Confidential Investigation Report

July 20, 2016

To: Maureen Stanton

Vice Provost—Academic Affairs

Wendi Delmendo

Chief Compliance Officer

Re: Michael O'Mahony

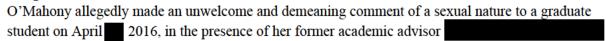
I. Introduction

is a graduate student in the	department. Michael
O'Mahony was	
	continued her professional relationship with
O'Mahony and was his	On April , 2016,
former academic advisor,	was visiting with
in a public area of the	, when O'Mahony
approached and joined their conversation, making a co	omment about the reason why had left
his lab.	
On May 10, 2016, we were charged with investigating	the allegation that O'Mahony made an unwelcome
and demeaning comment of a sexual nature during tha	t April conversation.
We were provided a deadline of	f August 4 to complete this report.

The University of California Sexual Violence and Sexual Harassment policy requires a preponderance of the evidence standard. Preponderance of the evidence means that the evidence on one side outweighs, preponderates over, or is more than the evidence on the other side. Faculty disciplinary procedures require a clear and convincing evidence standard. Clear and convincing evidence means that the evidence is highly and substantially more likely to be true than not.

II. Summary of Allegations and Findings

Allegation 1:



Finding on Allegation 1: This allegation is substantiated by clear and convincing evidence, and is found to be a violation of the Sexual Violence and Sexual Harassment policy, and of the Faculty Code of Conduct.

Allegation 2:

Finding on Allegation 2: This allegation is not substantiated by clear and convincing evidence.

Allegation 3:

Finding on Allegation 3: This allegation is not substantiated by clear and convincing evidence.

III. Applicable Policies

APM 015, The Faculty Code of Conduct

Types of unacceptable conduct:

- 1. Failure to meet the responsibilities of instruction, including:
 - a. Arbitrary denial of access to instruction;
 - b. Significant intrusion of material unrelated to the course;
 - c. Significant failure to adhere, without legitimate reason, to the rules of the faculty in the conduct of courses, to meet class, to keep office hours, or to hold examinations as scheduled . . .
- 2. Discrimination, including harassment, against a student . . . for reasons of . . . sex . . . physical or mental disability . . . or for other arbitrary or personal reasons.
- 3. Violation of the University policy, including the pertinent guidelines, applying to nondiscrimination against students on the basis of disability.

UC Policy on Sexual Violence and 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 natures when . . .
 - 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 . . .



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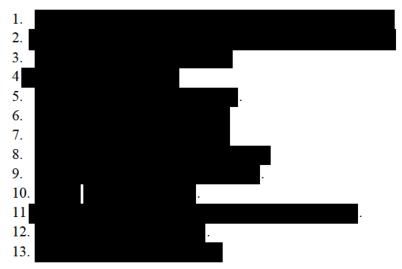
Confidential information may not be released without the student's written consent specifying the records to be disclosed and those to whom the disclosure can be made . . .

IV. Evidence Regarding the Allegations

Witnesses

Name	Title	Date Interviewed
		5/25/16
	Professor,	6/2/16
	student	6/2/16
	Professor Emerita,	6/2/16
	Postdoctoral Scholar	6/8/16
	Professor,	6/18/16
Michael O'Mahony	Respondent	6/18/16

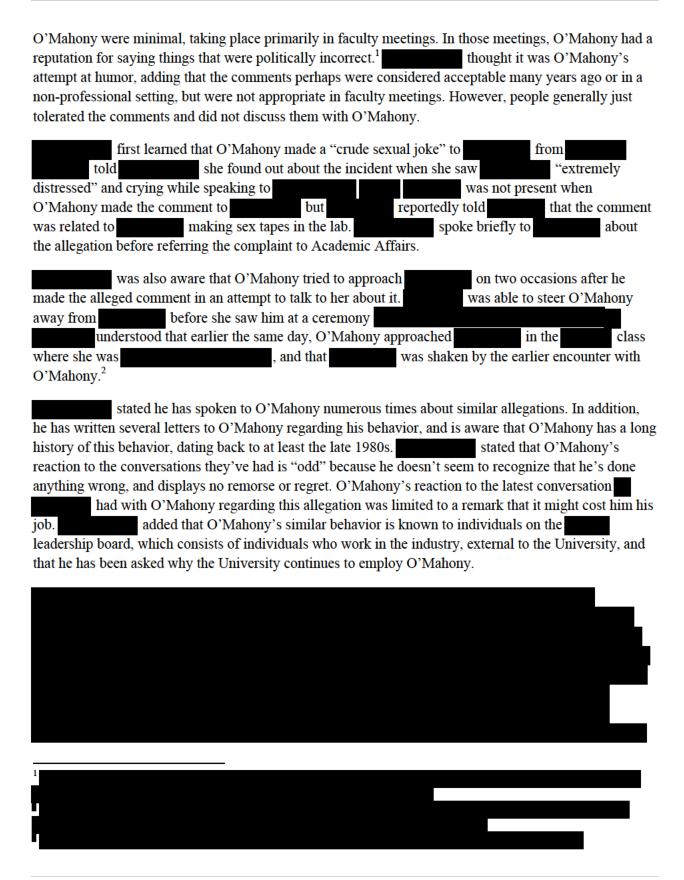
Attachments



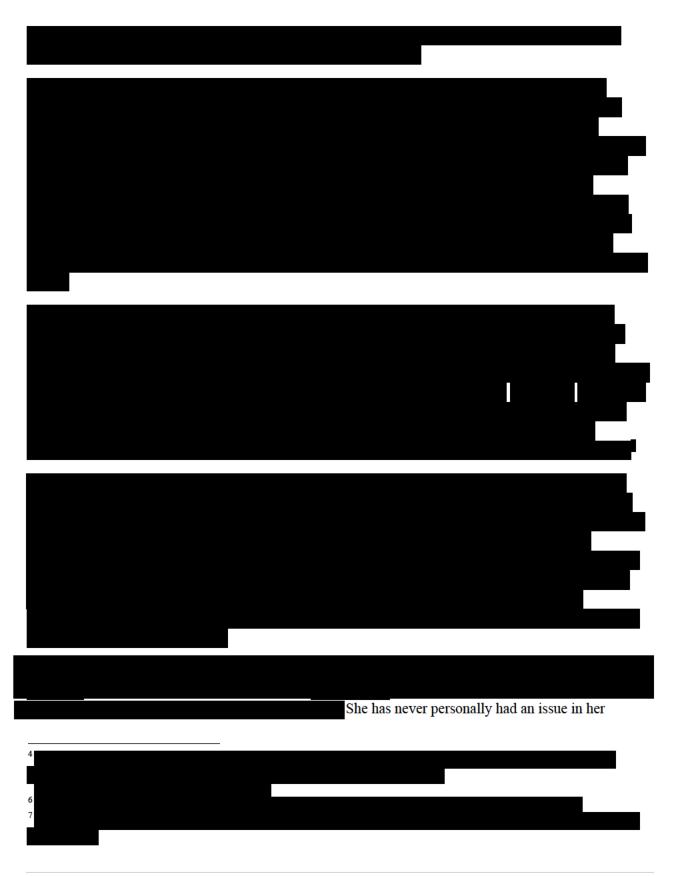
Interview Summaries



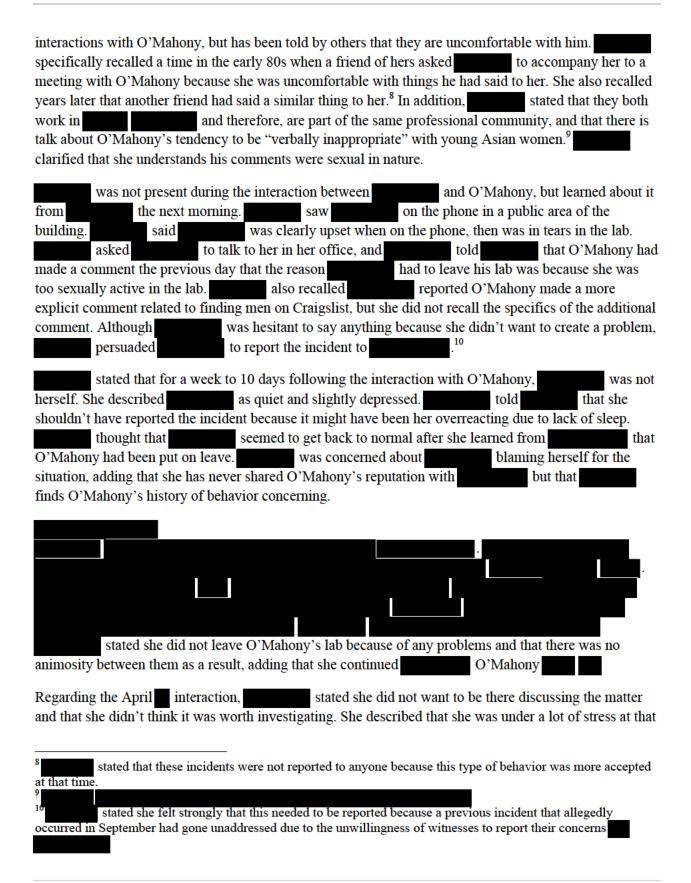
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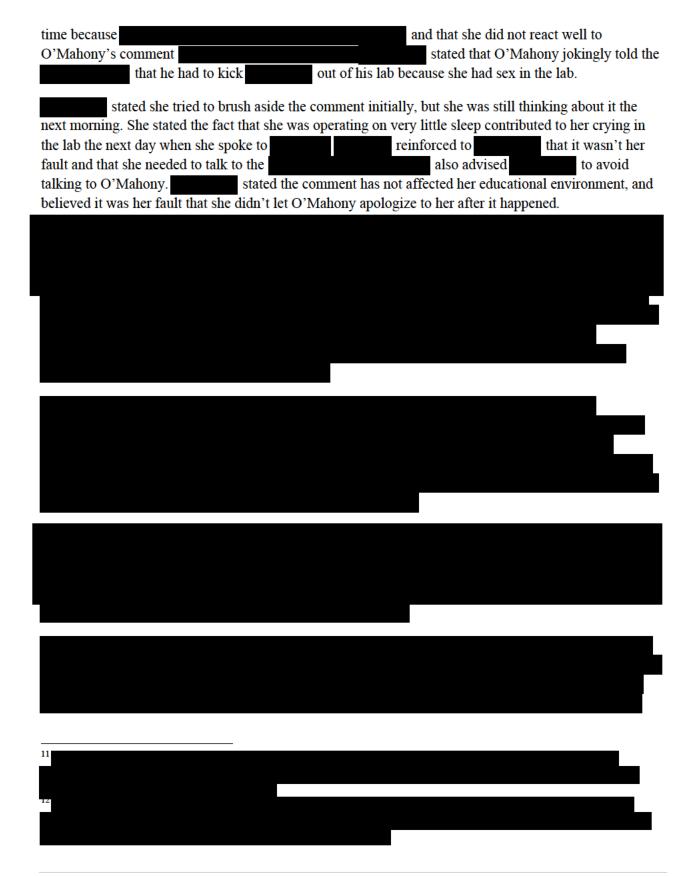
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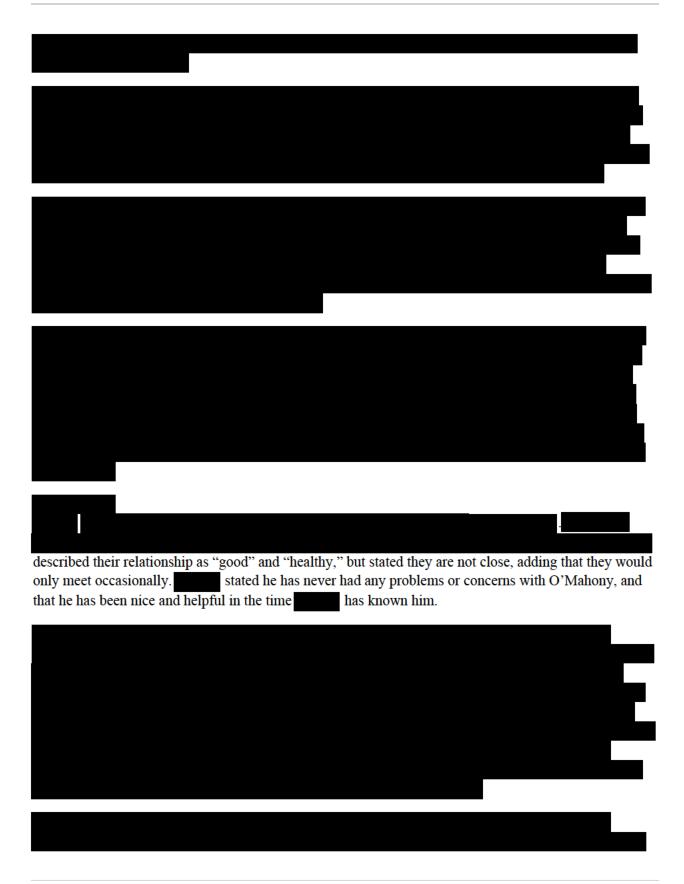
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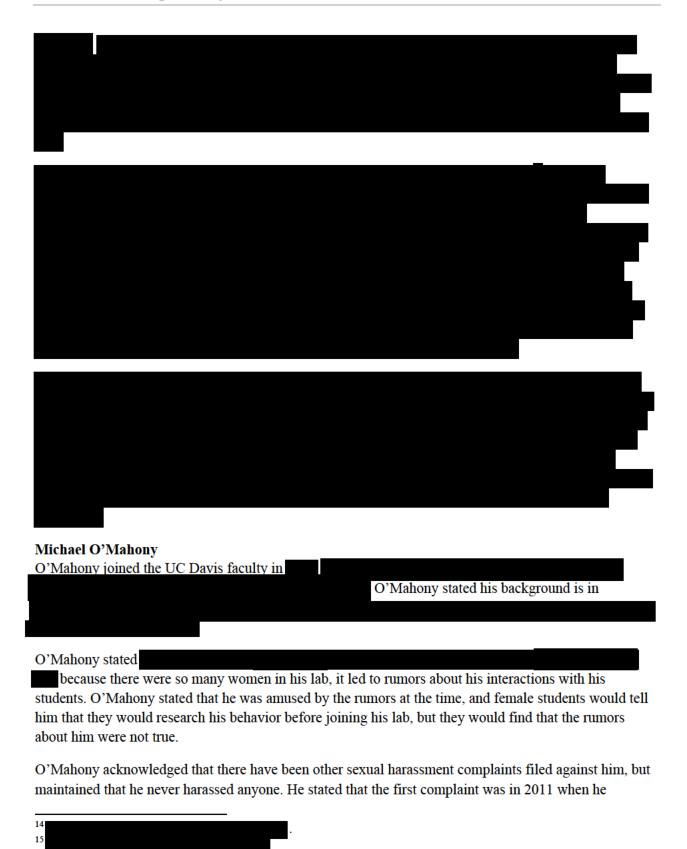
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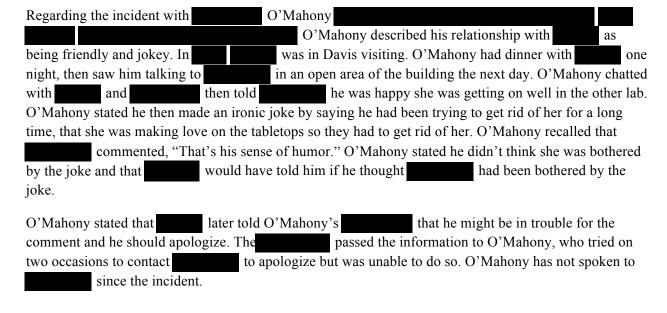


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complimented a student with low self-esteem on her outfit one day, and told her he thought she was clever. He stated that although the student told a friend she thought O'Mahony was hitting on her, she later wrote him a letter thanking him for the compliment. O'Mahony stated that he was counseled to stop complimenting others on their appearance and that he no longer gives out such compliments.

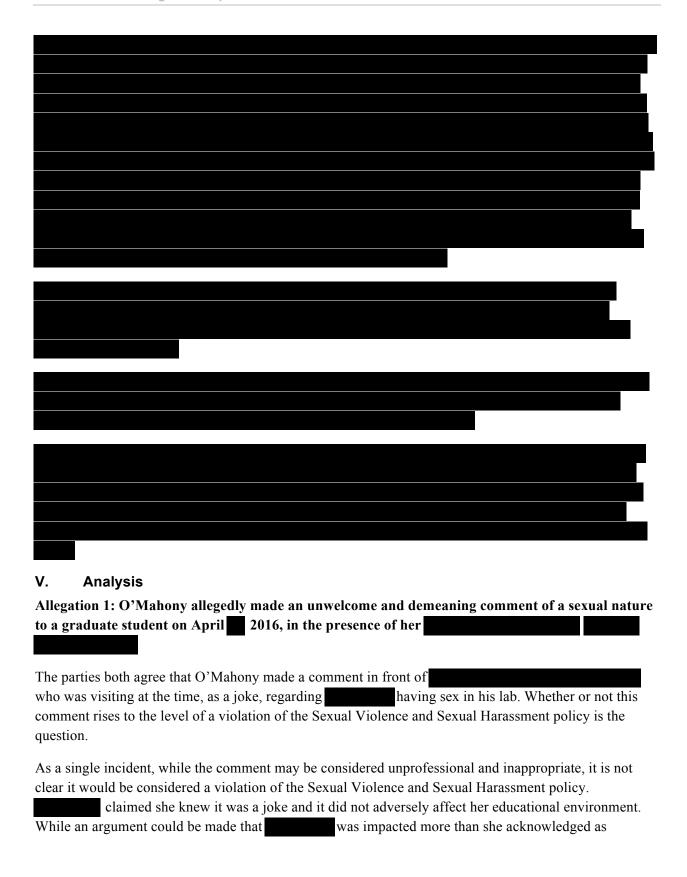
In 2012, O'Mahony stated he was accused of harassing a female staff member who regularly helped him with a . He stated that one day she was wearing a . V-neck sweater that he found unusual and was staring at. He realized someone might think he was looking at her breasts, and when he diverted his eyes, she caught his eyes. He then told her he was looking at her sweater, and she uncomfortably protested, asking him not to say anything. O'Mahony stated that the information in the investigation report was fabricated, and although he could appeal the findings, he decided he didn't want to endure a faculty meeting that would be required.

Finally, O'Mahony recalled two incidents in a class he taught in 2007. The first involved him passing around pornographic cartoons. He stated he needed a 3D demo for the class and struggled to find any examples. He did find one slide that was harmless, which he pinned to the front of the packet, but he did pass around all of the slides, including those that were pornographic. O'Mahony stated he didn't expect that the students would unpin the slides to look at the ones behind the slide he intended them to see. He also acknowledged making a comment in the class regarding lingua being the root word of cunnilingus. O'Mahony stated it was an unintentional comment, and that his brain blanked out on providing a more acceptable example.



¹⁶ We determined it was not necessary to interview in order to reach a conclusion in this case. As noted in the interview summaries, O'Mahony acknowledged making the comment, and claimed it did not significantly impact her educational environment.

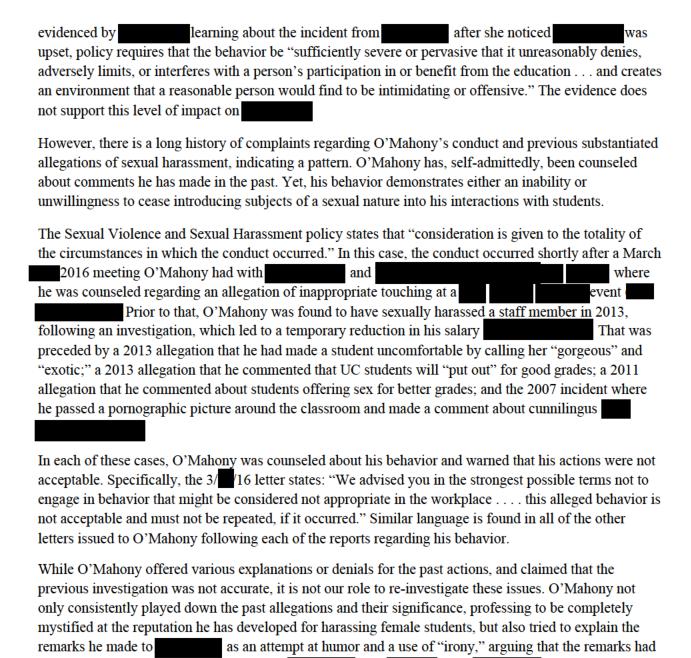
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to be understood in the context of himself,

topics of a sexual nature, his argument is weak and unpersuasive.



When considering this history of inappropriate conduct and subsequent counseling, O'Mahony's conduct in this manner is found by a preponderance of the evidence to be sufficiently pervasive that it creates an environment a reasonable person would find offensive, and therefore, is a violation of the Sexual Violence and Sexual Harassment policy.

Americans who do not "get" irony. Considering that the use of irony does not necessitate bringing up

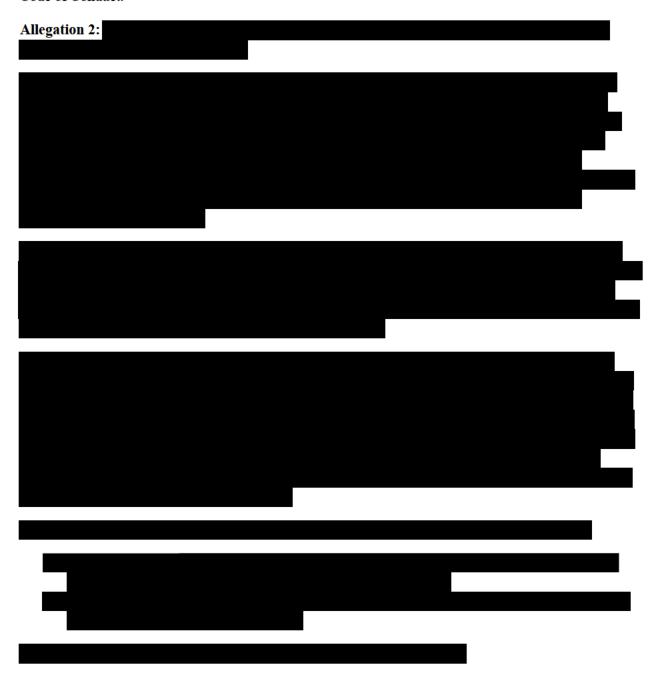
, and

being

," in contrast to

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The Faculty Code of Conduct identifies "serious violations of University policy governing the professional conduct of faculty" to be unacceptable conduct. Again, if this were an isolated incident, it might not rise to the level of a "serious violation." However, based on the repeated allegations and substantiation of allegations following a previous investigation, there is clear and convincing evidence that O'Mahony's conduct represents a serious violation of University policy in violation of the Faculty Code of Conduct.



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Conclusion

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The evidence shows that O'Mahony has an established history of making comments of a sexual nature around students. This case establishes yet another incident of this behavior, leading to our finding that O'Mahony violated both the Sexual Violence and Sexual Harassment policy, and the Faculty Code of Conduct.



Respectfully submitted,

Dan Romik Professor/Chair



Molly M. Theodossy University Investigator/Policy Manager

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