to the [REDACTED]

For example, on one occasion in fall 2015, [REDACTED] took a group of students from [REDACTED] to the [REDACTED]. While describing the h [REDACTED] process, [REDACTED] commented, "[REDACTED] [REDACTED] [REDACTED] It's not like when you are in the back of a pickup truck with a sixteen year old and a bottle of whiskey." Some students laughed at the comment and others were quiet. D [REDACTED] found this comment inappropriate coming from an instructor. She diffused the comment and moved the class along. [REDACTED] did not report the comment to the Department, though she thought that she should have. [REDACTED] did not want to get involved because she was an [REDACTED] lecturer and feared that bringing a complaint against an employee could result in her contract not being renewed.

9. [REDACTED] Account

██████████ did not consider the environment at the ██████████ to be inappropriate, although a sexually charged environment was unavoidable to a certain degree when ██████████ ██████████ understood how someone who was unfamiliar with the ██████████ culture could consider it shocking. He instructed interns in biological processes like collecting ██████████ from ██████████ and ██████████ ██████████. Some of the terms and processes could be considered sexual by listeners. ██████████ did not make explicit jokes on purpose.

█████ occasionally made jokes about the █████ process. The goal of the exercise was to make the █████ feel good. On occasion, █████ screamed from across the █████ "Make him feel good," but that was an actual instruction. Another instruction █████ gave interns was to be gentle with the █████ █████ █████ instructed the interns that the █████ was a sensitive █████ and that the interns needed to be gentle with it. One running joke was that the male interns were gentle with the █████ but the female interns were rough with it. █████ considered this a teaching moment to instruct the female interns on how to handle the █████ and not a comment that was particularly sexual in nature.

██████████ did not recall ██████████ comments or jokes being targeted at any particular intern, but recalled making jokes around male interns, e.g., that they were good with the ██████████ because of personal experience. ██████████ did not recall any jokes related to ██████████. The interns only used ██████████ on very few occasions, including ██████████ Day. However, he did not know of any specific jokes associated with ██████████ or jokes targeted at one particular individual. However, the interns likely made jokes among themselves that he did not know about. If ██████████ heard jokes that the interns made, he laughed or ignored them. ██████████ did not regulate the content of the interns' speech because their work easily lent itself to sexual comments and jokes.

██████ did not comment on the fat composition or relative fitness of interns while they were ██████. The ██████ process also involved judging the ██████

Although he did not recall the specific comment about his older interns knowing better than to walk in front of him, he may have said something along those lines in reference to judging the way they walked.

The interns who complained about him were searching for a way to get ██████ into trouble. ██████ suspected that the interns wanted to hurt his reputation because they had a close personal relationship with ██████, a former intern who previously

made a complaint against him. [REDACTED] did not know why the interns would claim that he [REDACTED] them when he never did.

[REDACTED] was an established [REDACTED] and [REDACTED] former teacher. He told [REDACTED], "Making [REDACTED] is not guaranteed, like when you are in the back of a truck with a sixteen year old girl and a bottle of whiskey." Since [REDACTED] heard this statement in the context of learning about [REDACTED], he repeated this statement when he taught classes or explained the challenging process of [REDACTED] to interns. He did not consider this statement something that a student would find offensive.

[REDACTED] occasionally referenced the fact that he attended sexual harassment training twice a year, because he was in a high risk environment. This was because as an employee who taught sexual reproduction and supervised students, he was required to attend sexual harassment training by the Department. He did not mean that he attended training because he was previously accused of sexual harassment.

10. Analysis and Findings

This investigation substantiated the allegation that [REDACTED] made, encouraged interns to make, and ignored sexual comments and jokes at the [REDACTED]. Some interns found the jokes and comments offensive, while others did not.

a) [REDACTED] Made Sexual Comments to Interns

All eight interns reported that [REDACTED] made sexual jokes, comments, and innuendo about [REDACTED]. Interns who had a positive view of [REDACTED], including [REDACTED] and [REDACTED], also reported the conduct. [REDACTED] account that the sexual nature of his comments was related to the work they performed and for instructional purposes only was implausible.

[REDACTED] admitted that he compared the respective abilities of male and female interns to [REDACTED], telling interns that the male interns were more delicate in handling [REDACTED] than female interns because of their "personal experience," a sexual innuendo. [REDACTED], who did not complain about [REDACTED] and found him funny, confirmed that at least on one occasion, he directed such a comment at him. [REDACTED] yelled across the [REDACTED] at interns who were [REDACTED] [REDACTED] to "make him feel good," also carried a sexual innuendo, even if, as he claimed, it was instructional. The goal of [REDACTED] was to [REDACTED] n, not to make [REDACTED] "feel good."

[REDACTED] admitted that he occasionally commented on how an intern walked in comparison to a [REDACTED] but did not describe what instructional purpose his comment served. His admission substantiated the account of [REDACTED] t that he commented on how she walked. Although [REDACTED] did not consider such a comment to be sexual in

nature, [REDACTED] was reasonable in feeling that her supervisor's comment, which required him to scrutinize her body, was offensive, particularly since it lacked any discernable instructional purpose and objectified her body. [REDACTED] denied telling female interns that he wanted to score their level of fitness before and after the internship. However, [REDACTED] admitted he made a number of sexual comments, he demonstrated a lack of awareness of the impact of his comments on the listener, and the interns largely gave consistent accounts of his conduct. Accordingly, the investigation found he likely commented about the relative fitness of the female interns.

[REDACTED] admitted he told visiting students an adage about pregnancy being a guaranteed outcome for sixteen year olds with a bottle of whiskey in the back of a pickup. The fact that he did not recognize that as sexual in nature, even if good humored or quoted by a respected mentor, further substantiated that he made the other alleged comments to interns.

[REDACTED] acknowledged he told his interns that he had to attend sexual harassment trainings because he worked in a high risk environment. [REDACTED] told the interns that UCD required him to attend sexual harassment training to help him avoid the type of sexual jokes and innuendo he admitted to making.³ His account that he told students that he attended sexual harassment training to remind them of the risk their work created for sexual comments was inconsistent with his behavior as substantiated in this investigation. [REDACTED] often joked about the sexual nature of their work, telling interns to make the [REDACTED] "feel good" or joking that male interns knew how to handle [REDACTED] better than females. None of the interns reported that [REDACTED] ever told them to be careful about their comments or to avoid making sexual innuendo regarding their work.

b) [REDACTED] Encouraged and Allowed Interns to Make Sexual Comments

[REDACTED] allowed interns to make sexual jokes, comments and innuendo. However, [REDACTED] corroborated that the interns, not [REDACTED] instigated the majority of the sexual jokes in her presence. [REDACTED] either laughed or passively participated in the humor. [REDACTED] and [REDACTED]' accounts were particularly credible as they did not find the jokes and comments offensive and thought they improved the environment of the [REDACTED] and kept it from being "creepy." Although [REDACTED] did not think the interns found sexual jokes and comments offensive, five interns reported that they were offended. Even the two interns that did not find the jokes and comments offensive agreed that the jokes and comments were sexual in nature.

[REDACTED]

The fact that ██████ did not hear all the jokes and comments interns made to other interns, including ██████, did not mean he was not aware they were made. ██████ acknowledged that interns made jokes among themselves and if he heard them he occasionally laughed and admitted he did not regulate the content of their speech. As discussed above, ██████ made sexual jokes and comments to interns, thereby reasonably leading them to conclude that they too could make such comments. The interns all reported that someone made a sexual joke or comment almost daily. After ██████ inadvertently sent a text meant for her ██████ to the other interns, several interns teased her and made innuendoes about her using a ██████ for sex with her ██████. It was implausible that ██████ did not hear any of the comments, jokes, or teasing that all of the interns reported occurred regularly at the ██████.

The investigation did not substantiate ██████ claim that the complainants colluded together and made up their allegations against him because they were friends with ██████, a former intern who had a falling out with ██████. Even if the complainants spoke to each other about their allegations, the investigation did not reveal evidence that the complainants made intentionally false allegations against ██████ out of allegiance to ██████. ██████ left ██████ in 2014. ██████, ██████, and ██████ did not work at ██████ until 2015. Although they were ██████ interns in the past, none reported a close personal relationship with ██████. As ██████ interns they had little to do with ██████, which ██████ managed. ██████ was the only complainant that worked closely with ██████. Moreover, many of the allegations were admitted by ██████ in part or substantiated by non complaining interns and an adjunct professor, as was the case with sexual jokes and comments. It was, therefore, implausible that the complainants colluded and made up their allegations.

B. Allegation Two: ██████ Watched Videos and Movies with Interns, Which Some Interns Found Offensive

1. ██████ Account

During ██████ time at the ██████ between ██████, ██████ often watched movies with the interns. Some of the movies ██████ watched at the ██████ had sexual content and were “raunchy.” For example, one of the movies ██████ watched with ██████ was “█████.”⁴ There were other interns present and she was not alone with him at the time. The film had many sexual references. ██████ could not recall names of other movies.

⁴ The movie was rated R by the Motion Picture Association of America for pervasive strong crude and sexual content including graphic nudity, and language.

2. [REDACTED] Account

During the early part of winter quarter 2015, [REDACTED] invited several new interns to watch a video that [REDACTED] found offensive. [REDACTED] was studying in the lounge, outside [REDACTED] office. [REDACTED] invited her, [REDACTED] and [REDACTED] into his office and played a comedic video titled "[REDACTED] About Sex." [REDACTED] watched the interns' responses to see how they reacted to the video. Intern [REDACTED] and [REDACTED]s laughed, but [REDACTED] became flushed and was embarrassed.

3. [REDACTED] Account

[REDACTED]. At the beginning of her internship, [REDACTED] invited [REDACTED], [REDACTED] and [REDACTED] into his office to show them a video that included sexual comedy. The video was titled, "[REDACTED] [REDACTED] [REDACTED]." [REDACTED] was very uncomfortable during the video. Despite feeling uncomfortable, she continued to watch the video because it was the start of her internship and she did not feel comfortable making a scene. [REDACTED] felt that it would be awkward to walk out while everyone watched the video. [REDACTED] looked at her and the other interns to gauge their reaction as sexual subjects came up in the video. [REDACTED] laughed because she did not know how else to react.

4. [REDACTED] Account

In January 2015, [REDACTED] was a [REDACTED]. She was at the [REDACTED] for a year prior to that [REDACTED] did not recall the details of how the interns ended up watching the video titled "[REDACTED] Can't Stop Talking About Sex," but someone sent her the video via text message. [REDACTED] was not around and [REDACTED] would not have shown the video to [REDACTED]. Although the interns and [REDACTED] made sexual jokes about [REDACTED] they drew the line at making jokes about people having sex.

[REDACTED] recalled sharing the video with her friends [REDACTED] and [REDACTED] who were new interns that year but does not recall sharing the video with [REDACTED] or anyone else. Other interns may have looked up the video on [REDACTED] computer at a different time. [REDACTED] was not aware that [REDACTED] showed the video to other interns. [REDACTED] was not present when she watched the video and showed it to her friends. [REDACTED] did not recall watching the video on [REDACTED] computer, but interns routinely used [REDACTED] computer to print homework and could have used it to watch the video on their own.

5. [REDACTED] Account

[REDACTED] played the video titled, "[REDACTED] [REDACTED] [REDACTED]," sometime in 2015. [REDACTED] began watching the video outside [REDACTED] office and

then brought her laptop into [REDACTED] office to show him the video. [REDACTED] called other interns in to watch the video. [REDACTED] did not play the video on his work computer. [REDACTED] thought the video was inappropriate and put an end to the viewing at about a quarter of the way through the video. The interns who were watching the video did not seem uncomfortable. He did not know if [REDACTED] would recall initiating the viewing of the video.

There were four or five interns who wanted to see [REDACTED] head on a silver platter. They included [REDACTED], [REDACTED], [REDACTED], [REDACTED] and [REDACTED]. The interns who disliked [REDACTED] were influenced by [REDACTED].

6. Analysis and Findings

[REDACTED] played, or allowed an intern to play, a video titled "[REDACTED] Can't Stop Thinking About Sex," at the [REDACTED] in front of interns.⁵ The investigator reviewed the video. It was a spoof that contained explicit sexual language. [REDACTED] admitted that interns watched this video in his office, but denied that he invited them to do so.

[REDACTED] and [REDACTED] gave conflicting accounts as to whether she initiated watching the video. [REDACTED] and [REDACTED] gave consistent accounts that [REDACTED] initiated the video. Regardless of who initiated the video, [REDACTED] admitted that he allowed several interns to watch the sexually explicit video in his office for some period of time before stopping the video. [REDACTED] assertion that he put an end to the viewing as soon as he realized it was inappropriate was not credible. The title itself revealed the video was sexual and [REDACTED] and [REDACTED] both reported that the portions they saw contained graphic sexual content.

[REDACTED] pointed to bias and personal animus on the part of the interns who he suspected reported the incident involving the [REDACTED] video. [REDACTED] thought the interns who reported this matter were likely [REDACTED], [REDACTED], [REDACTED], [REDACTED] or [REDACTED]. However, the interns [REDACTED] identified as having a bias against him were not those who reported this incident. [REDACTED] and [REDACTED] reported the incident, which [REDACTED] admitted, at least in part, was true. Further, [REDACTED] who had a positive view of [REDACTED] did not corroborate his account. [REDACTED] admitted that he was present when the video was played, but [REDACTED] denied he was present at all. [REDACTED] had a positive view of [REDACTED] and a motive to color facts in his favor.

[REDACTED]

C. Allegation Three: [REDACTED] Helped [REDACTED] Contact and Accost [REDACTED] While She was in Her Hotel Room

1. [REDACTED] Account

During [REDACTED] in 2014, there was tension between [REDACTED] and [REDACTED]. [REDACTED] was dating [REDACTED] and treated her favorably for that reason (discussed further in Section IX, below). [REDACTED] and [REDACTED] teamed up to mistreat [REDACTED].

[REDACTED] e hung out with [REDACTED] during [REDACTED] and [REDACTED] introduced him to the interns. At [REDACTED] 2014, [REDACTED] was in a h[REDACTED] and [REDACTED] blocked her exit while trying to talk to her. [REDACTED] saw that Mr. [REDACTED] trapped her in the [REDACTED] but, even after she made eye contact with him, said nothing to Mr. [REDACTED] and kept walking.

One evening, [REDACTED], [REDACTED] and other interns went out to dinner with [REDACTED]. Mr. [REDACTED] joined them. [REDACTED] stayed in her room since she did not get along with [REDACTED] and [REDACTED]. Mr. [REDACTED] called [REDACTED] twice on her cell phone while she was alone in her hotel room. She believed it was either [REDACTED] or [REDACTED] who gave Mr. [REDACTED] her number. Mr. [REDACTED] tried to convince [REDACTED] to go out to a bar with the group. Someone, either [REDACTED] or [REDACTED], gave Mr. [REDACTED] the key to [REDACTED]'s room. Mr. [REDACTED] used the key to come into the hotel room. He knelt in front of her and gave her a rose to convince her to go to the bar with him and the others. When Mr. [REDACTED] stood up, [REDACTED] pushed him while he leaned over her, grabbed her phone and ran out of the room yelling. She heard [REDACTED] and the others outside laughing. [REDACTED] felt that if she did not make a scene and yell as she did, Mr. [REDACTED] may have hurt her. After this incident, [REDACTED] moved out of the [REDACTED] because she felt unsafe and informed [REDACTED] supervisor [REDACTED] of the incident.⁶

2. [REDACTED] Account

In 2014 [REDACTED] was a [REDACTED] intern at the [REDACTED]. She was selected to go to [REDACTED] as a member of the [REDACTED] team. One evening, [REDACTED], [REDACTED], and Mr. [REDACTED] had dinner together. [REDACTED] was from [REDACTED] the town that hosted [REDACTED] and knew Mr. [REDACTED]. She told [REDACTED] on a previous occasion that he was a known [REDACTED] and advised [REDACTED] to stay away from him. [REDACTED] did not want to interact socially with [REDACTED] or Mr. [REDACTED] and decided to spend the evening in the hotel room she shared with [REDACTED] and [REDACTED].

⁶ [REDACTED]

[REDACTED]. At dinner, [REDACTED] I heard [REDACTED] and [REDACTED] talking about how much they hated [REDACTED]. [REDACTED] wanted to play a prank on [REDACTED] [REDACTED], in [REDACTED] presence, gave [REDACTED] mobile phone number to [REDACTED] so he could call her. [REDACTED] called [REDACTED] and said nice things to her and asked her to go out with the group, though [REDACTED] was not sure if [REDACTED] left a voicemail or spoke to [REDACTED]. [REDACTED] knew that [REDACTED] did not like [REDACTED] so his phone call was either to confuse her or irritate her.

[REDACTED] and [REDACTED] thought it would be funny if [REDACTED] gave [REDACTED] a rose. [REDACTED] and [REDACTED], along with the other interns, sat in close proximity to [REDACTED] when he made the phone call and discussed with [REDACTED] his plan to give her a rose, so it would be virtually impossible for [REDACTED] not to hear and understand what was going on.

[REDACTED] did not recall what she did after dinner, but she did not see [REDACTED] go into [REDACTED] hotel room. Later that night, when [REDACTED] went back to the hotel room, [REDACTED] asked her who gave [REDACTED] her phone number. [REDACTED] told her that it was [REDACTED]. [REDACTED] told [REDACTED] that she was afraid and upset by [REDACTED] phone call. She did not say that [REDACTED] came to her room or gave her a rose.

3. [REDACTED] Account

[REDACTED] met [REDACTED] in [REDACTED] 2014 when she told him she was moving out of the [REDACTED] because [REDACTED] engaged in favoritism toward certain interns. [REDACTED] took handwritten notes at that meeting. [REDACTED] did not mention having any concerns about [REDACTED], which occurred in [REDACTED] 2014. [REDACTED] also attended [REDACTED] in 2014 and knew that [REDACTED] had a bad reputation. He did not know that [REDACTED] and [REDACTED] were friends, but knew that the two went to dinner once with their respective spouses. If [REDACTED] knew that [REDACTED] went into [REDACTED] room, he would have taken swift action, including calling the police. He did not think that [REDACTED] would have facilitated [REDACTED] gaining access to [REDACTED] phone number or her hotel [REDACTED]

4. [REDACTED] Account

[REDACTED] was upset with [REDACTED] because he wanted her to show [REDACTED] at the 2014 [REDACTED]. [REDACTED] wanted to [REDACTED] and thought she was too good to [REDACTED]

be instructed by him. [REDACTED] and [REDACTED] did not get along with each other. [REDACTED] wanted [REDACTED] to be more involved [REDACTED], rather than [REDACTED].

[REDACTED] took his own [REDACTED] to [REDACTED] and was present during the 2014 [REDACTED] event. He was not a friend. [REDACTED] was a [REDACTED], and a sleazy, disgusting man. [REDACTED] only invited him to dinner because he was a big contributor to the [REDACTED] and bought a large number of [REDACTED] from them.

[REDACTED] did not recall a time that he gave [REDACTED] an intern's phone number, nor would he consider it proper to do so. [REDACTED] usually warned interns to stay away from [REDACTED]. [REDACTED] occasionally had a drink with [REDACTED] only to entertain him as a client and not as a friend. [REDACTED] was not aware that Mr. [REDACTED] tried to accost [REDACTED] though, given his reputation, he did not have trouble believing he would do such a thing. [REDACTED] did not recall any interaction between [REDACTED] and Mr. [REDACTED] where he blocked her exit from a [REDACTED]. [REDACTED] spoke to [REDACTED] about issues at the [REDACTED] in August 2014, but [REDACTED] never mentioned anything about Mr. [REDACTED] to him. [REDACTED] suspected that [REDACTED] and [REDACTED] may have created this story because they wanted to disparage him and to ruin his reputation.

5. Analysis and Findings

This investigation substantiated the allegation that [REDACTED] knew or should have known that [REDACTED] and [REDACTED] called [REDACTED] to play a prank on her at [REDACTED] in 2014. [REDACTED] was present while [REDACTED] gave [REDACTED] s phone number to Mr. [REDACTED]. [REDACTED] corroborated [REDACTED] account that [REDACTED] called [REDACTED] in her hotel room. [REDACTED] saw [REDACTED] call [REDACTED] and reported that [REDACTED] was present and privy to [REDACTED] when he called [REDACTED].

[REDACTED]

█████ claimed that █████ and █████ colluded to create these allegations in order to disparage his reputation. Had █████ and █████ coordinated their stories, they were more likely to tell the same story. However, █████ described a relatively benign prank, while █████ described a more serious violation of her privacy and safety.

D. Allegation Four: █████ Created Performances for the █████ Demonstration During █████ Day that Included Sexual Innuendo

1. █████ Account

For █████ Day 2015, █████ saw █████ ask █████, another intern, to find some male friends who would conduct a strip show during the demonstration. The █████ demonstration involved a █████ while an intern collected █████. The intern then █████. The topic was already sexual and █████ wanted to make the performance funny and more sexual.

The night before █████ Day, █████ brought pizza and █████ for all the interns who stayed late to help and █████ male friends. (Discussed in Section VII.) █████ asked the men to jump into the █████ and do a striptease. █████ planned to be surprised by their act and wanted it to appear as if the students spontaneously jumped into the █████. The men were reluctant to participate and █████ told them he would provide them with alcohol to boost their courage. On █████ Day the men were with █████ in the parking lot prior to the performance and left with her after the performance. █████ missed the performance, but heard from others that the men jumped into the █████ and took off their shirts.

2. █████ Account

█████ attended █████ Day each year and did not recall missing █████ Day over the last ten years. █████ did a great job of presenting the █████ demonstration each year.

On █████ Day 2015 and 2016, he created an act where he took a volunteer from the audience to drink █████. During the act █████ held up a small tube with a milky substance in it, which was in fact milk, and told the audience that it was █████. Then he asked for a volunteer from the audience willing to drink the █████. When the volunteer drank the liquid it became apparent to the volunteer that he in fact drank milk. █████ thought it was a genuine audience member who volunteered to drink █████. █████ learned that █████ told █████ that the act was over the top and he

should not do it again after the 2015 performance. [REDACTED] included the act in the 2016 [REDACTED] demonstration despite being told to omit it.

[REDACTED] was present on [REDACTED] Day 2015 when three men spontaneously jumped into the [REDACTED] started dancing and took their shirts off. She did not believe it was a stunt staged by [REDACTED] but thought it was spontaneous.

[REDACTED] brought humor to the demonstration, he used songs like "[REDACTED]," but he also warned the audience before the performance that they were about to see a [REDACTED] demonstration. Some people walked out of the performance but there was no way to tell if they were offended or if they left for other reasons. With the exception of the [REDACTED] drinking act, the rest of the performance did not contain sexual innuendo or inappropriate content. [REDACTED] introduced the interns before each performance, but there was no sexual innuendo in those introductions.

3. [REDACTED] Account

[REDACTED] did an excellent job balancing entertainment and education at the [REDACTED] demonstration. However, during the 2015 [REDACTED] Day, [REDACTED] choreographed an act where three male students jumped into the [REDACTED], danced, and took off their shirts. They were the interns' [REDACTED]. [REDACTED] was about to put an end to the performance when the men ran out. The whole performance was made to look like it was spontaneous and that [REDACTED] knew nothing about it. After [REDACTED] day, [REDACTED] spoke with [REDACTED] and [REDACTED] and they decided that he should speak to [REDACTED] about the incident. [REDACTED] told [REDACTED] that he should have spoken to someone before staging something like that. He told [REDACTED] that the stripping was "over the top and not cool." [REDACTED] told him to re evaluate the way he put on the show and to focus on education rather than entertainment going forward.

During the 2015 conversation, [REDACTED] did not specifically address the part of the show that included the "[REDACTED] shots. However, [REDACTED] assumed a reasonable person would have removed all inappropriate conduct after such a conversation. In 2016, [REDACTED] specifically told [REDACTED] to remove the [REDACTED] drinking bit from the performance.

4. [REDACTED] Account

[REDACTED] went to [REDACTED] Day 2016 with her [REDACTED] and heard [REDACTED] give announcements to start the [REDACTED] demonstration. Behind him were six to eight women. The women seemed like students or graduate students. [REDACTED] introduced the women in a manner that was very sexually suggestive. [REDACTED] could not recall his exact words but the

comments implied a sexual relationship between [REDACTED] and the women. One of the words may have been “harem” or something possessive and suggestive. [REDACTED] felt mortified for the women and turned to her [REDACTED] and commented, “He’s going to get hit with a sexual harassment suit.” [REDACTED] watched about five to seven minutes of the performance where [REDACTED] described what was going to happen during the performance. [REDACTED] left because she found [REDACTED] tone was overly sexual and offensive.

5. [REDACTED] Account

[REDACTED]. She was part of the set up, but the interns [REDACTED] was close to were more involved in [REDACTED] [REDACTED], [REDACTED], and [REDACTED] were part of the inner circle and selected the songs along with [REDACTED]. One of the songs they chose was from the film “[REDACTED].” There was no warning before the show started and [REDACTED] saw families get up and leave as the show started.

Prior to the show, [REDACTED] was adamant about getting some [REDACTED] members to strip. [REDACTED] saw [REDACTED] ask his favored interns repeatedly to procure some [REDACTED] members to perform the strip show. One of the interns brought up the idea as a joke. Once the idea was planted, [REDACTED] kept following up to find guys to jump into the [REDACTED]. He told the interns that he would provide the men with [REDACTED] in [REDACTED].

Prior to the show, [REDACTED] was in the staging area around the [REDACTED]. She heard the [REDACTED] members say to one another that they were wasted and that they got drunk in the [REDACTED]. Later on, at a meeting, someone brought up the fact that the performance was staged and [REDACTED] was surprised and incredulous. [REDACTED] did not understand what happened and thought they were random boys who jumped into the [REDACTED]. She had no idea [REDACTED] staged the performance. [REDACTED] found the act degrading to the [REDACTED].

During another part of the demonstration, [REDACTED] asked [REDACTED] to seductively dance when she [REDACTED]. [REDACTED] was embarrassed and did not do the dance during the performance. The song was [REDACTED] from the film “[REDACTED].”⁷

[REDACTED] also planned to get volunteers from the audience to do [REDACTED] shots,” but [REDACTED] did not know if it happened since she worked on other things at the time.

[REDACTED]

6. [REDACTED] Account

[REDACTED] participated in planning the 2015 [REDACTED] Day. From the planning stage, [REDACTED] wanted male strippers. [REDACTED] observed that prior to [REDACTED] Day, [REDACTED] badgered [REDACTED] and [REDACTED] to get the strippers. Several [REDACTED] members came to the [REDACTED] the night before and had [REDACTED] with some interns and [REDACTED]

[REDACTED] was involved in choosing the music for the performance. He and his favorite interns chose music from the film "[REDACTED]" for the part where [REDACTED]. For the stripping performance they chose music from the film "[REDACTED]," which featured male strippers.

7. [REDACTED] Account

[REDACTED] was involved in planning and participating in [REDACTED] Day events in 2014, 2015, and 2016. [REDACTED] It was not possible to read a textbook at the audience. The show had to be entertaining. A majority of the audience consisted of drunk college students.

Prior to the 2015 [REDACTED] Day, the interns thought it would be hilarious if there was a strip show with some [REDACTED] members. [REDACTED] and [REDACTED] invited some friends from a [REDACTED] to do the dance. The plan was for them to grind on the [REDACTED] but they did not end up doing that [REDACTED] and [REDACTED] told the men what they were supposed to do the night before [REDACTED] Day. The next day the men came to the [REDACTED] drunk, did their performance and left. [REDACTED] was involved with handling [REDACTED] and did not see the actual performance.⁸

The interns selected the music each year as a group. [REDACTED] needed to approve everything. Sometimes [REDACTED] thought the interns went too far and he rejected their ideas. [REDACTED] instructed the interns to keep things "PG 13." [REDACTED] and the other interns chose songs like "[REDACTED]" by [REDACTED], "[REDACTED]" and "[REDACTED]." [REDACTED] approved them. [REDACTED] was not involved in approving content for the show.

The "[REDACTED] shots" idea was not from the interns. [REDACTED] did not know who came up with the idea. [REDACTED] was the planted audience member who took the shot for the 2016 [REDACTED] Day. [REDACTED] asked him to participate. He came with a group for this purpose and knew what his role would be in the show.

⁸ [REDACTED]

To introduce the interns, [REDACTED] lined up the interns and introduced them by name. There were no details, except what role each intern played in the demonstration. [REDACTED] did not think the introduction was offensive in any way. The demonstration had a sexual tone because it involved [REDACTED], but it was not "R rated."

8. [REDACTED] Account

[REDACTED] was involved in the [REDACTED] Day [REDACTED] demonstration in 2014, 2015, and 2016. In 2014 she [REDACTED], in 2015 she handled [REDACTED] demonstration, and in 2016 she handled [REDACTED] during the demonstration. Most of the audience consisted of drunk college students. It was important to keep them engaged. The interns picked songs like "[REDACTED]," but they also used songs from "[REDACTED]," a children's movie. They used songs that were popular at the time.

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED] The men were [REDACTED] when they got to the performance area. Many people thought they were from the audience. The strip act was a last minute addition. The night before, the interns and [REDACTED] did a full run through of the performance. [REDACTED] had his own script and [REDACTED] approved all the music. [REDACTED] and the interns kept the show at a level that children could be present, but some parents and children left. [REDACTED] thought the title of the show was deceiving. The show was called [REDACTED] which appealed to families and may not have been clear as to how explicit it was. It should have been called [REDACTED] demonstration.

In 2016, [REDACTED] convinced [REDACTED] to wear a tutu when he brought a [REDACTED] out. The interns chose the song "[REDACTED]" as background music for that part of the act. [REDACTED] threw flower petals in the air when he came out. [REDACTED] was a little reluctant to do it, but he agreed to go along with the act. It was a [REDACTED] show and could not be too serious.

In 2015 and 2016, the [REDACTED] show included a short sketch about doing [REDACTED] shots. The sketch went over well with the audience. [REDACTED] acted like he selected a "random" audience member, but the interns planted someone in the audience. In 2014, [REDACTED] who was a [REDACTED] intern at the time, did the [REDACTED] shot with the planted audience member. [REDACTED]
[REDACTED] It was her own idea. She came up with it during practice the night before. [REDACTED] thought the joke was hilarious and approved it.

9. [REDACTED] Account

During the 2016 [REDACTED] Day, [REDACTED] walked a [REDACTED] into the [REDACTED] while wearing a tutu and leggings. The song "[REDACTED]" played behind him. [REDACTED], the [REDACTED] managers, and [REDACTED] planned the sketch. [REDACTED] was a [REDACTED] manager, so it made sense that he would walk the [REDACTED]. The night before [REDACTED] Day, [REDACTED] told him, "this is your costume, you will wear this." [REDACTED] had no idea how they came up with that costume, but he did not mind wearing it. [REDACTED], [REDACTED], and the [REDACTED] managers chose a song for each part of performance, including his.

The [REDACTED] shot act was a little over the top. However, [REDACTED] did not see the audience reaction. A person from the audience volunteered to do "[REDACTED] shots," i.e., participate in a game where the audience member dunked a ball in a net, right after the [REDACTED] [REDACTED] swapped the [REDACTED] with milk. The audience member did the shot and spit it out, then [REDACTED] drank it. The audience volunteer was drunk.

10. [REDACTED] Account

[REDACTED] managed the [REDACTED] demonstration for [REDACTED] Day since [REDACTED]. Previous [REDACTED] Day demonstrations were boring, with long periods of silence. Most of the audience for the [REDACTED] demonstration consisted of drunk college students. The audience members yelled "F bombs" during the performance. [REDACTED] decided to make the show more of a production to curb their heckling. [REDACTED] was inspired by the shows on [REDACTED], which made this type of material into entertainment. He thought the show was appropriate until he started to get push back about two years ago from [REDACTED] and the Department. For the 2015 [REDACTED] Day, the interns wanted to do a "[REDACTED]" style strip show during the event [REDACTED] and [REDACTED] had the idea and [REDACTED] approved it. The entire group of interns was present when they discussed adding strippers.

[REDACTED] approved the songs, but the interns picked most of them. The interns wanted to pick very racy songs and [REDACTED] often shot their ideas down [REDACTED] approved songs like "[REDACTED]," "[REDACTED]" and maybe a song from the film "[REDACTED]." It was all part of keeping the show light and humorous. After the show, [REDACTED] told him that the show crossed a line.

[REDACTED] got the [REDACTED] shots idea from [REDACTED]. [REDACTED] was from [REDACTED] where [REDACTED] were common at [REDACTED]. [REDACTED] were said to increase virility. [REDACTED] thought this would add a funny element to the show. He usually had one of the interns plant a male friend in the audience who would take the shot. He never took a random volunteer from the audience. [REDACTED] did not tell him to stop doing the [REDACTED] shots in 2015 but told him to make the show less about entertainment and more about education. [REDACTED] specifically told him that male

strippers were over the line. [REDACTED] usually created a game around taking the [REDACTED] shot. [REDACTED] In 2014 or 2015, [REDACTED] did the shot with the audience member. She came up with the line that she was pregnant since the shot was so potent or the [REDACTED] was so good. [REDACTED] thought this was a funny line and approved the act.

At the start of each breeding demonstration [REDACTED] introduced the line up of interns who would conduct the demonstration. [REDACTED] considered the interns the stars of the show and introduced them by name. He did not and would not include any disparaging details about them.

11. Analysis and Finding

This investigation substantiated the allegation that [REDACTED] sexualized the performance for the [REDACTED] Day [REDACTED] demonstration [REDACTED] said he designed the show to be sexual to make it more entertaining, to draw a bigger audience, and to counteract audience heckling. He allowed the interns to select suggestive music ("[REDACTED]," "[REDACTED],"") and themes (bondage, "grinding"). He approved an idea from [REDACTED] and [REDACTED] to have male students perform a "striptease" to the music from a movie about male strippers, "[REDACTED]." [REDACTED] created his own skit of having a planted audience member drink a "shot of [REDACTED]" In 2015, [REDACTED] agreed to let [REDACTED] announce she was pregnant after drinking a shot of pretend [REDACTED] [REDACTED] led this skit in 2016, even after [REDACTED] told him in 2015 that he needed to limit the sexual content in the show.

[REDACTED]

E. Allegation Five: [REDACTED] Sexualized Performances by Interns for [REDACTED]

1. [REDACTED]

[REDACTED]

[REDACTED]

2. [REDACTED]

[REDACTED]

3. [REDACTED]

[REDACTED]

4. [REDACTED]

[REDACTED]

5. [REDACTED]

[REDACTED]

6. Analysis and Findings

The investigation did not substantiate the allegation that [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

F.

1.

2.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

3. [REDACTED]

[REDACTED]

4. [REDACTED]

[REDACTED]

5. [REDACTED]

[REDACTED]

[REDACTED]

6. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

7. [REDACTED]

[REDACTED]

8. [REDACTED]

[REDACTED]

[REDACTED]

9. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

10 [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

VI. ISSUE TWO: Did [REDACTED] Conduct in Issue One Violate the University Policies Prohibiting Sexual Harassment?

A. Relevant Policies

Many interns spent several years at the [REDACTED] and the accounts in this Report span from 2013 to June 2016. There were several policies prohibiting sexual harassment in effect during the relevant time period. For each incident, the policy in effect at the time is used to evaluate the conduct. In some instances, the same conduct occurred when different policies were in place. They are excerpted below:

Davis Policy and Procedure Manual (PPM) Section 400-20, Sexual Violence and Sexual Harassment (effective 6/19/2014 – 12/31/2015)⁹

III. Conduct Constituting Sexual Harassment or Sexual Violence

A. Sexual harassment is defined 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. Sexual harassment includes sexual violence.

1. Sexual harassment may include incidents between any members of the UC community, including academic personnel, staff, student employees, coaches, residents, interns, students, or non student or non employee participants in UC programs such as vendors, contractors, visitors, or patients.

2. Sexual harassment may occur in hierarchical relationships or between peers.

3. Sexual harassment may occur between persons of the same sex or different sex.

5. Behavior that creates a hostile or intimidating environment for individuals who are not the direct target of the behavior may also be sexual harassment.

7. In determining whether conduct constitutes sexual harassment, consideration shall be given to the record of the conduct as a whole and the totality of circumstances, including the context in which the conduct occurred.

University of California Policy on Sexual Violence and Sexual Harassment (Interim Policy 6/17/2015 – 12/31/2015)¹⁰

⁹ Policy was known as 380-12 between 7/2013 – 6/2014

¹⁰ When in conflict, the UCOP policy supersedes local policy.

II. DEFINITIONS

Sexual Harassment is defined as unwelcome sexual advances, requests for sexual favors, and other verbal, nonverbal, or physical conduct of a sexual nature. Sexual harassment is conduct that explicitly or implicitly affects a person's employment or education or interferes with a person's work or educational performance or creates an environment such that a reasonable person would find the conduct intimidating, hostile, or offensive. Sexual harassment includes sexual violence. The University will respond to reports of any such conduct in accordance with the Policy.

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). Sexual harassment may occur in hierarchical relationships, between peers, or between individuals of the same sex or opposite sex. To determine whether the reported conduct constitutes sexual harassment, consideration shall be given to the record of the conduct as a whole and to the totality of the circumstances, including the context in which the conduct occurred.

Davis Policy and Procedure Manual (PPM) Section 400-20, Sexual Violence and Sexual Harassment (effective 1/4/2016)

III. Prohibited Conduct

A. The following conduct is prohibited by this policy:

1. Sexual harassment

B. Specific definitions of prohibited activities are provided in the UC Policy on Sexual Violence and Sexual Harassment.

UC Policy on Sexual Violence and Sexual Harassment (effective 1/1/16).

2. Sexual Harassment:

a. Sexual Harassment is unwelcome sexual advances, unwelcome requests for sexual favors, and other unwelcome verbal, nonverbal or physical conduct of a sexual nature when:

i. Quid Pro Quo: a person's submission to such conduct is implicitly or explicitly made the basis for employment decisions, academic

evaluation, grades or advancement, or other decisions affecting participation in a University program; or

ii. 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 intimidating or offensive.

b. Consideration is given to the totality of the circumstances in which the conduct occurred. Sexual harassment may include incidents:

i. 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);

ii. in hierarchical relationships and between peers; and

iii. between individuals of any gender or gender identity.

B. Analysis and Finding

1. Substantiated Conduct that Violated Policy

██████████ engaged in conduct that violated UCD's Sexual Violence and Sexual Harassment policies, including making sexual jokes, watching videos of a sexual nature, and arranging performances at UCD ██████████ Day that were laced with sexual innuendo. The conduct, as substantiated in Section V, above, was offensive to reasonable people including several interns, faculty, and UCD staff.

For conduct to violate UCD's sexual harassment policies before June 2015 it must be unwelcome, of a sexual nature, and unreasonably interfere with a person's work or learning environment or create an intimidating, hostile or offensive working or learning environment. PPM 400 20 (III)(A)(7) f/k/a PPM 380 12 (III)(A)(I). Further, the conduct must be considered in the context in which it occurred. After June 2015, UCOP policy provided that conduct must be such that a "reasonable person would find the conduct intimidating, hostile or offensive...." UCOP SVSH (II). ██████████ engaged in the following conduct between 2013 and 2015 that met these elements.

██████████ made several comments between fall 2013 and fall 2015 where he referenced a ██████████ relative to an intern's ability to give ██████████ pleasure; the male and

female interns' relative skill with stimulating a [REDACTED], and repeating an adage referencing teenage sex. These comments were of a sexual nature.

Five former interns and a faculty member stated that [REDACTED] conduct was unwelcome and offensive. [REDACTED] and [REDACTED] stated that they felt pressured to either participate in the sexual humor or risk being ostracized from the intern group. [REDACTED], a [REDACTED] instructor, found [REDACTED] adage about pregnancy being a guaranteed outcome with a "sixteen year old girl and a whiskey bottle" offensive and disruptive to the learning environment for her students. Although [REDACTED] and [REDACTED] did not find [REDACTED] comments and jokes offensive, they corroborated that the jokes were of a sexual nature and that [REDACTED] either made, encouraged or ignored them when made by others under his supervision.

Considered even within the context of a [REDACTED] facility, [REDACTED] comments were unreasonable and offensive. Although [REDACTED] needed to teach students about the [REDACTED] parts of an [REDACTED] there was little reason to yell instructions like "make him feel good" about a [REDACTED]. Such comments had little discernible educational value.

In 2015 during the [REDACTED] performance at [REDACTED] day [REDACTED] created a performance that included a strip show and a [REDACTED] drinking comedy skit.¹¹ During the performance in 2014, an intern drank pretend [REDACTED] and said "I am pregnant," further sexualizing the joke. In addition, [REDACTED] approved the use of songs with sexually explicit lyrics. Interns who participated in the show, including [REDACTED], [REDACTED], [REDACTED], and [REDACTED] found the content of the show offensive. Because planning and participating in the show was part of their internship, it created an offensive working and learning environment for them. The sexual content of these demonstrations also offended some interns, faculty, and UCD staff. It was reasonable to assume that some members of the public were also offended.

During [REDACTED] quarter 2015, [REDACTED] allowed a sexual video to be played in front of interns. At least two interns were offended but were unwilling to leave [REDACTED] office because they did not want to create a scene, a clear indication that the video affected their work and education environment.

In [REDACTED] and [REDACTED] 2015, [REDACTED] commented on the relative fitness of interns before and after the internship, and shared with the interns his desire to "body score" them. Some interns found his comments offensive and sexual in nature because they implicated their bodies and physical fitness. The evidence did not substantiate the fact that these comments had educational value.

[REDACTED]

There was a preponderance of evidence that ██████ engaged in conduct of a sexual nature that was unwelcome and offensive to students, faculty, staff, and the community and which impacted their working and learning environment.

2. Substantiated Conduct That Did Not Violate Policy

██████████ engaged in conduct that was considered offensive by some witnesses, but did not violate UCD's Sexual Violence and Sexual Harassment ██████████

[REDACTED]

[REDACTED]

VII. **ISSUE THREE:** [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

X. Conclusion

This Report concludes the investigation.

Respectfully Submitted,



Zee Syed
Ellis Buehler Makus LLP

Attachments

[REDACTED]