

CONFIDENTIAL INVESTIGATION REPORT

Subject:

Prepared for: University of California, Davis

Prepared by: Zee Syed
Date: July 18, 2016

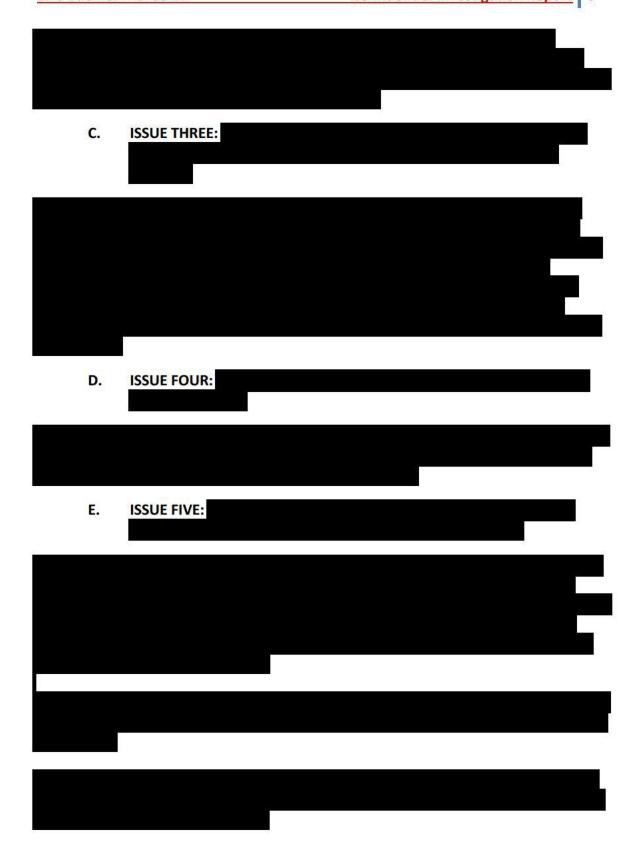
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I. Introduction

The University of California, Davis (UCD) retained Ellis Buehler Makus LLP to conduct an impartial investigation into allegations against
at the UCD . Specifically, six undergraduate students who were interns
at the filed complaints with UCD and alleged that (1) engaged in
conduct of a sexual nature with student interns at the
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 Engage in Inappropriate Conduct of a Sexual Nature with Student Interns at the Conduct of Compus?
Yes. 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 I Conduct in Issue One Violate the University Policies Prohibiting Sexual Harassment?
Yes. 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 Day that were laced with sexual innuendo. The conduct was offensive to reasonable people including several interns, faculty, and UCD staff.
engaged in other conduct that did not violate UCD's Sexual Violence and Sexual Harassment policies.



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.

В. **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 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
	Coordinator	May 23, 2016
		5 254 12 255 2 W
		June 30, 2016 (by
		telephone)
<u>.</u>	Business Office Supervisor and Chief	May 23, 2016
	Administrative Officer,	June 30, 2016 (both
	e mala	by telephone)
	Full Intern	May 24, 2016
	" Intern	20 2046 (
		June 30, 2016 (by
-		telephone)
	Employee and Labor Relations Coordinator	May 25, 2016
	Intern	June 3, 2016
	Professor	June 6, 2016
	Assistant Professor	June 6, 2016
	Lecturer,	June 13, 2016
	Manager Intern	June 8, 2016
	Manager Intern	June 8, 2016
	Manager Intern	June 8, 2016 (by
	1110 1111 182-4-1000	Facetime)
	Professor	June 9, 2016
	Manager Intern	June 9, 2016
	Manager Intern	June 9, 2016
	Manager Manager	June 13, 2016
		June 30, 2016 (by
		telephone)
		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

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

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.

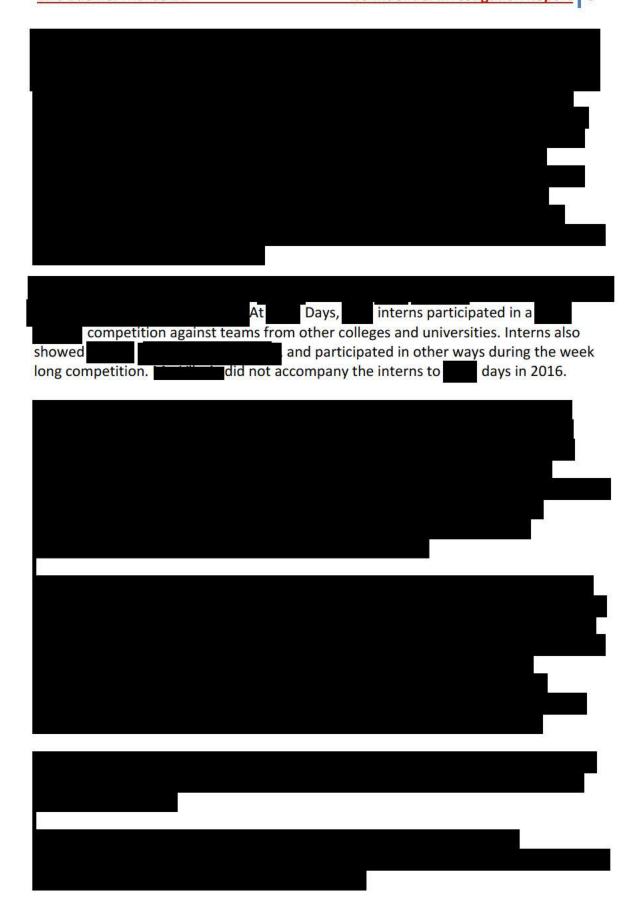
F. **Documents**

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

Description	Attachment
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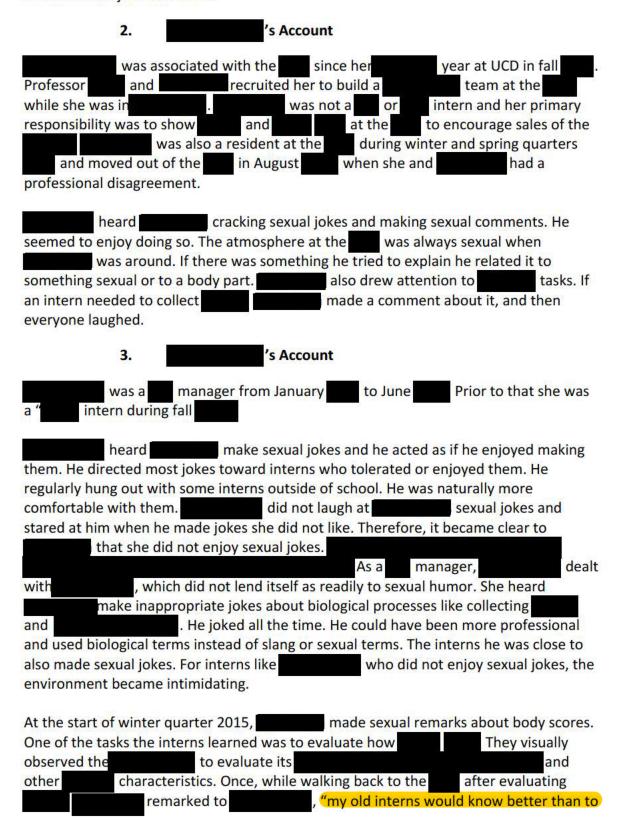
IV. **Factual Background** At the time of this investigation, was the was in this position for approximately facility where students in the Department of The was an (the Department) had an opportunity to learn about was the sole manager at the and supervised about twenty interns

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



V.		JE ONE: Did Engage in Inappropriate Conduct of a Sexual ure with Student Interns at the or Off Campus?	
	A.	Allegation One: Made, Encouraged Interns to Make, and Ignored, Offensive Sexual Comments and Jokes	
		1. 's Account	
takin work anytl	ming ar g occas		ne
One	of the r	unning jokes, that heard on several occasions, involved	
close beca emba react inter amoi	use of t arrassin :. , ns. Inte	favorite interns. They were also the ones who made sexual jokes	
from colle front emba	acted of Tarrasseo	the interns used a which the demonstration on Day, the interns then in a To make sure the did not was close to joked in the injoke was almost always reserved for who was very did not make this joke about her but, if he were present terns made the joke, he laughed along with them.	n
twice	e a weel al jokes	d sex talk were common at the cracked a joke once or k, but the interns made sex jokes among themselves daily. I made with the interns he was more comfortable with but did not make jokes with when they were alone. Sometimes the sex jokes did not bother	

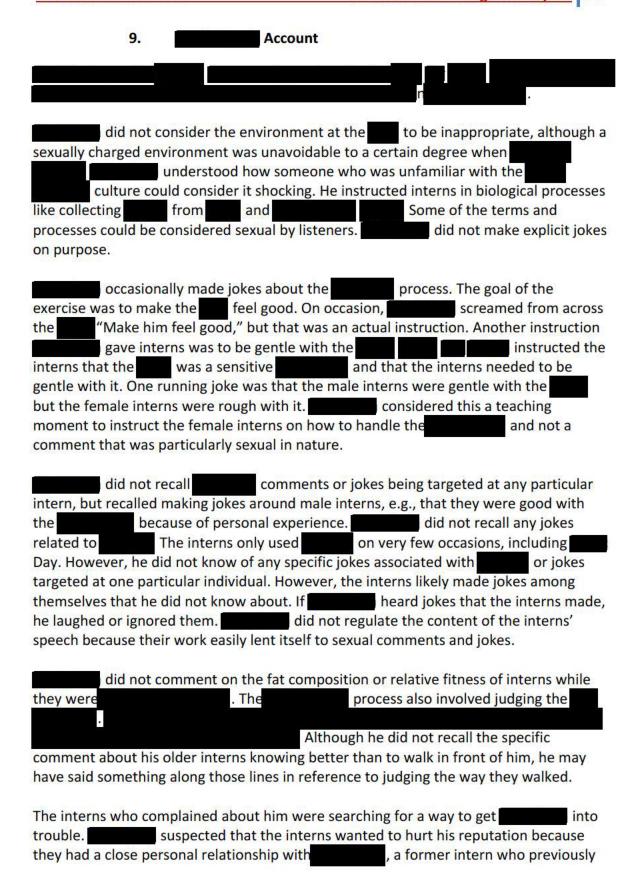
but when interns made jokes that were directed at her and implicated her personal life, she found the jokes offensive.



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 There was another instance in May or June 2015, when said in presence that he wished he could body score the interns like they body scored He said that the interns built muscles and got fit during the internship. felt that he said it in a creepy, not professional, way as if he was measuring the interns' body parts.
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. Was good about not crossing the line with because she made it clear she did not appreciate his humor. Observed that made most sexual comments to his favored interns, who seemed to appreciate his humor. Confided in that she did not appreciate sexual jokes that were
directed at her by favored interns. A popular joke that the interns make, which was directed at interns referenced " , involved her using in her personal life
4. Account
was a intern at the . She heard and what the interns did to them. For example, liked to say that he "."
Sometime in 2015, accidently sent a text to the interns, including 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 tonight," insinuating that and her used in their sex life. After sent the text, the interns often joked about her and her ability in using the lines of the text, the interns often joked about her and her ability in using the lines of the text, but did little to prevent the jokes. In the favored interns including and mostly made jokes about the location and told her about the jokes.

	5 .	Acco	ount		
A CONTRACTOR OF THE PARTY OF TH		intern during spr nd of the internship on the		. Prior to becoming to took , some of the in	for
"I be after the into how much fa was not a fit	t you guy ernship to at you los ness prog	s are buffer now" are see what has chang t." did r	nd "I wish I could ged, and how mo not think this was bb was not to ma	uch muscle you hav s appropriate. The i ake them look good	efore and re built, and nternship physically.
7 111 3	work wi	ney also referenced	heard	" in some of the comm	
group of inte	includ also usir	ng	hich was meant and E m	for her a text to the lade jokes about her was around w	The other r sending
	felt	that the way to get	on	good side was to m	ake, or at
least tolerate	e, these s	exual jokes. Accoun		200000000000000000000000000000000000000	
would get cr	eepy if the was tar	terns made sexual jo e interns took the w geted and everyone	vork too seriousl	when she did not bed	cause it s made
for the have sent a t	1000	nonstration, so it wa a joke about		The interns only use currence. did not recall it s	may

She did not hear anyone make sexual jokes or comments to or about using
7. Account
On one occasion, when said, " turned to a female intern, he could not recall who, and said "he likes it better with "you have experience." found the comment so funny he stepped away from the because he laughed so hard. He did not find the joke offensive. It was true that the goal of acknowledged that was doing a good job. The other interns also made similar sexual jokes. The jokes were funny and not offensive to
Sometimes, when said, "I've had to go to sexual harassment class two times a year." thought was joking that the interns thought they were being funny, but he got blamed for sexual harassment. did not tell the interns to stop making sexual jokes.
8. Account
. She was a coach at the center and a researcher for was also a student in several of classes as an undergraduate at UCD about years ago. believed the environment at the sexual jokes and comments. sexual jokes and comments. observed this on her visits to the
For example, on one occasion in fall 2015, took a group of students from to the While describing the h process, commented, " 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 found this comment inappropriate coming from an instructor. She diffused the comment and moved the class along. did not report the comment to the Department, though she thought that she should have. did not want to get involved because she was an employee could result in her contract not being renewed.

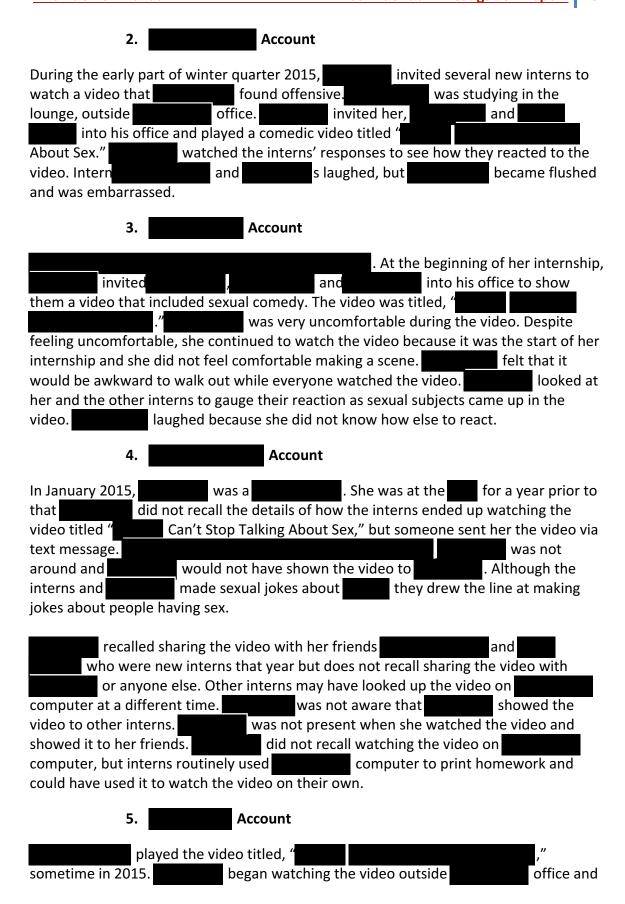


made a complaint against him. did not know why the interns would claim that he when he never did.
was an established and former teacher. He told former teacher, "Making is not guaranteed, like when you are in the back of a truck with a sixteen year old girl and a bottle of whiskey." Since heard this statement in the context of learning about he repeated this statement when he taught classes or explained the challenging process of interns. He did not consider this statement something that a student would find offensive.
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 made, encouraged interns to make, and ignored sexual comments and jokes at the found the jokes and comments offensive, while others did not.
a) Made Sexual Comments to Interns
All eight interns reported that made sexual jokes, comments, and innuendo about . Interns who had a positive view of and account that the sexual nature of his comments was related to the work they performed and for instructional purposes only was implausible.
admitted that he compared the respective abilities of male and female interns to telling interns that the male interns were more delicate in than female interns because of their "personal experience," a sexual innuendo. The goal of that at least on one occasion, he directed such a comment at him. The goal of the good," also carried a sexual innuendo, even if, as he claimed, it was instructional. The goal of that at least on one occasion, not to make the good."
admitted that he occasionally commented on how an intern walked in comparison to a but did not describe what instructional purpose his comment served. His admission substantiated the account of that he commented on how she walked. Although did not consider such a comment to be sexual in

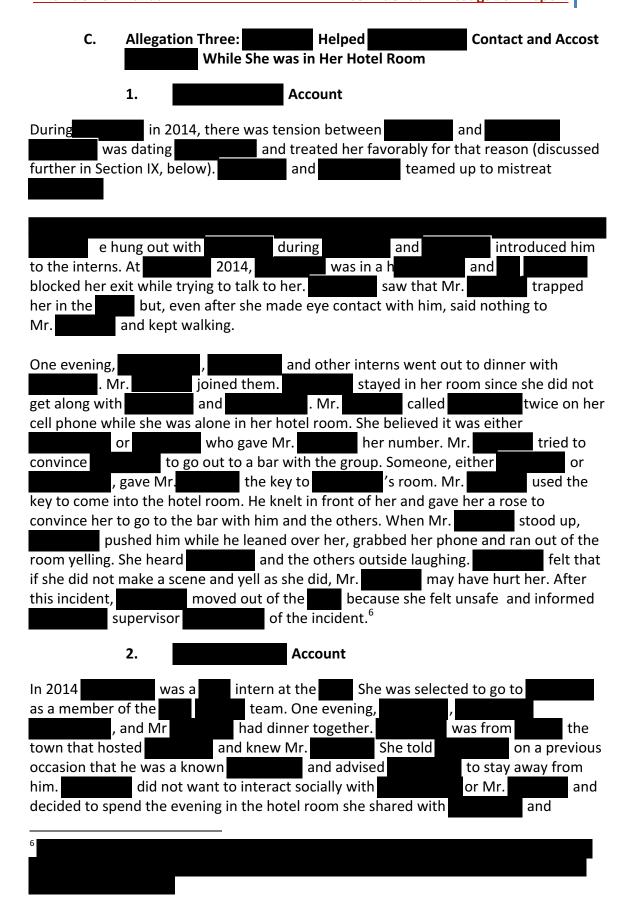
was reasonable in feeling that her supervisor's comment, which required him to scrutinize her body, was offensive, particularly since it lacked any discernable instructional purpose and objectified her body. denied telling female interns that he wanted to score their level of fitness before and after the internship. However, 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. 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.
acknowledged he told his interns that he had to attend sexual harassment trainings because he worked in a high risk environment. UCD required him to attend sexual harassment training to help him avoid the type of sexual jokes and innuendo he admitted to making. 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. Often joked about the sexual nature of their work, telling interns to make the offeel good" or joking that male interns knew how to handle better than females. None of the interns reported that ever told them to be careful about their comments or to avoid making sexual innuendo regarding their work.
b) Encouraged and Allowed Interns to Make Sexual Comments
allowed interns to make sexual jokes, comments and innuendo. However, corroborated that the interns, not instigated the majority of the sexual jokes in her presence. either laughed or passively participated in the humor. and accounts were particularly credible as they did not find the jokes and comments offensive and thought they improved the environment of the and kept it from being "creepy." Although 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.

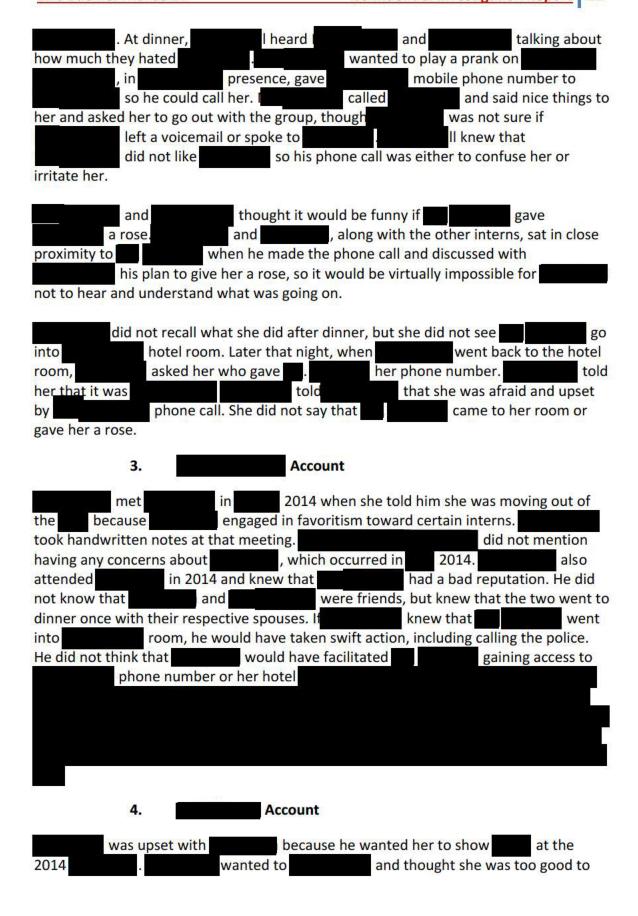
The fact that did not hear all the jokes and comments interns made to other interns, including did not mean he was not aware they were made. acknowledged that interns made jokes among themselves and if he heard them he occasionally laughed and admitted he did not regulate the content of their speech. 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 the was implausible that did not hear any of the comments,
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 a special evidence that the complainants made intentionally false allegations against out of allegiance to a left in 2014. In any of the past, none reported a close personal relationship with a special evidence, 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 content and were "raunchy." For example, one of the movies watched with was " 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.



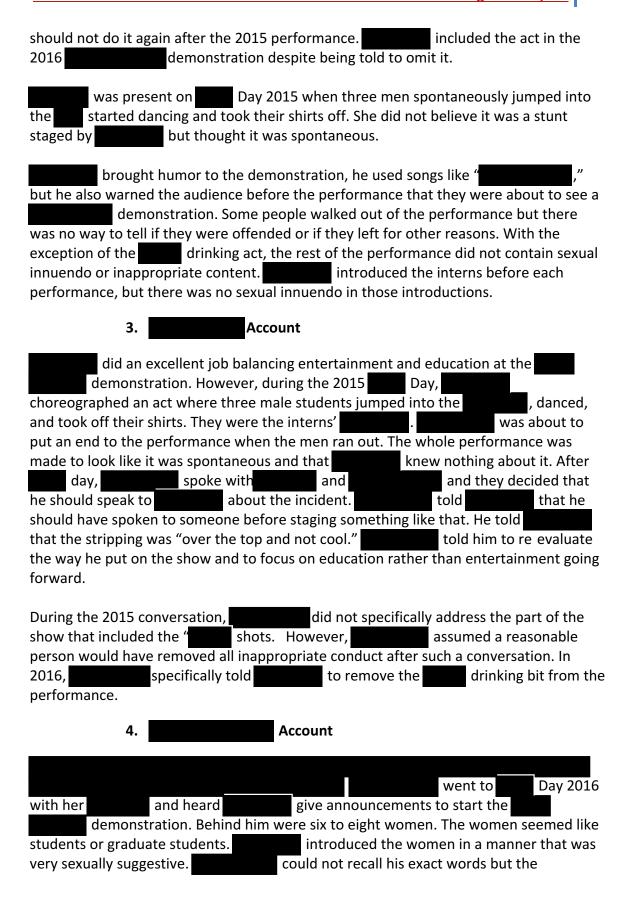
then brought her laptop into office to show him the video. called other interns in to watch the video. did not play the video on his work computer. thought the video was inappropriate and put an end to the viewing at about a quarter of the way through the video. The interns who were watching the video did not seem uncomfortable. He did not know if would recall initiating the viewing of the video.
There were four or five interns who wanted to see head on a silver platter. They included , , , , , , , , , , , , , , , , , ,
6. Analysis and Findings
played, or allowed an intern to play, a video titled "Can't Stop Thinking About Sex," at the infront of interns. The investigator reviewed the video. It was a spoof that contained explicit sexual language. admitted that interns watched this video in his office, but denied that he invited them to do so.
and gave conflicting accounts as to whether she initiated watching the video. and t gave consistent accounts that initiated the video. Regardless of who initiated the video, admitted that he allowed several interns to watch the sexually explicit video in his office for some period of time before stopping the video. 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 and both reported that the portions they saw contained graphic sexual content.
pointed to bias and personal animus on the part of the interns who he suspected reported the incident involving the interns who reported this matter were likely processed or an abias against him were not those who reported this incident. In and a reported the incident, which processed admitted, at least in part, was true. Further, account. In admitted that he was present when the video was played, but denied he was present at all. In a had a positive view of and a motive to color facts in his favor.



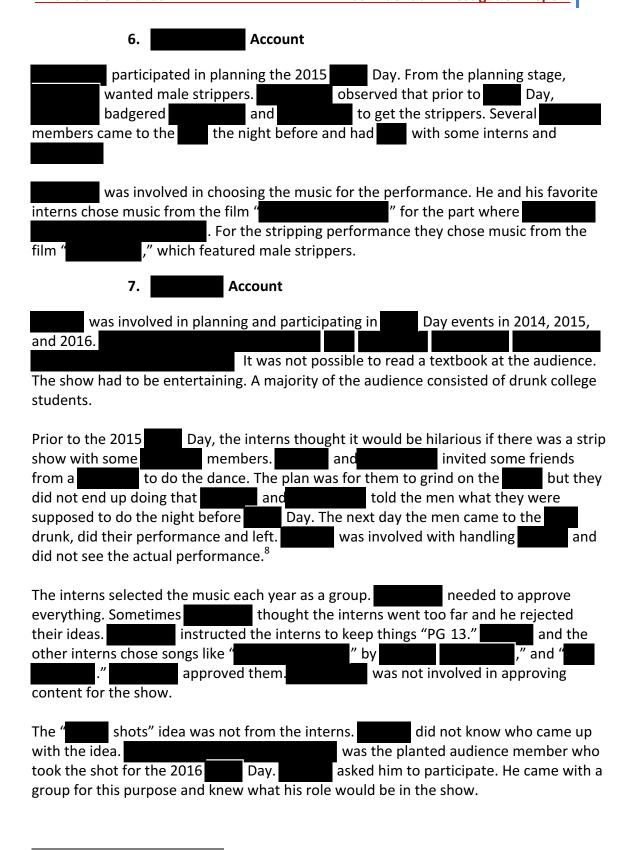


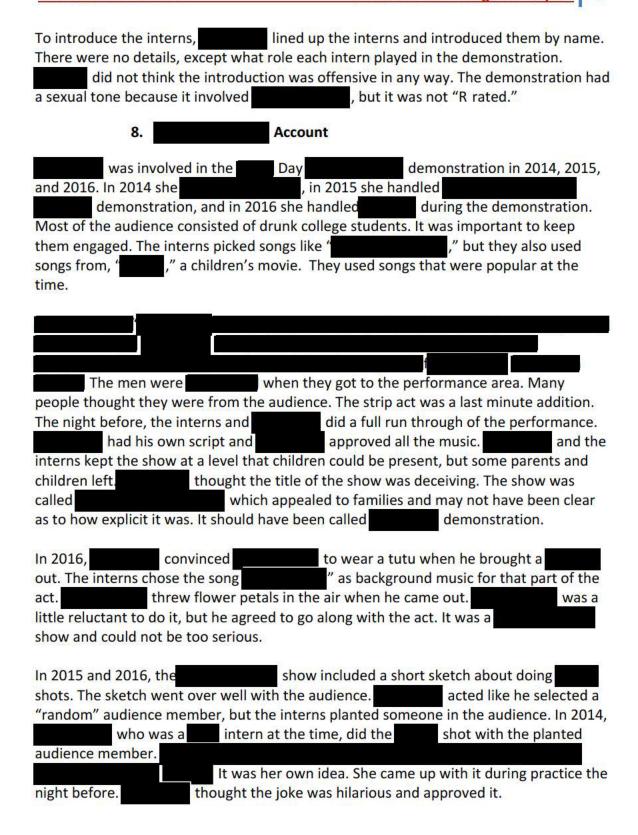
be instructed by him. wanted to be more involved , rather than
event. He was not a friend. was a was a least, and a sleazy, disgusting man. only invited him to dinner because he was a big contributor to the and bought a large number of from them.
did not recall a time that he gave an intern's phone number, nor would he consider it proper to do so. usually warned interns to stay away from occasionally had a drink with only to entertain him as a client and not as a friend. was not aware that Mr. tried to accost though, given his reputation, he did not have trouble believing he would do such a thing. did not recall any interaction between and Mr. where he blocked her exit from a spoke to about issues at the in August 2014, but never mentioned anything about Mr. suspected that and 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 knew or should have known that and called n to play a prank on her at in 2014. was present while gave s phone number to Mr. corroborated account that in her hotel room. saw call and reported that was present and privy to when he called

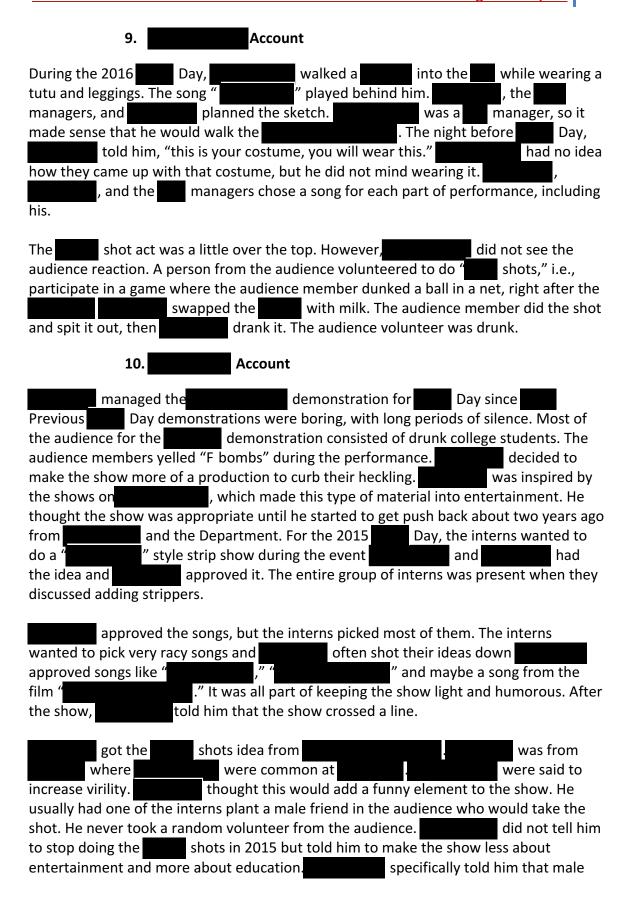
in order to disparage his reputation. Had some stories, they were more likely to tell the same story. However, relatively benign prank, while privacy and safety.					
D. Allegation Four: Created Performances for the Demonstration During Day that Included Sexual Innuendo					
1. Account					
For Day 2015, 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 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 surprised by their act and wanted it to appear as if the students spontaneously jumped into the sound 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					
Day each year and did not recall missing 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					



was from the film "was adamant about getting some members to saw as was planted, was planted, was in the staging area around the interns that he would provide the men with members say to one another that they were wasted and that they got drunk in the staged and was staged and was staged and was staged the performance was staged and that they got drunk in the She had no idea staged the performance. y, and were part of the none of the songs they chose was from the songs they chose was from the songs they chose was no warning before the show started. There was no warning before the show started and leave as the show started. There was no warning before the show started and leave as the show started. There was no warning before the show started and leave as the show started. The saw was adamant about getting some members to procure some members to perform the strip show. One of the interns brought up the idea as a joke. Once the idea was planted, was in the staging area around the show. The same was planted was in the staging area around the show was staged and that they got was surprised and incredulous. The same was the show started and that they got was surprised and incredulous was surprised and incredulous was did not understand what happened and thought they were random boys who jumped into the show was embarrassed and did not was embarrassed and did	comments implied a sexual relationship between and the women. One of the words may have been "harem" or something possessive and suggestive. felt mortified for the women and turned to her and commented, "He's going to get hit with a sexual harassment suit." watched about five to seven minutes of the performance where during the performance. left because she found soverly sexual and offensive.
was close to were more involved in were part of the nner circle and selected the songs along with One of the songs they chose was from the film saw families get up and leave as the show started. Prior to the show, Saw	5. Account
ask his favored interns repeatedly to procure some members to perform the strip show. One of the interns brought up the idea as a joke. Once the idea was planted, kept following up to find guys to jump into the He told the interns that he would provide the men with in he he was in the staging area around the members say to one another that they were wasted and that they got drunk in the later on, at a meeting, someone brought up the fact that the performance was staged and was surprised and incredulous did not understand what happened and thought they were random boys who jumped into the she had no idea staged the performance. If found the act degrading to the demonstration, asked to seductively dance when she was embarrassed and did not do the dance during the performance. The song was from the film also planned to get volunteers from the audience to do shots," but	the interns was close to were more involved in were part of the inner circle and selected the songs along with One of the songs they chose was from the film "." There was no warning before the show started
members say to one another that they were wasted and that they got drunk in the Later on, at a meeting, someone brought up the fact that the performance was staged and was surprised and incredulous. did not understand what happened and thought they were random boys who jumped into the She had no idea staged the performance. found the act degrading to the course of the demonstration, asked to seductively dance when she was embarrassed and did not do the dance during the performance. The song was from the film ." ⁷ also planned to get volunteers from the audience to do shots," but	strip. saw ask his favored interns repeatedly to procure some members to perform the strip show. One of the interns brought up the idea as a joke. Once the idea was planted, kept following up to find guys to jump into
dance when she and did not do the dance during the performance. The song was a short of the film of the performance of the song was a short of the film of the performance. The song was also planned to get volunteers from the audience to do shorts," but	the members say to one another that they were wasted and that they got drunk in the Later on, at a meeting, someone brought up the fact that the performance was staged and was surprised and incredulous. did not understand what happened and thought they were random boys who jumped into the
	dance when she was embarrassed and did not do the dance during the performance. The song was from the film



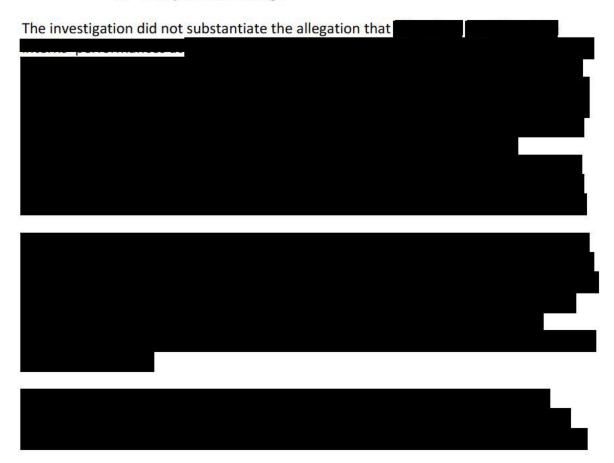




strippers were o	ver the line.	usually created a game aro	
shot. shot with the au- the shot was so p line and approve	potent or the was	In 2014 or 2015 ne up with the line that she is so good.	
interns who wou	w and introduced them b	introduced ration. consider by name. He did not and we	
11	1. Analysis and Finding		
performance for designed the sho and to countered (" an idea from the music from a skit of having a p agreed to let	ow to be sexual to make ct audience heckling. He ,") a and to a movie about male strip planted audience members.	demonstration it more entertaining, to dr allowed the interns to sele nd themes (bondage, "grir have male students perfor pers, " er drink a "shot of was pregnant after drinking ven after t told	ect suggestive music nding"). He approved rm a "striptease" to created his own In 2015,
E. A	llegation Five:	Sexualized Performance	es by Interns for

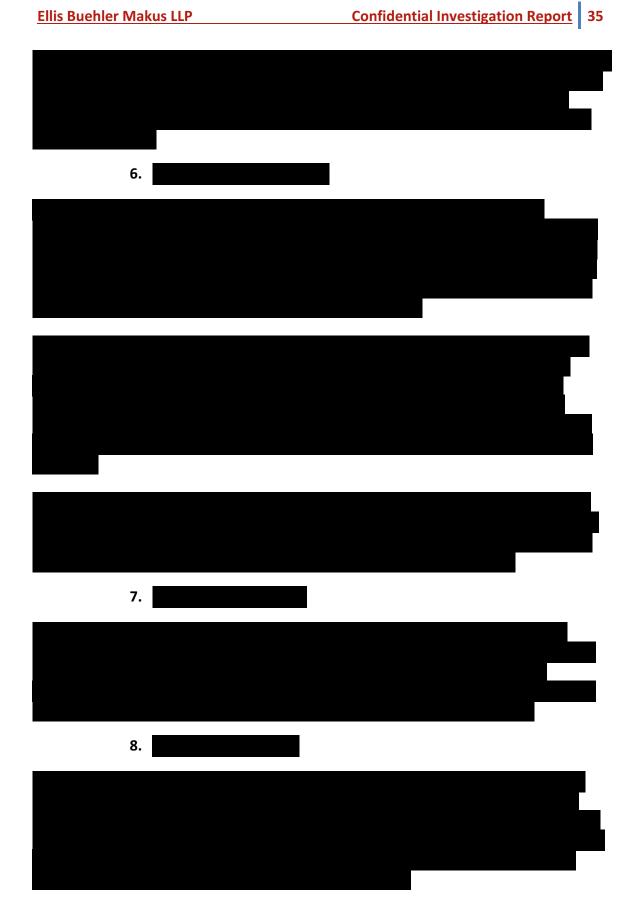


6. Analysis and Findings













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

Relevant Policies Α.

Many interns spent several years at the 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

⁰ 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.

В. **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). following conduct between 2013 and 2015 that met these elements.

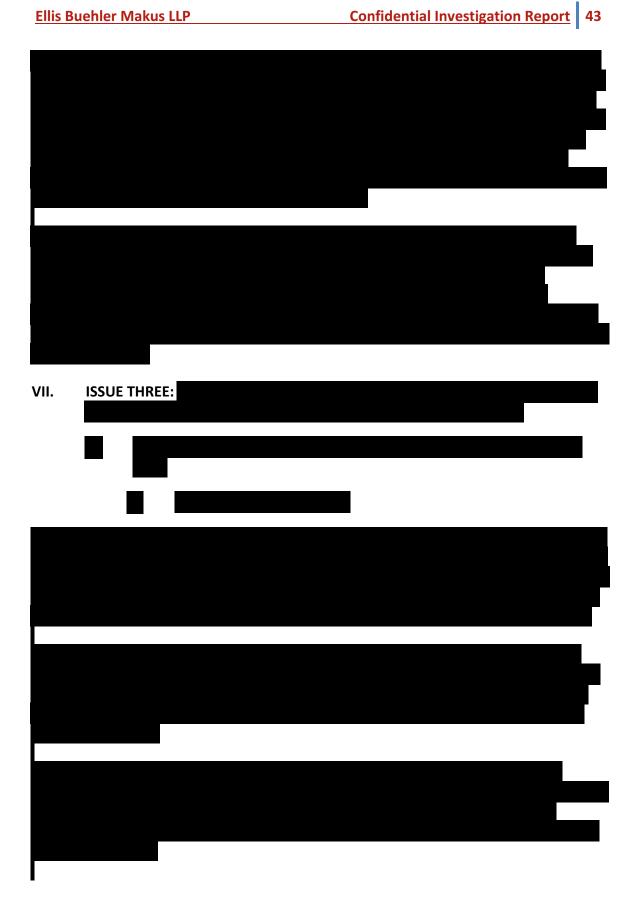
made several comments between fall 2013 and fall 2015 where he referenced a relative to an intern's ability to give pleasure; the male and

an adage referencing teenage sex. These comments were of a sexual nature.
Five former interns and a faculty member stated that unwelcome and offensive. and stated that they felt pressured to either participate in the sexual humor or risk being ostracized from the intern group. 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 and did not find comments and jokes offensive, they corroborated that the jokes were of a sexual nature and that either made, encouraged or ignored them when made by others under his supervision.
Considered even within the context of a facility, comments were unreasonable and offensive. Although needed to teach students about the parts of an there was little reason to yell instructions like "make him feel good" about a Such comments had little discernible educational value.
In 2015 during the performance at day, created a performance that included a strip show and a drinking comedy skit. During the performance in 2014, an intern drank pretend and said "I am pregnant," further sexualizing the joke. In addition, approved the use of songs with sexually explicit lyrics. Interns who participated in the show, including 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 quarter 2015, allowed a sexual video to be played in front of interns. At least two interns were offended but were unwilling to leave office because they did not want to create a scene, a clear indication that the video affected their work and education environment.
In and 2015, 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.

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







X. Conclusion

This Report concludes the investigation.

Respectfully Submitted,

Zee Syed

Ellis Buehler Makus LLP

Attachments