

In Strict Confidence

TO: Wendi Delmendo, Chief Compliance Officer, UC Davis
FROM: Enriqueta Rico, University Investigator, UC Davis
Wendy Lilliedoll, University Investigator, UC Davis
DATE: June 12, 2017
RE: Report of Investigation, Case # HDAC170047

I. INTRODUCTION

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

In the instant matter, the University received several reports about h several instances of inappropriate and unwelcome sexual behavior by Respondent in the context of his employment as a Graduate Student Researcher (GSR). The specific allegations are detailed below in Section II.

The alleged actions, if substantiated, may violate the local and system-wide policies on sexual harassment and sexual violence in effect at the time. On or about March 21, 2017, you charged us in your capacity as UC Davis Chief Compliance Officer and Title IX Compliance Officer to act as University investigators to review the above allegations.

Brief Summary of How Case Came to Title IX Office:

On August 15, 2016, Faculty Member A called the Harassment and Discrimination Assistance & Prevention Program (HDAPP) to discuss three students' allegations of dismissive and disrespectful conduct by Respondent. One Undergraduate Researcher (UR B) alleged that Respondent asked her out then mistreated her when she rejected his advances. On September █, 2016, Faculty Member A met with Respondent to discuss the allegations and review relevant policies and allegations, after which he sent a follow-up letter summarizing the meeting. █

On February 2, 2017, Faculty Member A called HDAPP again to discuss additional allegations regarding Respondent's conduct related to UR B. On February 6, 2017, Faculty Member A met with several members of his laboratory ("the lab") to learn more about the allegations. Following that meeting, Faculty Member A contacted HDAPP with the additional information he had collected. Four of the students who met with Faculty Member A ultimately met with an HDAPP representative between February █, 2017 and March █, 2017 to further discuss the allegations. After consulting further with HDAPP, Faculty Member A met with Respondent on March █, 2017 to discuss the allegations and the UC Sexual Violence and Sexual Harassment policy, the Principles of Community, and the Standards of Conduct for Students. That conversation was documented in a second letter from Faculty Member A. █
The present investigation was charged on March 21, 2017.

Written Notice of Charges to Respondent:

Respondent was notified of the allegations against him by electronic mail on March 21, 2017. The notice letter to Respondent is attached here as Attachment A.

Summary of Investigation Structure

We interviewed UR A and UR B on April █, 2017. Third-party witnesses were interviewed between April █, 2017 and May █, 2017. We interviewed Respondent on April 20. Respondent was accompanied by an

attorney advisor. No other witness opted to bring an advisor or support person to their interview. We interviewed all witnesses in person. We reviewed and considered all documents provided by the witnesses, including text messages, emails, and Uber receipts provided by Respondent.

On May [REDACTED], 2017, we provided UR A, UR B and Respondent with written summaries of their own interviews. We asked them to let us know by Thursday June 2, 2017 if they found inaccuracies or would like to clarify the summaries. We also stated that they should let us know if they would like to comment on the summaries but were unable to do so before June 2, 2017. UR A and UR B both provided clarifications prior to June 2, 2017. Those clarifications have been incorporated into the summaries in the present report. Respondent requested additional time, and we granted him until the morning of June 6, 2017 to respond. Respondent's comments have been incorporated into his statement below.

II. SUMMARY OF ALLEGATIONS

It is alleged that Respondent engaged in the following actions:

- (1) In [REDACTED] 2015, Respondent made unwelcome and sexualized comments to UR A after she began working on a project he oversaw, including making the comment, "the only kind of exercise I like is the kind that gives me a reward during and after."
- (2) While at a social event, Respondent stood uncomfortably close to UR A, put his hands on her waist without her consent, and persisted after she told him to stop.
- (3) When UR A left the party, Respondent followed her against her wishes.
- (4) After being rebuffed by UR A, Respondent behaved in an unprofessional manner toward her in their workplace. For example, Respondent criticized her for wearing inappropriate laboratory attire when he and others in the lab were also inappropriately dressed.
- (5) In January 2016, Respondent pursued an intimate relationship with UR B against her wishes and despite her repeated assertions that she did not desire such a relationship with him.
- (6) As part of these interactions, Respondent suggested that UR B leave her position in the laboratory due to their conflict.

III. EXECUTIVE SUMMARY OF FINDINGS

With respect to each of the alleged actions, the preponderance of the evidence supports the following findings of fact:

- (1) In [REDACTED] 2015, Respondent made unwelcome and sexualized comments to UR A after she began working on a project he oversaw, including making the comment, "the only kind of exercise I like is the kind that gives me a reward during and after": **Substantiated in Part.**

The weight of the evidence supports that Respondent made a sexual comment related to exercise. UR A was credible overall and in describing that comment in particular. In addition, although Respondent stated that if he made the comment, he was referring to eating after exercising, UR A's interpretation of the comment as sexual in nature was more in line with the comment itself and Respondent's statement after making the comment. Furthermore, multiple witnesses described other sexual comments by Respondent, supporting that he would make comments of a

sexual nature to his lab colleagues. At the same time, UR A did not specify other alleged sexual comments, so the evidence we received did not establish multiple sexual comments to UR A, as the allegation suggests.

- (2) While at a social event, Respondent stood uncomfortably close to UR A, put his hands on her waist without her consent, and persisted after she told him to stop: **Substantiated in Part.**

The evidence supports that Respondent stood uncomfortably close to UR A and touched her waist without her consent. As was noted above, UR A was generally credible. Respondent acknowledged touching her. However, UR A did not allege that Respondent persisted in touching her after she said she was uncomfortable. We found he did continue to stand close to her and follow her.

- (3) When UR A left the party, Respondent followed her against her wishes: **Substantiated.**

Respondent acknowledged leaving the party after UR A said she was leaving. Although Respondent denied following UR A or failing to call a cab until she insisted, we found her allegations credible. They aligned with the movements of the parties, in that Respondent also described the two of them together at various locations in the party. Her allegation that he followed her, including in the dark alone outside the party, also was in line with the discomfort she conveyed to Respondent during and soon after the event.

- (4) After being rebuffed by UR A, Respondent behaved in an unprofessional manner toward her in their workplace. For example, Respondent criticized her for wearing inappropriate laboratory attire when he and others in the lab were also inappropriately dressed: **Substantiated.**

Witnesses corroborated UR A's account that Respondent's conduct toward her changed noticeably over time. UR A changed projects near in time to the touching incident, and witnesses noted that Respondent was irrationally upset with UR A and the graduate student who took over her mentorship. Respondent also expressed to Faculty Member A that he did not feel UR A was ready for an independent project. UR B corroborated that Respondent was critical of both UR A and UR B for not [REDACTED] even when others, including Respondent, were not [REDACTED] it. Although Respondent denied treating UR A less favorably than others, he acknowledged that he occasionally criticized undergraduate researchers for failing to wear [REDACTED] even when he was not [REDACTED] it himself.

- (5) In January 2016, Respondent pursued an intimate relationship with UR B against her wishes and despite her repeated assertions that she did not desire such a relationship with him: **Substantiated in Part.**

The evidence strongly supports that Respondent pursued an intimate relationship with UR B against her wishes. Respondent provided texts that lend some support to UR B's allegation, and he acknowledged the existence of other texts he did not provide that were more explicit in asking out UR B and in UR B turning down his advances. However, the parties both described that these actions took place from February 6, 2016 through April 2016, not in January 2016.

- (6) As part of these interactions, Respondent suggested that UR B leave her position in the laboratory due to their conflict: **Substantiated.**

Although Respondent did not have the authority to remove UR B from her Undergraduate Researcher position, the evidence supports that he suggested she leave. UR B highlighted that

allegation and described it in detail. Although Respondent denied that allegation, a previous close friend of Respondent who downplayed much of his conduct (Postdoc A) stated that she could see Respondent becoming frustrated and making the comment as alleged.

The preponderance of the evidence substantiates that Respondent's conduct toward UR A and UR B violates the University's Sexual Violence and Sexual Harassment policy.

IV. INVESTIGATIVE BACKGROUND

A. Relevant Policy Provisions

UC Sexual Violence and Sexual Harassment policy (Effective January 1, 2016 to present)

The UC system-wide Sexual Violence and Sexual Harassment policy prohibits "sexual harassment," which the policy defines as follows:

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.

UC Sexual Harassment and Sexual Violence Interim Policy (Effective June 17, 2015 to December 31, 2015)

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....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.

Consistent with the University of California Policies Applying to Campus Activities, Organizations, and Students, Policy 100.00 on Student Conduct and Discipline, Section 102.09, harassment of one student by another student is defined as unwelcome conduct of a sexual nature that is so severe and/or pervasive, and objectively offensive, and that so substantially impairs a person's access to University programs or activities that the person is effectively denied equal access to the University's resources and opportunities.¹

B. Witnesses

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

Name	Title	Date(s) Interviewed
Respondent [REDACTED]	Graduate Student Researcher	April [REDACTED], 2017, in person
UR A [REDACTED]	Undergraduate Student	April [REDACTED], 2017, in person
UR B [REDACTED]	Undergraduate Student	April [REDACTED], 2017, in person
Faculty Member A [REDACTED]	Assistant Professor	April [REDACTED], 2017, in person
GSR A [REDACTED]	Graduate Student Researcher	April [REDACTED], 2017, in person
GSR B [REDACTED]	Graduate Student Researcher	April [REDACTED], 2017, in person
GSR C [REDACTED]	Graduate Student Researcher	April [REDACTED], 2017, in person
GSR D [REDACTED]	Graduate Student Researcher	April [REDACTED], 2017, in person
GSR E [REDACTED]	Graduate Student Researcher	April [REDACTED], 2017 and May [REDACTED], 2017, in person
Postdoc A [REDACTED]	Postdoctoral Researcher	April [REDACTED], 2017, in person

¹ Although most of the individuals involved in these matters are students, because their relationships developed in the context of their roles as researchers in Faculty Member A's lab, the current allegations are analyzed under the general sexual harassment provisions rather than those applicable solely to students.

UR C [REDACTED]	[REDACTED]	Not interviewed; identified for ease of reference
UR D [REDACTED]	[REDACTED]	Not interviewed; identified for ease of reference
UR D [REDACTED]	[REDACTED]	Not interviewed; identified for ease of reference
[REDACTED]	[REDACTED]	Not interviewed; identified for ease of reference
[REDACTED]	[REDACTED]	Not interviewed; identified for ease of reference

C. Other Evidence Considered

Attachment A: [REDACTED]

Attachment B: [REDACTED]

Attachment C: [REDACTED]

Attachment D: [REDACTED]

Attachment E: [REDACTED]

Attachment F: [REDACTED]

Attachment G: [REDACTED]

Attachment H: [REDACTED]

Attachment I: [REDACTED]

Attachment J: [REDACTED]

Attachment K: [REDACTED]

Attachment L: [REDACTED]

D. Standard of Review

Each of the factual findings and policy conclusions reflected in this report is made on a preponderance of the evidence basis. "Preponderance of the evidence" means that the evidence on one side outweighs, preponderates over, or is more than, the evidence on the other side.

V. SUMMARY OF EVIDENCE

A. Interview Summaries

1. Interview of UR A (April [REDACTED], 2017, in person)

[REDACTED]

UR A described Respondent as “pretty friendly” at first. She described herself as a “pretty friendly” person as well. Initially, she thought Respondent was just being nice and she did not think much of his friendliness. UR A noticed Respondent said some questionable things that in non-work contexts she would have let go. She remembered a particular joke Respondent said in “poor taste.” When UR A told Respondent she was going to [REDACTED], he responded that the only kind of exercise he liked was one with a direct reward.³ She looked confused at the comment and Respondent said he probably shouldn’t have said that. Even before the incident at issue here, UR A did not want to spend much time with Respondent or to be alone with him.

During fall 2015, UR B invited UR A and others from the lab to a party at the [REDACTED]. Postdoc A told UR A that she was going to the party with Respondent, and the three of them became involved in a group text⁵ about the party. Eventually Postdoc A stopped responding in the group texts. UR A tried to confirm “they” were all going to the party because she did not want to end up with just Respondent. Respondent said “we are all on our way.” At that point, UR A assumed Postdoc A was still coming to the party. But, when UR A showed up to the party, Respondent was there “hammered” without Postdoc A. UR A was sober. She asked Respondent where Postdoc A was, and Respondent said Postdoc A ended up going home.

At the party, Respondent was standing behind UR A while she was listening to music. People were dancing, but not “couples dancing.” Respondent put his hands on UR A’s waist and pulled her back toward him. Respondent got really close to her. She immediately took his hands off her waist and moved away. She told him she was not comfortable and that he was her boss. Respondent replied that he was not her boss anymore, a reference to the fact that UR A had just started working on a project [REDACTED].

UR A was enjoying the music and initially did not want to leave the party entirely. But, after she removed Respondent’s hands from her waist, he kept following her and continued to get really close to her and in her personal space. The room was not packed and there was enough space to have a three foot radius. In an effort to move away from Respondent, UR A grabbed girls and started to dance with them. When Respondent kept following her, UR A decided she wanted to go home.

She looked for UR B to say good-bye and found her talking to some friends outside of one of the other [REDACTED]. When she saw UR B that night, UR A did not tell her what had happened with Respondent. They

[REDACTED]

did not know each other well yet. UR A estimated that she was only at the party for approximately thirty minutes before deciding to leave and finding UR B to say goodbye.

When UR A said she was leaving, Respondent said he was leaving too. He said he was going to call a cab, but he did not immediately call. When UR A suggested he call, Respondent said there was not a place to tell the cab to go because the party was in a residential area. Respondent followed her the whole length of [REDACTED].⁶ Her apartment was relatively close, and she did not want him to follow her home. It was dark, and she was alone other than Respondent. UR A kept telling Respondent to call his cab. Eventually, they got to the corner of [REDACTED]. UR A planted her feet in front of the [REDACTED] building and stood there until Respondent called his Uber. She told him there were plenty of landmarks there to tell someone where to get him. UR A watched Respondent get into the Uber before she walked home. UR A was pretty upset.

In the lab the following [REDACTED] Respondent said he need to talk to UR A alone. UR A did not want to be alone with Respondent and her “stomach dropped.” She asked him, “What do you want?” Respondent told her that she said something very important to him at the party. Respondent then told her that she referred to UR B as “an interesting cat,” and he asked what she meant by that. UR A thought Respondent raised the conversation about UR B being “an interesting cat” as an excuse to talk to her and “gauge the damage.” UR A told Respondent that everything that went down at the party was really inappropriate and she was uncomfortable and did not want anything like that to happen again. UR A told Respondent that she would let it go if this was the end of it. Respondent told UR A he did not mean to make her uncomfortable and he was sorry.

After that, UR A tried to avoid Respondent. Overall, she did not find it that difficult to avoid him. She was not working on his project anymore, and he rarely was in the lab when she was. When he was there, though, it was not pleasant. He would single her out. She felt he would even make up rules that applied only to her. He yelled at her for not using the [REDACTED]. He went from pleasant and nice when she first started to constantly “pissed off.” He clearly was upset that she had started working with [REDACTED] Before she went to work for [REDACTED] Respondent tried to convince her that she needed to stay under Respondent’s leadership. UR A replied that Faculty Member A said she was ready and [REDACTED] wanted her. Respondent also talked about her behind her back. He said things like, “I wanted [UR A]” and talked about her being “poached” by [REDACTED] She started to realize that he always was directing that hostility toward her. [REDACTED]

[REDACTED] His treatment stood out in particular because he had been so nice at first and said he was excited to write a letter of recommendation for her.

After the party, Respondent was “rude,” “insulting,” “demeaning” and “condescending.” UR A recalled a time when she was working on a [REDACTED] and Respondent sent a long e-mail telling her how to [REDACTED]. UR A had already [REDACTED] with another grad student. Respondent came up behind her when she was having problems with the [REDACTED]. Respondent asked her why she had not followed his instructions. UR A told Respondent she already had a [REDACTED]. Respondent told her that he did not believe she had any hand in [REDACTED] and it was all [REDACTED] UR A felt this was Respondent’s way of trying to convince her she was not good enough to have her own project. When she made a mistake later, Respondent told UR A that was why she should have repeated his project.

[REDACTED]

Respondent also sometimes talks negatively about UR A like she is not there. Two weeks before her interview, Respondent set up an experiment in front of the area where lab supplies are kept. He wrote “do not touch” on it. UR A asked if she could grab something. Respondent ignored her, so she grabbed what she needed. Respondent was talking to another student and said “see, that’s exactly what I’m talking about.” Respondent told the student that experiments did not work because undergraduates don’t respect the space. UR A did not touch Respondent’s project; she just reached over it.

UR A started to have other students stay in the lab with her because she did not want to be alone with Respondent. One time, GSR E ended up staying a couple of hours later so UR A would not be alone with Respondent. Other students would also check with her before leaving to make sure she was not left alone with Respondent.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

2. Interview of UR B (April [REDACTED], 2017, in person)

[REDACTED]

[REDACTED]

When they first met, Respondent was very friendly and always seemed excited to see and talk to UR B. He singled her out and would have conversations just with her. UR B is “super outgoing,” and based on his flirtation with her, she thinks Respondent must have thought she was “coming onto” him.

In February 2016, UR B invited a lot of people from the lab, including Respondent, to a party at the [REDACTED]. Of all the people from the lab, only Respondent showed up. Prior to the party, she, a friend, and Respondent had drinks at [REDACTED] then walked to the party together. [REDACTED]

The next morning, UR B remembered having kissed Respondent [REDACTED]. She believes the kiss was the extent of their romantic contact. She clearly recalled being home alone in the morning. After realizing they had kissed, she sent Respondent a text⁹ saying they needed to talk and that she didn’t want “this” going anywhere because they needed to work together. They met up and talked for over an hour, and UR B made it very clear she was not interested in Respondent. During that conversation, Respondent said, “you kissed me, so there must have been some sort of attraction.” [REDACTED]

[REDACTED] Respondent did not accept her saying “no.” He continued to ask her out on a date. When she told him she wasn’t interested in dating, he said neither was he. She questioned why he kept asking her out if he was not interested in dating. He then suggested that she come over and see where it goes, “heavily implying” they sleep together. She said that she was not interested in “friends with benefits” if that was what he was implying. Eventually they started chatting about life and other stuff and she thought things would be fine and they would continue being friends.

As time passed, things got progressively “weirder,” and Respondent became standoffish. About a month after the end of the winter quarter,¹⁰ Respondent texted UR B asking her out on a date again. She responded that she was flattered, but not interested. Respondent then got “super frustrated” over texts. UR B stopped going to lab for about [REDACTED] or [REDACTED] weeks because Respondent kept saying he wanted to talk, and based on the prior conversation she knew it was going to be “a weird talk.” Eventually, UR B had to go to the lab to finish her work. She was going to the lab one day and Respondent was walking out. When he saw her, he said, “We’re going to talk right now.” UR B did not feel like she had a choice. They walked around outside the building. He asked her why she would not date him, and she said she was not interested. At one point he asked her why she wouldn’t sleep with him. His voice was raised and he was very frustrated. He said words to the effect of, “Why won’t you be with me?” UR B described it as a draining three-hour-long conversation. Respondent told her he didn’t want to date either then asked, “Why can’t we be friends with benefits?” or something similar. She told Respondent she was not into “friends with benefits” either.

During this conversation, Respondent told UR B that it was not fair for her to make the decision about the nature of their relationship without considering what he wanted. He also kept talking about how she walked on his “turf” in the lab. UR B asked Respondent if he was implying that she should leave the lab. Respondent told her that he did not know if he wanted to keep her because he was not getting what he wanted. He told her they could make it quiet and no one including Faculty Member A would need to know why she was leaving. In her interview, UR B said she did not realize at the time that this was

[REDACTED]

“textbook sexual harassment.” She tried to reconcile the situation for the next two and a half hours. She kept telling Respondent they could be friends and she could continue working in the lab. He said “weird shit” like “I let you into my world and I barely let people in.” He also was telling her to prove that she wanted to be his friend, and he was getting angrier and angrier. He told her he did not know if he wanted to keep her in the lab and did not know if he wanted to be her friend. He said that it seemed like a one-way street where she was getting what she wanted, i.e. to stay in the lab and not sleep with him, but he was not getting what he wanted. He again asked her why she would not sleep with him, saying “I’m handsome, smart, play music and have money.” She felt he was trying to point out his position of power. UR B told Respondent he did not know what it was like to be a girl in college, and she gave him examples of why a girl would not trust every guy she met in a bar. She started crying, and that calmed Respondent down.

UR B said that to her knowledge, Respondent never approached Faculty Member A about moving her out of the lab, probably because Respondent realized he could not have that done. Still, UR B felt as if Respondent were trying to exert power over her. UR B said Respondent is “such a tyrant” and this was a “very dehumanizing experience.” UR B described convincing Respondent that they should remain friends to keep him from erupting into anger. She continued to send him friendly texts to calm him down and make him think they were friends, but eventually she stopped texting Respondent.

UR B avoided going to the lab alone and started carrying mace. In May 2016, she did sexual harassment training for [REDACTED] and started talking to friends and housemates about what Respondent did. They told her she needed to report it, and her best friend called the sexual harassment line. It had been clear to UR B that Respondent felt he deserved to sleep with her because they kissed, and she was relieved to hear an on-campus source confirm that was not true. [REDACTED]

[REDACTED]

Respondent came into the lab one time for five minutes and they did not converse in any way. Respondent then texted UR B that they needed to talk and that she was being rude. UR B responded, “What do we need to talk about?” Respondent replied by saying that she remembered where his house was and he would see her there that night. UR B never responded. She knew by that point that he was the one being a complete “asshole.”

UR B eventually went to work on a different project [REDACTED]. That student told UR B that Faculty Member A had mentioned that UR B was never in the lab. In August, UR B decided to report Respondent’s conduct to Faculty Member A because she felt there was a pattern of Respondent making women uncomfortable. When UR B spoke to Faculty Member A, he told her this was the third complaint he received about Respondent in a week. She told Faculty Member A that Respondent was the reason she had been avoiding the lab. She noticed that Respondent sort of ignored her from that point on. Evidently, when she told Faculty Member A what had happened, he emailed HDAPP, although she did not learn that until later.

In December 2016, [REDACTED] learned that Respondent tried following [REDACTED] home. She also heard that Respondent had been reported at a [REDACTED] for trying to get into people’s dorm rooms and that he had followed a high school student volunteer around the lab [REDACTED] party. Between what happened to her, [REDACTED] and the high schooler, [REDACTED] thought she had to say something. She also became concerned that Respondent was responsible for training undergrads, and she did not want Respondent to supervise people

he could “prey” on. [REDACTED]

UR B said Respondent doesn’t just sexually harass people. He also is “passive aggressive,” “hard to work with,” and “power trippy.” UR B felt that Respondent targeted her and UR A if they were not [REDACTED] even if they weren’t working on anything at the time and he was not [REDACTED] himself. UR B described Respondent as a “handful.” She said he is directly aggressive to anyone who is not a senior graduate student or higher. He somehow forces his perceived power over them. For example, he will demand that people take out the trash when they are in the middle of something else.

[REDACTED] Faculty Member A removed Respondent from the lab. Despite this, a few weeks ago Respondent removed all the [REDACTED] from two cabinets and labeled those cabinets “[Respondent]’s storage.” UR B said Respondent does other weird things like treating all incoming graduate students “like shit.”

UR B said Respondent still comes into the lab sometimes but he seems to be over her. [REDACTED]

On May 25, 2017, UR B was provided with a copy of her summarized statement for review. After reviewing the statement, UR B provided the following clarification: In response to the statement that “He (Respondent) told her he did not know if he wanted to keep her in the lab and did not know if he wanted to be her friend,” UR B stated it would be more accurate to include the inverse, that if UR B did have sex with him, UR B would be allowed to stay in the lab. UR B also recalled that during this talk, Respondent said something along the lines of “it could be every month, even every two months” in reference to how infrequently Respondent would be “okay” with hanging out and having sex.¹¹

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

After receiving Uber receipts from Respondent reflecting that Respondent was picked up from [REDACTED] in the early morning hours of February [REDACTED], 2016, we contacted UR B about Respondent’s statement

that they walked together back to UR B's home, where they kissed further. UR B confirmed that she lived on [REDACTED]. She added:

I did not bring this up at the time because I very vaguely remember what happened and I did not think it was relevant to what happened in the later months. Since he brought this up, although vague, this is what I do remember: he insisted on walking me home, not letting go of my bike until I agreed to walk home with him.

[REDACTED]

3. Interview of Faculty Member A (April [REDACTED], 2017, in person)

Faculty Member A [REDACTED].¹² He described the following knowledge of the allegations in this matter:

First Complaint Received by Faculty Member A

[REDACTED], an undergraduate student, came in "pretty upset" to discuss a situation where Respondent had tried to kick her out of the lab.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Second Complaint Received by Faculty Member A:

About a month before [REDACTED] interview, [REDACTED] all met with him to discuss ongoing concerns and aggression issues with Respondent in the lab.¹⁴ [REDACTED] was “shocked” at this news, although he added that he is not in the lab “24/7.” The second time [REDACTED] came in, she told [REDACTED] that Respondent repeatedly asked her out and [REDACTED] repeatedly said no, and it finally got to the point where Respondent was threatening her position in the lab. It also came up that [REDACTED] had kissed Respondent, which she had not mentioned during the first meeting. [REDACTED] allegations and [REDACTED] allegations stood out most to [REDACTED] from the group meeting. They described Respondent following them, aggressively asking them out, and generally being inappropriate and having poor lab etiquette.

[REDACTED] told [REDACTED] she was never comfortable with Respondent in the lab. [REDACTED] was “very, very clear” that she does not go into the lab unless someone is there. [REDACTED] was completely shocked about how many people were at the meeting. [REDACTED] knew Respondent and [REDACTED] had been friends for a very long time, so he was particularly surprised to see her there.

[REDACTED]

In response to these complaints, [REDACTED] re-contacted HDAAP. [REDACTED] had a second discussion with Respondent, [REDACTED] During the second conversation, Faculty Member A did expressly mention the allegation that Respondent asked someone out, although Faculty Member A did not identify the individual by name. Respondent replied that she had asked him out. Respondent said he had been asked out repeatedly by UR B and/or by other students. Faculty Member A told Respondent that even if his interactions took place outside the lab, it was important to remember the Principles of Community and to be careful with students. [REDACTED]

[REDACTED]

██████████ described Respondent as “flirtatious.” According to ██████████, Respondent speaks “jovially” with people. Respondent clearly talks to women more than men. When ██████████ was in the lab, he would see Respondent talking to women.

██████████ recalled a conversation with Respondent when ██████████ wanted to move from ██████████ to her own project. Respondent brought up to ██████████ that ██████████ was not ready, although she was eager to move on. Respondent was right that ██████████ was not ready in that she had not completed her current project and was not ready to publish, which was typically the precursor to taking on an independent project. However, she was almost done, she wanted to move on, and ██████████ did not learn about the issue until she already had started working with ██████████. To the best of ██████████ recollection, this was long before the September ██████████, 2016 meeting, maybe in late 2015. At the time she requested to move, ██████████ never said her desire to move was because of Respondent’s behavior.

██████████

██████████

In his interview, ██████████ said Respondent’s role in the lab changed after the second complaint. It was a good time to transition Respondent because Respondent was at the point he was talking about graduation and discussing next steps. Since Respondent was talking about new projects, ██████████ took him out of the lab. In the meeting with the students, the consensus was the students wanted Respondent out of the lab and not mentoring students. Two others took over the ██████████ Respondent

had led. [REDACTED] expressed having concerns because he has been considering starting a company with Respondent. [REDACTED] would like these issues addressed. [REDACTED] said “you don’t always know somebody” but he described Respondent as a very promising [REDACTED]. Faculty Member A would hate to see Respondent’s career ended because of this.

4. Interview of [REDACTED] (April [REDACTED], 2017, in person)

[REDACTED]

[REDACTED] said that he is approachable so he has a lot of hearsay information about the lab. In terms of what he has observed himself, [REDACTED] said that just before summer 2016, he noticed tension between Respondent and the undergraduate researchers. [REDACTED] saw one of them [REDACTED] walking on campus and asked how she had been. She said things had been really bad. She confided that Respondent had approached her and touched her in ways she did not like at a party. She said she told Respondent directly to stop, saying it felt inappropriate because he was her boss. He stopped, but he also said he was not her boss anymore. Then he followed her for the rest of the time they were at the party and made her uncomfortable enough that she wanted to leave early. He followed her out of the party and down the street until she insisted that he call an Uber. She also said that Respondent was miserable to her for the next four months. He started shouting matches about how [REDACTED] was not ready to start her own project. [REDACTED] and [REDACTED] both told Respondent that he had no claim to [REDACTED] but he continued. Since then, [REDACTED] has told [REDACTED] that Respondent would come to her and say that she was doing things wrong in front of groups of people and was trying to tear her down in the eyes of her peers. He criticized her lack of [REDACTED], even when he was not [REDACTED] himself.

[REDACTED] was surprised to hear that at the time and encouraged her to reach out to [REDACTED], but [REDACTED] did not want to do that because she did not know how he would respond and she needs [REDACTED]. [REDACTED] asked if he could approach [REDACTED] anonymously, and she agreed.

By the time he met with [REDACTED], [REDACTED] also had heard from graduate student [REDACTED] that she did not like to be alone with Respondent and thought he had a “super creepy vibe.” [REDACTED] conveyed to [REDACTED] that he had received complaints from an undergraduate and a graduate student that Respondent was making them uncomfortable. [REDACTED] suggested that [REDACTED] should be paying attention because there likely was a larger problem.

[REDACTED]

[REDACTED]

[REDACTED]

UR B, UR

A, GSR B, Postdoc A, and GSR A went to meet with Faculty Member A.

[REDACTED]

[REDACTED]

In addition, there were a lot of things Respondent had done that [REDACTED] had given him the benefit of the doubt on until then. About a year before [REDACTED] conversation with [REDACTED], he went with Respondent to grab [REDACTED] to bring back to the lab for lunch. During that outing, Respondent commented about a passing woman, "Look at the titties on that girl." Respondent's comment was loud enough for the woman to overhear, and it made [REDACTED] uncomfortable. [REDACTED] did not say anything to Respondent, which he regrets now. Within a month after that, [REDACTED] and Respondent went out to grab lunch. They were stopped at a light, and Respondent commented about a woman crossing the street,

[REDACTED]

“Look at the rack on that girl.” [REDACTED] laughed nervously, and [REDACTED] commented to Respondent that the reason [REDACTED] laughed that way was because his comment was in bad taste. Respondent then said, “If I see a girl with a nice rack, I’m going to say something.”

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

5. Interview of [REDACTED] (April [REDACTED], 2017, in person)

[REDACTED].

[REDACTED] reported that he believes he was contacted because of a labmate who has done “inappropriate behaviors” to at least two undergraduate researchers in the lab, [REDACTED]. [REDACTED]

[REDACTED]

In addition to his treatment of [REDACTED] and [REDACTED] Respondent also would make random inappropriate comments. For example, he would randomly comment on a girl in the adjacent lab, saying, “look how sexy she walks.” The female labmate who was there, [REDACTED] said later that she thought it was weird, and [REDACTED] described the comment making him uncomfortable. [REDACTED] added that he also has a “general feeling” about the types of things Respondent would say in the workplace, but he was trying to focus on concrete examples. Especially during his first couple of years in the lab, Respondent would always have “a lot of interesting stories” about how most of the women who come in contact with him “would jump on him or have sex with him.” His stories made him sound irresistible to women. Some of his stories were about women in the building, but none were about women in the lab. [REDACTED] added that Respondent shared things “that were a little graphic” but it did not bother [REDACTED] too much.

[REDACTED] heard about Respondent’s treatment of [REDACTED] from her at around the time that it happened because they work together directly. He did not know about what had happened with [REDACTED] until this year. He supported them as they reported to [REDACTED].

[REDACTED] first sense that something had happened between Respondent and [REDACTED] was when [REDACTED] started working with [REDACTED] in 2015. Undergraduate researchers interested in joining the lab first participate in a mini project program supervised by Respondent. Successful and interested students then get a more long-term project. [REDACTED] saw potential in [REDACTED] and asked her to join his long-term project. Respondent was really mad that [REDACTED] switched. Respondent and [REDACTED] were still friends at the time and they discussed it a lot. They talked for hours and Respondent flatly said that he could not explain why but he felt it was wrong. Respondent kept saying that [REDACTED] had “poached” [REDACTED]. In response, [REDACTED] expressed that although every undergraduate goes through Respondent, he should not feel that they are a flock of sheep that he has ownership over. Respondent said that he was not calling them his flock or saying he was the owner. He added that he was saying [REDACTED] “poached” her and that poached animals are in the wild, not owned. [REDACTED] responded by asking why Respondent was mad if [REDACTED] was in the wild, and Respondent said he did not know.

After that, [REDACTED] started to tell [REDACTED] that Respondent was becoming more aggressive toward her. Now [REDACTED] wishes he had taken it more seriously, but at the time he told her to just stay away from Respondent and do her thing. [REDACTED] does not remember [REDACTED] discussing any specifically sexual conduct, but he did notice that when [REDACTED] switched to his supervision, Respondent became really passive aggressive toward both of them. After being friends for the first couple of years, things became weird between them when [REDACTED] switched.

[REDACTED]

In response to a question about whether he had witnessed any sexual behavior by Respondent first-hand, [REDACTED] said no. He volunteered that he saw a lot of passive aggressive conduct but that because he does not drink, he typically does not attend the social events with the lab.

Recently, [REDACTED] witnessed an example of passive-aggressive behavior by Respondent toward [REDACTED] [REDACTED] was working with GSR B and GSR D on a program [REDACTED] for her project. Respondent had told her how the [REDACTED], but by that point she had already [REDACTED] with

others' help. One day, [REDACTED] observed Respondent standing behind [REDACTED] and staring over her shoulder at the screen. Respondent told her that was not how he told her to do the work, and she explained that she had been [REDACTED] with [REDACTED] and [REDACTED]. After staring at the screen longer, he said she had "no hand in" [REDACTED]. Respondent has done a similar thing to [REDACTED] because she [REDACTED]. Respondent stared over her shoulder then told her what she was doing was stupid. Respondent's attitude toward [REDACTED] was less aggressive than toward [REDACTED]. [REDACTED] attributed Respondent's different treatment of [REDACTED] to the fact that she was a postdoc. Respondent has different "brackets" of people in the lab and treats them more or less aggressively depending on their status. Undergraduates are in one bracket, less senior graduate students are in another, more senior graduate students are in another, and [REDACTED] is in his own bracket. [REDACTED] does not recall seeing passive-aggressive behavior by Respondent toward [REDACTED] first-hand.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

6. Interview of [REDACTED] (April [REDACTED], 2017, in person)

[REDACTED]

In response to a question about her understanding of why we contacted her, [REDACTED] stated that her labmate, Respondent, has “evidently allegedly sexually harassed, more or less, a few undergrads in the lab” and has created a hostile work environment for them. The two undergraduates directly affected are [REDACTED] and [REDACTED]

[REDACTED] stated that she does not have any direct projects with Respondent, although she considered him a good friend and they hung out, including in a group with her [REDACTED] before she found out about “all of this.” [REDACTED] heard about the allegations through word of mouth initially and then from [REDACTED] and [REDACTED] directly. Respondent did not tell her anything.

Before learning of the allegations, [REDACTED] did not see anything that caused her a concern about sexual harassment. They hung out in a non-work capacity, and she would see him flirting with girls in that context, but nothing that was wrong or bad. She did not know that he was allegedly using sex or anything in a negative way or taking flirtation in a negative direction.

One thing happened in Respondent’s first or second year. A former undergraduate student, [REDACTED] asked [REDACTED] if she could talk to Respondent and ask him not to flirt with her and not to comment on the way she dressed. [REDACTED] was not specific about what Respondent had said or done. [REDACTED] talked to him and thought everything was corrected. She assumed it was an isolated incident and that he was not bothering anyone else.

[REDACTED] did not personally notice any differences in the way Respondent treated women versus men in the lab. She did notice that he treated the undergraduates completely differently from the way he treated [REDACTED]. He treated [REDACTED] with respect.¹⁹ With the undergrads, he was condescending and not respectful. [REDACTED] did not think it was right, but she just thought that was the way he treated all subordinates (i.e., all of the undergraduates and everyone who joined the lab after he did). Once he had some power in the lab, he was “in general a little hostile.” He would get on people about [REDACTED] and yelled at an undergraduate about taking out the trash. He acted as though he had authority he never had. It was not great, but it was something she had seen from others when she was a graduate student so it did not make her stop and say, “oh my goodness.” In response to a question about whether she noticed

[REDACTED]

Respondent paying more attention to male or female undergraduate students, [REDACTED] said she may have noticed that but it is hard to look back and really remember.

[REDACTED] recalls the situation where Respondent, [REDACTED] were going to meet at a party. Ultimately, [REDACTED] decided not to go and told Respondent. Although she has looked back through her text messages, [REDACTED] does not have any texts that date back that far. She does not know whether or not Respondent continued to suggest that [REDACTED] and her [REDACTED] were going to the party after [REDACTED] told him they were not going.

Nothing really stands out to [REDACTED] that Respondent said that was inappropriate. In response to a question about whether Respondent made a comment about a woman's breasts when they were in the car [REDACTED] [REDACTED] said she would not be able to say for sure what the comment was. On the one hand, she could see Respondent making a comment about a woman like that. On the other hand, it "gets muddled" because they would hang out outside of work and Respondent said things in that context that would not be appropriate at work. She is sure he said things at work too here and there, but [REDACTED] was not personally bothered so she may not remember it perfectly. She also noted that she is "immune to what people say" and she always felt Respondent was talking to her in her capacity as a friend. If she had been single and Respondent was saying those things about her or her close friends, maybe it would have bothered her. As it was, she just thought it reflected poorly on him and made him sound like he was not a great guy. It never made her uncomfortable until she heard what he was doing to people in the lab.

After [REDACTED] learned about [REDACTED] and [REDACTED] allegations, she and two graduate students went with the undergraduates to support them as they reported to [REDACTED]. [REDACTED] told [REDACTED] that at the party, Respondent was following her around. She said that he touched her hips and kept following her even after she told him to back off. She also said that he tried to follow her home until she stopped and told him to call an Uber. Ever since then, she has felt that he was very hostile toward her at work because she told him sternly to go home instead of inviting him home with her.

[REDACTED] recalls an incident at around that time where [REDACTED] started working with [REDACTED] instead of Respondent. Respondent was "very mad" and the rest of the lab did not understand why that was something he would be mad about. Respondent was telling people that [REDACTED] was not ready to work with someone else. He also seemed mad at [REDACTED] for taking over as her mentor. It felt "very hostile" and strange. [REDACTED] would hear him venting to multiple people about the same thing and she did not understand why. [REDACTED] did not directly witness many interactions between Respondent and [REDACTED] or [REDACTED]. She thinks he yelled at [REDACTED] about being put on her paper, and she may have seen a few times where he said condescending things to them. But, [REDACTED] often works with her headphones in, and she never paid attention until all of this was brought up. At this point, it seems Respondent is avoiding them both.

During the meeting with [REDACTED], [REDACTED] said that she and Respondent went to a party together and kissed there [REDACTED]. The next morning, [REDACTED] called him and said it was a mistake and could not happen again. Respondent kept calling and texting and asking why they could not be together. [REDACTED] does not know how long that went on or how often Respondent was texting. [REDACTED] went on a trip, and when she got back, she ran into Respondent and he got pretty angry. They went on a walk where he evidently kept asking why they could not be together. When she continued to say she would not get together with him, he suggested she should leave his "turf." The thing that bothered [REDACTED] more than "[REDACTED] mistakes at a party" was Respondent's actions after the kiss in suggesting that if she did not hook up with him, she should leave the lab.

7. Interview of [REDACTED] (April [REDACTED], 2017)

[REDACTED]

In response to a question about her understanding of why we had contacted her, [REDACTED] said she assumed it was about Respondent. She said, "I feel like he is a little standoffish and also a little too forthcoming with females." She added that Respondent seems to construe friendliness as flirting and to think that the woman wants to be with him. For example, a friend of [REDACTED] who is not in the lab is a very friendly person, and Respondent said that he thought she wanted to be with him. Their labmate, [REDACTED], explained that she did not want to be with him, she is just very friendly and had a [REDACTED]

[REDACTED] also heard about issues related to Respondent's interactions with [REDACTED] and [REDACTED], but she does not really know what happened. She is a [REDACTED] and does not work in the same lab area where Respondent interacts with the undergrads.

[REDACTED] reported that she has not experienced or observed behavior by Respondent that she felt was sexual in nature. She has observed behavior that was "aggressive." [REDACTED]

Ever since joining the lab, [REDACTED] primarily has hung out with [REDACTED] and [REDACTED]. She found Respondent a bit off-putting. Respondent can come off as charming, but [REDACTED] tries to avoid him. In her interview, she initially said he was kind of "creepy" but then added that she feels that is a mean description, but she does not know the right word to describe him.²² In response to a question about any inappropriate comments she had witnessed by Respondent, she noted that once or twice she went out to lunch in a group with Respondent and he made bragging comments about things he did on weekends with girls. He was not talking about anyone from the lab, and nothing he said made [REDACTED] uncomfortable.

[REDACTED] tries not to be alone with Respondent, but she described that as just personal preference and added that she has been clouded by stories that she has heard about how he treated people in general as well as limited information about [REDACTED] and [REDACTED] experiences with him. [REDACTED]

8. Interview of [REDACTED] (April [REDACTED], 2017)

[REDACTED] He reported that he and Respondent have gotten along in the professional environment but were not friends. Both have a background in [REDACTED] and would spend time chatting about that as well as going out to group lunches occasionally.

Early on in his time in the lab, Respondent would come into the lab approximately weekly and "talk about what he had done with females the prior night in an embellished storytelling, 'conquered' kind of way." It was getting out of hand, and a few times [REDACTED] thinks that he or [REDACTED] told Respondent that he should not be talking so loudly or saying those things. At the same time, [REDACTED] noted that Respondent also received encouragement from people like [REDACTED] and a male undergraduate researcher who wanted to hear his stories because they found them entertaining. Pretty much everyone else in the lab seemed

indifferent to or uncomfortable about Respondent's statements, which included graphic stories about who he had slept with. One female undergraduate student, [REDACTED], in particular appeared uncomfortable about his comments. When [REDACTED] would learn that she needed to work in the lab with Respondent, she rolled her eyes like she was unhappy to work with him.

More recently, Respondent, [REDACTED] went out to lunch in [REDACTED] car and Respondent said some things that were more inappropriate than [REDACTED] were comfortable with. [REDACTED] believes both of them told him not to say those things around them. To the best of [REDACTED] recollection, Respondent was talking about a girl he met at a wedding in [REDACTED]. He said she was great, that they had gone out into an orchard and that "she had the best titties." Eventually, Respondent seemed to take the hint that [REDACTED] and [REDACTED] did not want to listen to those stories.

In response to a question about whether there was a circumstance where Respondent commented on a woman who was walking by in front of them, [REDACTED] noted that he did not specifically recall that, but he is positive it happened on several occasions.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

maybe the situation could improve.

both [REDACTED] and [REDACTED] at first, including suggesting that they hang out after work.

Respondent. [REDACTED]

does not know whether he has actually gone out with any of them.

reporting an incident regarding Respondent. [REDACTED] told [REDACTED] because she knew [REDACTED] had been a part of a couple interactions, and she wanted to make sure she had support to report.

[illegible]

[REDACTED]

Nothing that [REDACTED] has seen first-hand from Respondent has been sexual. [REDACTED]

[REDACTED]

[REDACTED] also has mentioned Respondent making comments outside the lab with his lab mates that made other people uncomfortable. [REDACTED] mentioned the comments last summer or in the fall. [REDACTED] had the impression that the conversation had just happened in a car and that [REDACTED] was venting that he could not believe what had just happened.

[REDACTED] described her current relationship with Respondent as “fine enough” that she will ask him questions if he is the only person who can answer them. She does not avoid being in the lab with him, but she does not like being in the lab with him either. She is not afraid of him because the worst thing he has done around her is say passive-aggressive things. But it bothers her that everyone else is expected to just be able to handle that behavior so that Respondent does not have to change.

[REDACTED]

[REDACTED]

10. Interview of Respondent (April [REDACTED], 2017, in person with Counsel)²⁶

[REDACTED]

Respondent’s Relationship with [REDACTED]

After [REDACTED] joined the lab in the [REDACTED], she and Respondent worked together on the [REDACTED] project. Respondent oversaw the project at the time but is no longer involved because he is graduating. Soon after [REDACTED] joined the lab, she initiated “flirting” with Respondent, including being

[REDACTED]

“very friendly” and talking about “personal stuff,” like family and music and acting like she was interested in him personally, not just interested in the lab work. [REDACTED] would also frequently invite Respondent to social events after work. Respondent recalled [REDACTED] brought Respondent a sandwich when he missed a group meeting that involved food. [REDACTED] would contact Respondent “excessively” and ask a lot of questions. In his written follow-up statement, Respondent noted that “These incidents went far above and beyond what a normal undergraduate student in our lab would do, and gave me the strong impression that [REDACTED] was interested in me.”

In contrast to a lot of students, [REDACTED] manner was “flirtatious” and “solicitous.” In response to what he meant by “solicitous,” Respondent said he meant “overly friendly.” [REDACTED] treated Respondent differently than others in the lab. She would both e-mail²⁷ and text²⁸ Respondent. Respondent described her texts as inquiring about private details, such as asking when Respondent’s band was playing. In his follow-up statement, Respondent noted that [REDACTED] also flirted “by body language, diction, and affect.”

On one occasion prior to February [REDACTED], 2016, [REDACTED] flirted with Respondent during a lab dinner at [REDACTED]. [REDACTED] invited Respondent to the back of the restaurant to ride on a dolly. Others would have seen them leave and come back. In his interview, Respondent indicated there were no romantic exchanges between them on that night or any other night prior to February [REDACTED], 2016. In his June [REDACTED], 2017 follow-up statement, Respondent stated that he saw the dolly incident as a romantic exchange initiated by [REDACTED]. However, Respondent did not identify any physical romantic or sexual activity such as kissing on any night prior to or after the night of February [REDACTED]. Respondent also did not believe he and [REDACTED] talked about any physical relationship.

On February [REDACTED], 2016, Respondent was at home hanging out with his bandmates when [REDACTED] texted to ask if he was doing anything that night and to tell him about a party. Respondent responded that he was going to [REDACTED] with his bandmates. [REDACTED] and two of her friends showed up. She “rushed” into the bar smiling “ebulliently” and “embraced” Respondent. One of Respondent’s friends from San Francisco (or a friend of that friend), leaned over and said “she’s really into you.” They hung out chatting, then [REDACTED] her friends, and Respondent agreed to go to a [REDACTED]. [REDACTED] went ahead to meet people, and Respondent walked with her friends.

At the party, they were down in the basement having a few beers and dancing. It was loud and Respondent could not hear. At one point, [REDACTED] pulled Respondent really close and asked if he wanted to go get their faces painted. Respondent said yes, and he thought [REDACTED] grabbed his hand and walked him to the bar. While at the bar, [REDACTED] asked Respondent if he wanted some of her mixed drink.

After they got their faces painted, [REDACTED] and Respondent went back to the dance floor. [REDACTED] again pulled Respondent in close to talk then invited him outside to talk. Outside, [REDACTED] started kissing Respondent on the mouth. In his follow-up statement, Respondent specified that [REDACTED] “stopped, turned to face [him], and grabbed the back of [his] head” then started kissing him. Respondent asked [REDACTED] if she was sure she wanted to do this and [REDACTED] “enthusiastically” said “yes.” After kissing Respondent, [REDACTED] began leading

[REDACTED]

him to her house holding his hand.²⁹ In his follow-up statement, Respondent clarified that they first discussed getting a cab, but they decided to walk instead. They were holding hands the whole way to [REDACTED] apartment. When they got there, [REDACTED] opened the door and immediately pulled Respondent onto a couch to the right of the door. They were making out on the couch and [REDACTED] removed her shirt. She was “incredibly aggressive and passionate” and was “taking the lead” in their encounter. At one point, [REDACTED] asked Respondent if she was being “too rough.” Respondent was fully clothed, except for maybe his shoes. At around midnight, he called a cab using his phone.³⁰ While Respondent was waiting for the cab, [REDACTED] started kissing him again and took her bra off. Respondent canceled the ride. At nearly 3:00 a.m., Respondent told [REDACTED] he was really tired and called an Uber to go home.³¹

The morning after that encounter, [REDACTED] texted Respondent at 9:24 a.m. and asked if they could talk about what happened the night before because she did not want things to be weird at lab. The message included three smiling emojis. They agreed to meet at [REDACTED] for coffee. They said hi and hugged. [REDACTED] said she just got out of a relationship and she wanted to be “free,” “emancipated.” Respondent listened “respectfully” and told [REDACTED] he completely understood. They never talked about things being weird in the lab. They walked to the arboretum and [REDACTED] stepped in a puddle. Respondent had an old shirt in his bag that he let [REDACTED] use to dry off her foot. Respondent recalled that [REDACTED] asked him if she could have five bucks to see a show and he forgot to give it to her. They walked around the arboretum for an hour or so, and as soon as they parted ways, Respondent texted [REDACTED] that he forgot to give her the five dollars. In response to whether or not there was any physical interaction during the walk, Respondent said they may have touched briefly. Respondent described this as two people talking next to each other.

When asked if Respondent expressed any interest in a romantic or sexual relationship or discussed with [REDACTED] what he wanted at the time, Respondent said it was so long ago and he did not know if he could put exact words to his “state of mind.” Respondent added that the winter quarter was insanely busy for him as a student. Respondent felt that he and [REDACTED] were friends and he wanted to be there for [REDACTED] as a friend. He was not really expecting anything. Respondent added that he did not know if it was relevant, but more than one person told Respondent that [REDACTED] was interested in him. One of them may have been his friend or the friend of a friend from San Francisco that was with them at [REDACTED] on February [REDACTED]. The second was a lab member who was a friend of both parties. A couple of times prior to February [REDACTED], 2016, that lab member mentioned [REDACTED] being interested in Respondent. After February 5, he told Respondent he had heard what happened from [REDACTED]. He also told Respondent that [REDACTED] would frequently go out to bars, pick up a guy, get physical and never talk to them again.

Respondent next saw [REDACTED] within the week, likely in the lab. Respondent described [REDACTED] as “friendly,” and “cordial,” during that next encounter. There were a lot of other folks there. Respondent did not tell anyone in the lab what happened.

In response to whether or not he discussed dating [REDACTED] after February [REDACTED], Respondent said he was not certain of the date but at some point around April 2016, he saw that [REDACTED] had put her [REDACTED] and texted her. He agreed to move them for her, then said “what do I get in exchange, what about a date?” A few minutes later, Respondent got what he described as a “formal text” that said “flattered, but not interested and I think we can be friends.” [REDACTED] “formal” and “cold” text was very

confusing to him. In his follow-up statement, Respondent noted that his text had been sent “jokingly” and that the tone of [REDACTED] response was confusing to him “since she had been repeatedly displaying overt interest as well as initiating the physical encounter.” Soon after this, Respondent and [REDACTED] arranged to get together and they took a long walk around the arboretum to talk about how they felt.

Respondent was asked how he felt about the situation and Respondent said he “definitely” would not have asked [REDACTED] for a date if he thought her answer would be “no.” He was assuming her answer would be “yes.” Respondent definitely told [REDACTED] she had been expressing interest and Respondent was returning her interest. In response to whether or not Respondent gave [REDACTED] reasons why she might want to date him, such as he was rich, smart and attractive, Respondent reiterated that he told [REDACTED] she had been expressing interest and he was returning her interest. Respondent described the conversation as “long” and “emotional.” He denied he was trying to convince [REDACTED] to date him and he said he was trying to understand how [REDACTED] felt. In his follow-up statement, Respondent added, “Specifically, I was trying to understand why she would flirt and initiate physical contact and then say that she was not interested.”

Respondent did not recall using the term “turf” in a discussion with [REDACTED] and he said the term “turf” does not sound like him. He also denied a discussion with [REDACTED] about [REDACTED] leaving the lab and that [REDACTED] did not need to know why. Respondent said it was not up to him who works on what project.

Respondent acknowledged sending a text message to [REDACTED] after asking her to date him where he told her to meet him at his house and said she knew where he lived.³² The lab is very jovial and cordial and lab members often discuss non-work related things. At some point [REDACTED] stopped saying hi and she acted strange in a way that Respondent felt “targeted” him. He thought it might have been around [REDACTED] preparation in either the summer or fall of 2016.³³ In response to this, Respondent sent [REDACTED] a text saying “I think you [REDACTED] are making me and other members of the lab uncomfortable. Can we talk?” Respondent said he sent this text as he was heading home to eat and that’s why he asked if [REDACTED] wanted to come over and talk. She knew where he lived because a group of people that included UR B had come to his house once prior. [REDACTED] never replied and Respondent never found out what was up. Since then, he would see [REDACTED] around lab, but they have not exchanged any texts or phone calls.

A few weeks ago a few students were working on Respondent’s bench and he asked them to move to the common area. Respondent did not say anything beyond that. In response to whether or not Respondent made comments about [REDACTED], Respondent denied any discussion specifically with [REDACTED] about [REDACTED]. Respondent said the procedure is that everyone is supposed to wear [REDACTED] in the lab, and Respondent will frequently say to students, “Where is your [REDACTED]?” Respondent said he encourages the students to wear lab coats as a mindfulness exercise so they aren’t talking about other things, like politics. Respondent said when someone puts on a lab coat, they feel more like they are working in a lab than when they are wearing street clothes. In response to whether or not Respondent has commented on [REDACTED] shoes at times when Respondent wasn’t wearing closed toe shoes. Respondent said it is possible that he would tell people to wear [REDACTED] when he was not. He almost always did this when students were being disruptive as a

[REDACTED]

reminder they were all trying to work. Respondent said he would tell students, “If you have time to lean, you have time to clean.” That behavior was not directed at [REDACTED] or [REDACTED] in particular.

Respondent did not notice a change in [REDACTED] attendance after February [REDACTED]. He believes she went on an extended vacation over the summer. Generally, how often they saw each other just depended on their schedules. They had regular group meetings on Fridays, but those often were canceled because [REDACTED] was traveling. Respondent never discussed [REDACTED] schedule with [REDACTED].

In his follow-up statement, Respondent concluded by noting that since his QE, he has had limited contact with [REDACTED]. He has interacted with her similarly to other undergraduate students in the lab, with just “a polite ‘hello’ or a friendly nod around the lab.”

Respondent’s Relationship with [REDACTED]

Respondent said [REDACTED] was an undergraduate that joined the lab about the same time or before [REDACTED]. [REDACTED] distinguished herself very early on, and she would ask Respondent if she could stay late and help with anything, like [REDACTED] in the lab. Respondent and [REDACTED] bonded over foods and favorite restaurants. Respondent recalled [REDACTED] was and is still dating someone as far as Respondent knows. Respondent’s impression of [REDACTED] was that she was a very helpful, motivated, and driven student. [REDACTED] presented herself as “nerdy” and a “little shy.”

Respondent recalled that [REDACTED] invited him and [REDACTED] to a party after work on a Friday. Respondent was out downtown with other friends, unrelated to the party. Respondent took a cab over to the party at the [REDACTED]. Respondent met both [REDACTED] and [REDACTED] outside of a very large [REDACTED]. Inside the [REDACTED] there was a dance party and a band was playing. People were dancing, and he and [REDACTED] went onto the dance floor and were dancing together – face to face, then were dancing with others around the party. Respondent was not sure where [REDACTED] was at this point. In the course of dancing with [REDACTED] Respondent unconsciously put his hand on the left side of [REDACTED] waist lightly. [REDACTED] told him she was uncomfortable. As soon as [REDACTED] said that, Respondent pulled his hand away and did not touch her again. He had not been trying to be romantic, just friendly the way he would dance with any female friend. Respondent and [REDACTED] continued dancing for 15 minutes or so both facing each other and with others. Then, they wandered around the party. Respondent and [REDACTED] found [REDACTED] talking to her friends and they hung out for maybe an hour chatting. [REDACTED] said “I’m out of here” and Respondent said he was leaving as well. He had been ready to go and was just waiting for the first person to say they were leaving, and it happened to be [REDACTED]. Respondent told [REDACTED] he “uberred” to the party. He took a cab home after dancing and hanging out. Respondent said he could not remember if he walked to [REDACTED]. He made the decision to call the cab himself; he did not call because [REDACTED] told him to. He did not print out those Uber receipts so was not able to provide him at his interview, though he said they were on his phone.³⁴

The following week in the lab, Respondent noticed that [REDACTED] was a lot “less friendly” to Respondent, and he remembered asking her if there was anything wrong. Respondent told [REDACTED] he wanted to talk to her, and they went outside and walked to the front of the building. [REDACTED] told Respondent that when Respondent put his hand on her waist it made her uncomfortable. Respondent was concerned and told [REDACTED] he did not mean to come on to her. In response to whether or not [REDACTED] said she was uncomfortable because he was her boss, Respondent said, “I don’t view myself as the boss.” Respondent told [REDACTED] he

[REDACTED]

has no power and he was sorry that he made her feel uncomfortable. He does not recall anything coming up about Respondent not being [REDACTED] boss “anymore.” Since having this discussion, [REDACTED] has been friendly. Respondent did not recall telling [REDACTED] that she had said something at the party that was “important” to him or something about [REDACTED] being an “interesting cat,” although Respondent said that sounded like something [REDACTED] would say

Respondent said everyone in the lab works on what [REDACTED] says. [REDACTED] was working with [REDACTED] who joined the lab a year before Respondent. In response to a question regarding Respondent’s attitude when [REDACTED] started working with [REDACTED] Respondent said he was disappointed that [REDACTED] didn’t want to work on the [REDACTED] project. Respondent said he expressed to [REDACTED] that he was disappointed that such a hard-working student would not want to work on the project. Respondent denied ever using the terms “poaching” or “wild animal.” Respondent recalled looking over [REDACTED] shoulder one time when she was working on some data. He recalled this because he wrote the [REDACTED] with [REDACTED] to [REDACTED]. Respondent noticed a few mistakes and pointed out the problem to [REDACTED]. [REDACTED] was actually sitting at the table at the time. Respondent explained to [REDACTED] that her [REDACTED] than she was looking for. Respondent could not recall the tone he used when speaking to [REDACTED]. He recalled being critical of [REDACTED] because it was not doing what it was supposed to do. [REDACTED] was working on a paper and Respondent asked if he would be on the paper. [REDACTED] said she needed to ask [REDACTED] which surprised Respondent since [REDACTED] was the first author. In his follow-up statement, he noted that the paper has since been published and Respondent was included as a co-author.

In response to a question about being alone in the lab recently with [REDACTED] or [REDACTED], Respondent said it was rare that there are only two people in lab. The undergraduates work in groups of two or three. [REDACTED] comes in frequently on weekends and Respondent works on weekends. [REDACTED] was in the lab a couple of Saturdays ago and Respondent said hello to her.

Respondent’s Other Interactions:

[REDACTED]

Respondent could not recall engaging in sexual conversations in the lab around [REDACTED] or [REDACTED]. He may have discussed sexual topics in private with [REDACTED] because she is a “good friend” and a “confidante.” He definitely told [REDACTED] about details of his dating life. He and [REDACTED] used to hang out more, but the frequency of their discussions have gone down.

[REDACTED]

[REDACTED]

In response to any other conversation about sexual harassment, Respondent said he met with [REDACTED] one time before receiving the e-mail notifying Respondent of the present complaint. Respondent did not recall discussing sexual harassment. Rather, they discussed Respondent's concerns about people distracting him by engaging in political discussions in the lab. In his follow-up statement, Respondent noted that at the time of the first conversation, neither he nor [REDACTED] was aware of the content of the complaint, so "there was no specific discussion about what was alleged." He only recalled they talked about congeniality and politics in the lab. They also discussed dismissing others' contributions. There was no discussion of sexual harassment.

Respondent did not recall discussions in a car with co-workers about the physical appearance of women, including commenting on women's breasts or telling others he went out to an orchard in Napa during a wedding with a woman who had nice "titties." He does go to weddings in Napa [REDACTED]. In response to a question about whether he recalled a wedding where he went out into an orchard with a woman, Respondent asked what we were getting at. We explained that we were trying to understand the likelihood of a conversation with coworkers about such an event. In his follow-up statement, Respondent indicated that he was "trying to understand why the questions had suddenly veered away from what was alleged in the complaint to alleged discussion over many prior years."

Respondent recalled a prior discussion with [REDACTED] regarding [REDACTED]. Respondent said [REDACTED] approached him as a friend and they had a very vague conversation about [REDACTED] shirt. Respondent recalled [REDACTED] said something about Respondent commenting on [REDACTED] shirt. In his follow-up statement, Respondent noted, "I now recall that I had complimented [REDACTED] outfit, saying, "nice outfit," or "good threads," or similar friendly, non-sexual comment." [REDACTED] said something to Respondent about "as a woman." Respondent did not recall any other details of the conversation. Respondent said in the lab they are all slobs and if Respondent wears a nice shirt, people would comment on it. Respondent said he did not express any romantic interest in [REDACTED] other than friendly lab interest.

In response to whether or not he had discussions with [REDACTED] about their weekend plans near Valentine's Day, Respondent said [REDACTED] asked him out several times, including on Valentine's Day. Respondent said [REDACTED] is a very good student and he did not want to make her look bad.

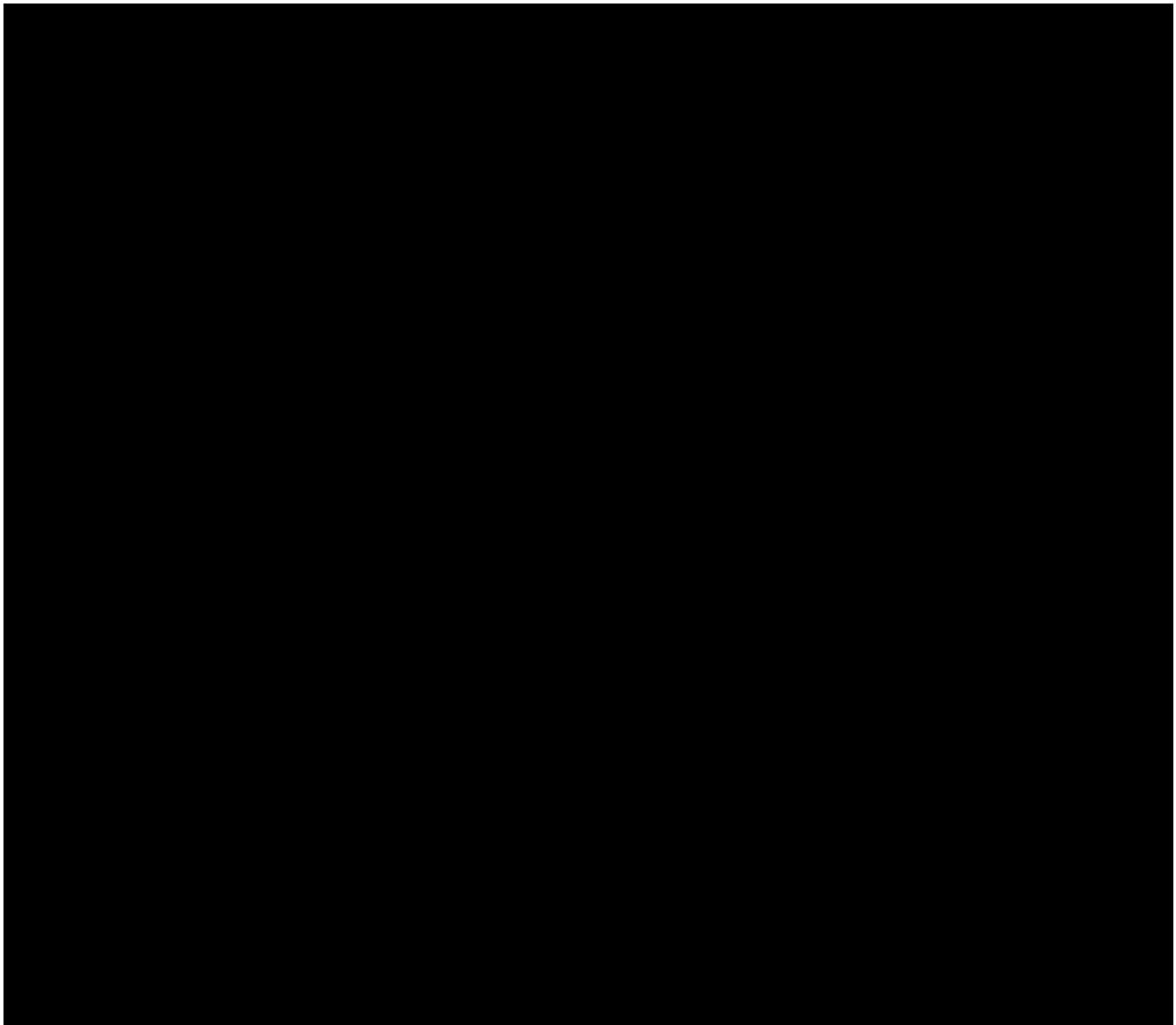
[REDACTED]

Respondent described his own personality as “flirtatious,” “jovial,” “outgoing,” and “joking.”³⁶ He said he engaged with all undergraduate students, male and female, equally. Some students are very independent and some want to ask for every detail. In terms of his punctuality, Respondent is not the most punctual person on the planet but his punctuality is not related to one gender over another.

Respondent said he is in the dark about why either [REDACTED] or [REDACTED] would make these allegations. Respondent said he was curious about why this was not brought up earlier.³⁷ Respondent said he has been racking his brain trying to understand why [REDACTED] would feel this way. Respondent said [REDACTED] involvement is more surprising to him. Respondent said [REDACTED] has a great spirit and seems to be excelling. In his follow-up statement, Respondent reiterated, “I frankly feel quite in the dark, and wonder if a productive, mediated conversation between the involved parties would serve everyone’s needs and allow a satisfactory conclusion for all parties.”

B. Documentary Evidence

We considered all of the documentary evidence provided to us. The following documents are laid out below for ease of reference because they are discussed in some detail in the analysis.



[illegible]

[illegible]

[illegible]

VI. FACTUAL FINDINGS AND ANALYSIS

A. Factual Findings

The preponderance of the evidence supports the following facts relevant to the analysis here:

- (1) Respondent is a Graduate Student Researcher in Faculty Member A's lab. (Agreed).³⁸
- (2) During the relevant time period, Respondent oversaw the [REDACTED] which incoming Undergraduate Researchers—including [REDACTED] and [REDACTED] work on when they first join the lab. (Agreed).
- (3) In fall 2015, Respondent made a single unwelcome and sexualized comment to UR A about exercise. (UR A)

In her interview with HDAPP, UR A described Respondent stating that the only kind of exercise he liked was the kind that gave him a reward during and after. In her investigation interview, she described him saying that he only liked exercise with a direct reward. She also noted that when she appeared confused, he added that he probably shouldn't have said that.

Respondent stated over email that if he made the comment UR A described, he was talking about eating, not sexual activity, stating, "If that was discussed I was talking about food (working out and then eating afterward), nothing sexual. [UR A] and I talked about food a lot and that remark, if made, was in that context."

However, we found UR A's interpretation of the comment as sexual to be more reliable than Respondent's explanation. Describing exercise that provides a direct reward or a reward

“during and after” is more in line with a discussion of sexual activity than with a discussion of going out to eat after working out, which would constitute a reward “after” exercise but would not account for the reference to a reward “during” the activity. UR A noted that when Respondent saw her reaction to his comment, he said he probably should not have said that, which also is more in line with innuendo than with a statement about food. In addition, the incident in particular stood out to UR A, whereas Respondent was relying on what he “would have” been talking about rather than a recollection of a particular event.

We also found UR A generally credible. Where others were present for the events she described, third parties did not dispute her accounts. Further, UR A did not overstate the seriousness or impact of this comment, describing it as inappropriate in a work environment, but something she would have overlooked in a non-work context. Witnesses including Respondent highlighted that UR A lacked a motive to make a false complaint. [REDACTED] They noted her perception of a close relationship between Respondent and Faculty Member A, her impression that Faculty Member A had not taken action when [REDACTED] complained, her interest in a strong letter of recommendation [REDACTED], and her success in the lab.

In addition, both with this comment and with other events described by UR A, even when no one was present to directly corroborate UR A’s account, other witnesses often identified parallel conduct that provided support for her account. For example, GSR A described two sexual comments by Respondent during [REDACTED] outings with coworkers that made GSR A uncomfortable: In the first, Respondent allegedly commented on the “titties” of a passing woman, and in the second he mentioned the “rack” of another woman. Likewise, GSR D described comments by Respondent that made GSR D uncomfortable, including a comment Respondent made about going into an orchard with a woman who had “the best titties.” GSR D also described a situation where Respondent and an undergraduate student were discussing and photographing women during a [REDACTED] trip. GSR C, GSR D, and Postdoc A all described Respondent making comments to coworkers about his sexual experiences, though GSR C said it did not bother her and Postdoc A felt he was talking to her in a friend capacity when he made sexual comments, even at work. GSR B described Respondent commenting on the “sexy” walk of a woman in an adjacent lab and frequently discussing his sex life at work, especially during his first couple of years in the lab. GSR B described Respondent’s comments as “a little graphic” but said they did not bother GSR B too much. Although Respondent did not acknowledge these comments, the fact that similar comments were identified by multiple witnesses, that the individuals had limited motive to fabricate their accounts, and that the witnesses did not overemphasize the seriousness of the statements (in some cases saying that they were not bothered) supports that Respondent at times spoke in a graphic sexual manner in the lab and with coworkers as described. The broad corroboration of Respondent’s sexual comments supports that his comment to UR A was sexual in nature, as she perceived.

However, the investigation did not uncover sufficient evidence to support multiple sexual comments to UR A. On the one hand, she noted that he said some questionable things. But the only comment she was able to specify was the above comment about exercise. Witnesses described multiple sexually inappropriate comments by Respondent, [REDACTED] In addition, they also described Respondent engaging in generally rude and unprofessional conduct, such as belittling less experienced graduate students and undergraduates. As a result, the evidence does not establish that the additional unspecified “questionable” comments to UR A were sexual in nature.

- (4) **At a party at [REDACTED] in or around [REDACTED] 2015, Respondent stood uncomfortably close to UR A and put his hands on her waist without her consent.**

UR A described Respondent standing behind her while she was listening to music, putting his hands on her waist, pulling her back toward him, and getting really close. Respondent acknowledged putting one hand on UR A's waist, although he stated that it was done "unconsciously" and "lightly." Although Respondent denied that the conduct was intended to be romantic, his statement supported that it was related to UR A's sex in that he stated that he was dancing with her as he would "any female friend."

- (5) **UR A pulled Respondent's hands off her waist and told him that she was uncomfortable.**

UR A described telling Respondent that she was uncomfortable and noting to him that he was her boss. According to UR A, Respondent replied that he was not her boss "anymore"—an apparent reference to the fact [REDACTED]

Respondent acknowledged that UR A told him she was uncomfortable. Although Respondent said that he did not recall commenting that he was not UR A's boss anymore, we found her portrayal reliable. First, we found UR A credible overall as was discussed above, and she was sober during the incident in question. UR A also did not appear to overstate her account. Even though she consistently stated that Respondent's conduct made her uncomfortable and made her avoid him, she also indicated that as long as she viewed the incident as isolated, she did not want to report him and impact him negatively for what might have been a stupid thing he did [REDACTED]. In addition, although Respondent did not recall that comment, he expressly described telling UR A that he has no power over her, which is in line with something he would say in response to her commenting that he was her boss.

- (6) [REDACTED]

- (7) **After their interaction on the dance floor, Respondent followed UR A against her wishes, including down the street outside the party when she left to walk home.**

Although Respondent stopped touching UR A, UR A credibly stated that he kept following her around the party and getting in her personal space even though the room was not crowded and they could have had a three-foot radius around themselves. She noted that when she said she was going home, Respondent said he was leaving too. She also provided a detailed description of walking home [REDACTED] with Respondent following her the length of the street until UR A stopped walking and told him she would not go further until he called his cab.

Respondent did not describe himself following UR A either at the party or outside. However, some of his statements corroborated UR A's account. First, he stated that they danced both together and with others after she said she was uncomfortable, which supports her portrayal of trying to find other people to dance with as he followed. He also said that after fifteen more minutes of dancing, they wandered around the party until they found UR B, supporting that he did not separate from her when she left the dance area. In addition, he acknowledged that he

said he was leaving the party immediately after UR A said she was leaving. Although he denied that he called a cab because UR A told him to, her detailed account and overall credibility led us to conclude that her account was reliable in that regard as well. In addition, GSR A described UR A conveying the same account of her experience to him before she was ready to report and before she was aware of UR B's allegations.

Others' descriptions of unwanted conduct by Respondent provides additional support for UR A's impression that he was following her. For example, Faculty Member A eventually stated over email that during [REDACTED], an attendee complained that Respondent followed her throughout the [REDACTED] sessions and to her room. Faculty Member A was supportive of Respondent overall, and the evidence did not support a motive for him to overstate this allegation. [REDACTED]

- (8) **In the lab the week after the party, Respondent asked to talk to UR A, and she reiterated that his conduct had been inappropriate and that she did not want anything like that to happen again.**

Respondent acknowledged initiating a conversation with UR A to ask if she was okay because she was less friendly to him than usual. He agreed that she reiterated during that conversation that he had made her uncomfortable at the party. Although Respondent did not recall the portion of the conversation about UR A saying UR B was "an interesting cat," he said that sounded like something UR A would say.

- (9) **Respondent's conduct impacted UR A's experience in the lab.**

On the one hand, Respondent stated that UR A had been friendly toward him since their conversation about the party. At the same time, the strong weight of the evidence supports that Respondent's conduct toward UR A has impacted her experience in the lab. The evidence also supports that UR A consistently perceived the negative change in Respondent's treatment of her as linked to her objection to his sexual conduct.

Although UR A stated that she already avoided being alone with Respondent before the incident at the party, she described going to greater lengths to avoid him afterwards. She described her stomach dropping when Respondent said he wanted to talk to her, which is in line with her explicit statements to him at the time that he had made her uncomfortable. In addition, she stated that she asked others to stay with her so that she would not be alone in the lab with Respondent, which was corroborated by GSR E. UR A did volunteer that it was not difficult to avoid Respondent because he was rarely in the lab when she was and she no longer worked on his project.

UR A described and others corroborated a notable change in Respondent's treatment of UR A over time. At first, Respondent was friendly and offered to write UR A a future letter of recommendation. More recently, UR A stated that Respondent criticized her for not [REDACTED] even when he was not [REDACTED] himself. UR B corroborated that she also perceived Respondent holding UR A and UR B to a higher standard than himself and others with respect to [REDACTED]. Respondent acknowledged that he may have criticized people for not [REDACTED] even when he was not [REDACTED] it himself, although he denied singling out UR A and UR B.

After UR A told Respondent he made her uncomfortable, she perceived him as “rude” “insulting” “demeaning” and “condescending” toward her. According to both UR A and GSR D, Respondent told UR A that she had “no hand in” a program she worked on with GSR D and GSR B. Respondent acknowledged the basic context of the conversation, and GSR D corroborated that Respondent’s tone was negative, as UR A perceived. [REDACTED]

[REDACTED] We found her account credible both in that she was credible overall and in that GSR E described a similar hostile comment Respondent made toward a male undergraduate researcher. UR A also noted that Respondent yelled at her for not using a waste basket, which was in line with the other hostile conduct by Respondent toward UR A and with Respondent’s general mistreatment of undergraduates that multiple witnesses described.

Several witnesses remarked at Respondent’s hostile behavior related to UR A’s decision to work with GSR B. GSR B noted that Respondent had been a friend, but Respondent was really mad after GSR B invited UR A to work on a project with him. GSR B credibly described Respondent accusing GSR B of “poaching” UR A and referring to her as though he considered her to be his property. Although Respondent denied that allegation, it was in line with witnesses’ consistent description of Respondent being irrationally upset when UR A decided to work with GSR B and becoming hostile toward them. Some of those witnesses, like GSR B and Postdoc A, had considered Respondent to be a friend and had limited history with UR A at the time. Notably, according to Faculty Member A’s statement, Respondent directly approached Faculty Member A to suggest that UR A was not ready for an independent project. Although Faculty Member A agreed that UR A had not completed the [REDACTED] that is generally a prerequisite to an independent project, no one described Respondent behaving similarly toward other undergraduate students.

Although it is clear that Respondent’s behavior toward UR A changed negatively over time, it is more difficult to establish the specific timing and cause of that change. For example, the evidence did not clearly establish when Respondent began to display his irrational negative response to UR A’s project change relative to when she rebuffed him at the party. UR A had already decided to move to [REDACTED] supervision prior to the incident at the party, as evidenced by her account that Respondent stated he was not her boss “anymore” when she rebuffed his advance. Yet, Respondent planned to go to the party with UR A and was dancing with her even after he knew she planned to work with [REDACTED]

[REDACTED] Both of those facts suggest that Respondent’s hostility toward UR A in connection with her new project were not an immediate response to the supervisory change itself and could have come after she rebuffed him. At the same time, due to the passage of time and lack of evidence clearly establishing a timeline, it is difficult to identify the specific timing of particular hostile events relative to her objections to his sexual conduct.

With respect to many of the instances of hostile conduct UR A described, the evidence suggests that Respondent displayed favoritism toward UR A when she was a romantic prospect and treated her comparably to others when she was not, rather than that his treatment of her became consistently worse than his treatment of others. Multiple witnesses, including Faculty Member A, described Respondent talking more and flirting with female researchers. GSR D highlighted

that he saw Respondent display flirty and overly interested behavior toward UR A (and UR B) in particular when they first joined the lab. This evidence and UR A's statement regarding Respondent's initial treatment of her supports that he initially treated her more favorably than he treated others.

In contrast, after she objected to his conduct, multiple witnesses corroborated instances where his treatment of her was less favorable than it had been and was even hostile. As was discussed above in establishing the credibility of UR A's allegations, several of the behaviors that she experienced after rebuffing Respondent paralleled his treatment of others, male and female. GSR B compared Respondent's negative statement about UR A's [REDACTED] skills to derogatory comments Respondent made about Postdoc A's lack of [REDACTED] ability. Multiple witnesses described Respondent making a hostile comment toward GSR E and devaluing her opinion in a [REDACTED] practice session. (GSR C, GSR D, GSR E). Similarly, GSR E's description of Respondent's statement to a male undergraduate closely paralleled the statement UR A described him making about her.

Although it is not possible to establish a precise timeline of events, UR A consistently described Respondent creating a hostile work environment for her after she rebuffed his advance. In her February 2017 communication with Faculty Member A, she highlighted a "hostile work environment" created by Respondent that she tied to her objection to his conduct. [REDACTED] GSR A noted that she provided a parallel account to him just before summer 2016, at a time when he said she was reluctant to complain about the conduct. (GSR A). Because we found UR A credible and because there was broad corroboration for her account that Respondent's treatment of her became less favorable over time, the weight of the evidence supports that after UR A rebuffed Respondent, he engaged in an unprofessional manner toward her and negatively impacted her work environment.

(10)

[REDACTED]

(11) **At and after a party in the early morning hours of February [REDACTED], 2016, Respondent and UR B kissed. (Agreed).**

The parties both described kissing at the [REDACTED] party. Respondent emphasized that UR B initiated that contact, and he highlighted his perception that UR B flirted with him prior to the party as well, including at a lab dinner. He stated that his impression of UR B's flirting on and before February [REDACTED], 2016 was corroborated by others. He also described UR B inviting him to walk home with her and holding his hand on the way home, then kissing him [REDACTED].

Other witnesses and events call into question whether Respondent accurately perceives when women are flirting with him, when they simply are being friendly, when his conduct toward them is wanted, and when it is not. For example, Respondent described his conduct toward UR C as friendly and non-sexual. However, Postdoc A stated that UR C asked Postdoc A to talk to Respondent and ask him not to flirt with her and not to comment on the way she dressed. Respondent corroborated that Postdoc A did talk to him about UR C and said something to him about "as a woman," though he did not recall other details. Similarly, Respondent portrayed his

conduct toward UR A at the [REDACTED] party as innocuous behavior he would display toward any female friend, but UR A was notably uncomfortable and immediately objected. Likewise, Respondent stated that a colleague at a [REDACTED] submitted a complaint that he was flirting and making her uncomfortable then was “extremely hostile” and told him not to touch her even though he was simply treating her as a “conference buddy.”

In addition, UR B stated that prior to February [REDACTED], she had considered Respondent a friend and believed that to the extent he perceived she was coming onto him, it was because she was outgoing. UR B attributed the kissing in the early morning hours on February [REDACTED] to what she described as her extreme intoxication, and she provided an account of Respondent coming to her house that contrasted with Respondent’s portrayal of those circumstances.

UR B’s consistent statements to Respondent after February [REDACTED] that she was not interested in dating him provide more support for her depiction of February [REDACTED] as [REDACTED] kissing than for Respondent’s depiction of an escalating pattern of flirtation and advances by UR B. UR A’s description of Respondent following her after the party at [REDACTED] also provides some support for UR B’s description of Respondent insisting on walking her home.

[REDACTED]

Ultimately, however, those discrepancies in details are not critical to our analysis of the subsequent interactions between the parties. For the purposes of that analysis, we will assume without deciding that Respondent reasonably perceived UR B as flirting with him on and prior to February [REDACTED], 2016, that UR B initiated the kissing between the parties that night, that she held Respondent’s hand as they walked to her home, and that she removed her shirt during the kissing at her house.

- (12) **During a February [REDACTED], 2016 conversation, UR B clearly expressed that she was not romantically interested in Respondent. Respondent repeatedly asked UR B to date him or to engage in a non-dating sexual relationship, and when she rebuffed him, he argued that since she kissed him, she must have been attracted to him.**

UR B credibly described Respondent repeatedly asking her out then proposing a sexual relationship. She also noted that by the end of the conversation, she thought she had convinced him that it would work to just be friends.

Respondent corroborated that UR B told him she was not interested in a romantic relationship:

[REDACTED]

[REDACTED] In response to a question about what he said to UR B about his own interest in a sexual or romantic relationship, Respondent stated that he could not put exact words to his state of mind or recall what specifically he had said. He noted that it was long ago and described that it was an “insanely busy” quarter for him as a student. He added that he wanted to be there for UR B “as a friend” and that he was not really expecting anything.

Although Respondent did not corroborate UR B's full account and they were the only two parties to the February █, 2016 conversation, substantial evidence supported UR B's portrayal. In Respondent's follow-up statement, he described a later conversation with UR B where he was "trying to understand why she would flirt and initiate physical contact and then say that she was not interested," which supports that he conveyed interest and she did not reciprocate, as she alleged. In addition, the parties' statements in subsequent texts support that Respondent pursued a dating relationship and UR B did not reciprocate. (See below findings of fact).

Furthermore, Respondent's statement that he "was not really expecting anything" was not credible given his subsequent conduct and his description of trying to understand her stating that she was not interested given her previous actions. Likewise, it is not credible that Respondent could not recall what he wanted or generally what he said because of the passage of time given the other details he described from the same date, like that UR B said she wanted to be "emancipated," the busy nature of his academic schedule at the time, UR B stepping in a puddle, that he was carrying an old shirt, and UR B asking to borrow five dollars for an event later that day. Overall, the evidence supports UR B's account of the February █, 2016 conversation.

- (13) **Between February █, 2016 and March █, 2016 Respondent sent UR B at least nine text messages proposing that he and UR B get together outside of work. █**

He proposed: coffee, a walk, drinks after work, "hang[ing] out tonight," hanging out the next night, "spending some QT" (quality time), hanging out but not going out, like watching a movie, walking after lab, getting together over the weekend, going out Friday night, and meeting up later.

Over the same period, UR A repeatedly turned down or redirected Respondent's proposed plans toward a "quick coffee." When she responded to his proposed plans, she said she had plans with others, needed to study, had study sessions, "might be down" █, or was going home to be with family.

These are just the exchanges reflected in the text messages Respondent provided. UR B identified and Respondent acknowledged other communications that he did not provide, as will be discussed below. Throughout this time period, UR B was participating in the project led by Respondent and relied on him for professional advice regarding that project, as is also reflected in the text strings.

- (14) **In or around April 2016, Respondent asked UR B to go out on a date with him in exchange for him helping her in the lab, and UR B turned him down. (Agreed).**

Although Respondent stated that he made his statement "jokingly," he acknowledged sending a text to UR B in which he offered to move █ to the correct location in return for going on a date with him. He also corroborated her statement that she turned down his request for a date.

- (15) **When UR B turned down Respondent's advance, he expressed frustration in person and in texts. (UR B).**

Both UR B and Respondent acknowledged the particular text message described in Finding of Fact 14. UR B stated that she could not provide the actual text because she did not have any of her texts with Respondent. We found her statement that did not have access to the texts credible given that the text as acknowledged by Respondent would have been favorable to UR B. Respondent admitted the particular text exchange, but (1) the evidence did not support that he knew UR B had deleted her texts, so he may have believed that we had access to the texts and (2) he did not provide the relevant texts himself. We considered his selective production of texts significant. Respondent stated that he did not have the relevant texts because he routinely deletes his texts from his phone. However, he had and provided *older* texts with UR B. In addition, Respondent was able to describe the content of specific texts he did not provide in detail, which suggested he had reviewed them recently or still had access to them.³⁹ We find it more likely that Respondent deleted or otherwise declined to provide the newer texts because they reflected Respondent becoming “super frustrated” with UR B over text after she turned him down (as she alleged), rather than that he deleted his more recent texts to UR B and retained the older texts as part of a general practice.

UR B reported that after she told Respondent that she was flattered by but not interested in his request for a date, Respondent was noticeably upset in their subsequent texts exchanges as well as during a three-hour conversation. UR B described avoiding the lab because Respondent was insisting that they talk and she did not want to talk based on their February [REDACTED] conversation. She credibly described Respondent demanding that she talk to him when she returned to the lab, talking to her in a raised voice, repeatedly asking her why she would not date him, and pleading his case for why she should. Respondent corroborated the conversation occurred and that it was long and draining. UR B also said that Respondent asked why she would not sleep with him, saying “I’m handsome, smart, [REDACTED] and have money.” Although Respondent denied asking UR B why she wouldn’t sleep with him, he acknowledged asking her questions to try to understand why she was saying she was not interested given her past flirtation and advance. He also did not deny listing what he perceived as his positive attributes, reiterating that he told UR B that she had been expressing interest and he was returning her interest. In her follow-up statement, UR B added that Respondent had told her during the conversation that she could sleep with him as infrequently as once or twice a month. Although that allegation did not arise during her initial interview, it was consistent with her initial allegations and Respondent did not deny the statement when given an opportunity to respond.

UR B also credibly described Respondent saying that it was not fair for her to decide the nature of their relationship without considering his wishes, that he again suggested and she again rejected the idea of being “friends with benefits,” and that he implied she should leave the lab given that she was not interested in a relationship with him. Although Respondent denied those statements, UR B provided a detailed account of the statements and her response to them. Postdoc A, formerly a close friend of Respondent, said that while she could not see Respondent making an explicit threat to expel UR B from the lab, she could see the behavior UR B described, where Respondent got frustrated then said it would be best for UR B to go. In addition, in his interview, Respondent expressed surprise that UR B had turned down his April request to date him. His surprise is odd given the February through March text strings where he repeatedly proposed activities and she repeatedly declined, delayed, or suggested a less involved outing. His stated surprise at the rejection also supports that he was serious, rather

[REDACTED]

than joking, in his request for a date and that he would have responded with frustration as she portrayed.

Finally, we credited UR B's allegation that in late summer 2016, Respondent sent her texts accusing her of being rude and insisting that she discuss it with him, and suggesting that she meet him at his house. Again, Respondent acknowledged central portions of UR B's allegation including that he thought she was hostile and texted her in response. He described a calm tone to his texts that differed from UR B's account. He also stated that he did not have the texts, which we did not find credible given his possession of earlier texts with UR B, as we discussed above. For that reason and based on witnesses' general impressions of Respondent's tone with colleagues in general and undergraduates in particular, we found UR B's account of the communication more reliable than Respondent's.

(16) Respondent's conduct impacted UR B's experience in the lab.

After the April text interaction, UR B stated that she did not go into the lab for [REDACTED] or [REDACTED] weeks because Respondent was texting that he wanted to talk and she did not. UR B also described a pattern of trying to appease Respondent by appearing willing to continue a friendship. That portrayal was credible given the parties' relative positions in the lab and her tone in the texts messages Respondent provided—where she tried to downgrade his proposed plans and often delayed them but did not outright reject his requests to hang out.

UR B also credibly described Respondent's conduct impacting her lab experience in that she avoided going into the lab alone and started carrying mace. In her follow-up message, UR B also described experiencing [REDACTED] when she tried to sleep throughout spring 2016. Her experiences ultimately led her to report her concerns to Faculty Member A [REDACTED].

B. Policy Findings

Conduct qualifies as sexual harassment in violation of the University's January 2016 Sexual Violence and Sexual Harassment policy when it (1) constitutes unwelcome conduct of a sexual nature and (2) creates a hostile environment or is *quid pro quo*. In the present case, the preponderance of the evidence supports that Respondent's conduct constituted sexual harassment in violation of University policy.

Although some of the allegations pre-date the January 1, 2016 Sexual Violence and Sexual Harassment policy, all of the allegations are analyzed below under that policy in order to allow a comprehensive look at the totality of the circumstances as the policy mandates. The 2016 policy contains a narrower definition of sexual harassment than the previous policy, such that a course of conduct that constitutes sexual harassment under the 2016 policy also would violate the 2015 policy.⁴⁰

[REDACTED]

1. Respondent engaged in unwelcome sexual conduct as defined by University policy.

University policy defines sexual harassment to include “unwelcome sexual advances, unwelcome requests for sexual favors, and other unwelcome verbal, nonverbal or physical conduct of a sexual nature.” Here, Findings of Fact 3, 4, 5, 7, 8, 12, 13, 14, and 15 support that Respondent engaged in unwelcome conduct of a sexual nature toward UR A and UR B. Specifically, the preponderance of the evidence substantiates that Respondent engaged in each of the following instances of conduct (described in the findings above) that constitute unwelcome advances or other unwelcome conduct of a sexual nature directed at UR A and UR B:

- Respondent’s February █, 2016 through April 2016 conduct toward UR B in which he repeatedly made requests for her to date him, implied they be “friends with benefits,” asked UR B why she would not sleep with him, and requested that they engage in sex. (See Findings of Fact 11, 12, and 15 above).
- Respondent’s persistence in proposing dates and alternatives to dating, even after UR B stated that she didn’t want to date, (See Findings of Fact 12 and 15). Respondent contended that UR B was “flirtatious” and “solicitous” toward him, emphasizing her conduct during and prior to the early morning hours of February █, 2016. However, we found that evidence to have limited relevance given her clear statements on and after the morning of February █, 2016 indicating that she did not want to date Respondent. (See Findings of Fact 10, 11, 12).
- Respondent’s February to March 2016 texts repeatedly suggesting that UR B spend time with him despite UR B’s pattern of declining or redirecting his requests. (See Finding of Fact 13). Although Respondent’s messages during that time period do not expressly reference dating or sex, his communications with UR B both before and after that time period suggest that the intent of his requests was romantic. The nature of the activities Respondent proposed, which included walks, a movie, talks, evening music shows, and “quality time” also support a romantic intent, particularly when contrasted with UR B’s messages redirecting him toward activities like a “quick coffee” earlier in the day.
- Respondent’s single sexualized comment about an exercise class that UR A described as “in poor taste.” (See Factual Finding 3). UR A credibly described the comment as unwelcome and inappropriate in the work environment. As was discussed above, the weight of the evidence also supports that Respondent’s comment was sexual in that (1) his alternative explanation for the meaning of his comment was less likely than UR A’s interpretation of the comment and (2) witnesses described a pattern of sexual comments by Respondent in the presence of coworkers that supports he would have made a sexual comment as alleged.
- Respondent’s touching of UR A’s waist. (See Findings of Fact 4-5). Respondent acknowledged that UR A immediately voiced her objection to the touching, which supports a finding that the conduct was unwelcome. UR A’s immediate reaction (as acknowledged by Respondent) supports that she perceived the conduct as sexual in nature. We found her interpretation of the conduct as sexual reasonable given the area of her body that he touched, his acknowledgment that it was conduct he would direct at females and not members of both sexes, and his surrounding conduct in following her after she objected to the touching.
- Respondent’s persistence in standing uncomfortably close to UR A and following her after she objected to his touching. (See Finding of Fact 7). UR A credibly reported that Respondent’s conduct toward her at the party led her to leave and that his conduct in following her outside the party led her to stand on the street and refuse to move until he had called a cab so that he would

not follow her home. These facts support that she perceived the conduct as unwelcome. The evidence also supports that the conduct was sexual in nature given that it came on the heels of him touching her and that he did not respect her space even after she stated she was uncomfortable when he touched her.

2. Respondent's conduct created a hostile environment in violation of University policy.

Unwelcome sexual conduct violates University policy when it is *quid pro quo* or creates a hostile environment. *Quid pro quo* harassment occurs where “a person’s submission to such conduct is implicitly or explicitly made the basis for employment decisions ... or other decisions affecting participation in a University program.” Hostile environment harassment occurs where unwelcome sexual conduct “is sufficiently severe or pervasive that it unreasonably denies, adversely limits, or interferes with a person’s participation in or benefit from ... education or other programs or services of the University... and creates an environment that a reasonable person would find to be intimidating or offensive.”

In the present case, the preponderance of the evidence supports that Respondent’s conduct created a hostile environment for UR A and UR B. The evidence supports that the conduct was sufficiently severe or pervasive that it interfered with both UR A’s and UR B’s education or other programs or services of the University on the whole. Both UR A and UR B credibly described Respondent’s conduct impacting their experience in Faculty Member A’s lab. (See Findings of Fact 9 and 16).

Respondent’s sexual conduct toward UR B was both severe and pervasive: It included extensive conversations in person and over text over a period of months in which Respondent tried to convince UR B to date him or to sleep with him at a time when she worked on a project he led. As a result of that conduct, UR B credibly described not going into the lab for several weeks. This was corroborated by Faculty Member A. In addition, UR B reported obtaining and carrying mace and suffering [REDACTED] when trying to fall asleep, all of which she associated with Respondent’s conduct. (Finding of Fact 16). We considered the foregoing factors and found that the preponderance of the evidence supports a finding that Respondent created a hostile work environment for UR B.

UR A’s situation is a closer case, as UR A herself acknowledged. She experienced one sexual comment by Respondent and sexual conduct on one occasion outside of the work environment that included touching her waist and following her at a party. If that were the extent of Respondent’s conduct toward UR A, it likely would not satisfy the “severe or pervasive” standard.⁴¹ However, in the present case, the totality of the circumstances includes that Respondent held a more senior position than UR A in the lab, had supervised her work until recently, and treated UR A less favorably after she rebuffed his advance than he had previously. UR A credibly described being afraid to be in the lab alone with Respondent, a fact that was corroborated by GSR E. (Finding of Fact 9). In addition, UR A described Respondent as “rude,” “insulting,” “demeaning,” and “condescending” subsequent to her discussion with Respondent where she said he made her feel uncomfortable. Again, witnesses including GSR B and GSR D corroborated Respondent’s hostile conduct toward UR A. Although we considered that Respondent’s conduct was equally “demeaning” or “condescending” to other undergraduates, we found UR A credible in her account that his negative treatment of her began after she objected to his advances. The weight of the evidence supports that prior to UR B rebuffing Respondent, he was willing to write a letter of recommendation for her, whereas subsequently, he questioned her abilities and her qualifications to have her own project (although in his interview he acknowledged she has excelled in the lab). Furthermore, he appears to have voiced doubts about UR A to Faculty Member A. Overall, Respondent’s behavior toward UR A appeared to be less favorable when he no longer viewed her as a romantic prospect. We considered

[REDACTED]

UR A's statement that it was not difficult to avoid Respondent, but the weight of the evidence supported that UR A explicitly avoided being alone with Respondent after the relevant conduct. The evidence also supported that when UR A described Respondent's conduct toward her to Faculty Member A in February 2017, she explicitly described him creating a hostile work environment following her objection to his conduct. (Attachment H).

Further, the weight of the evidence supports that Respondent's conduct created an environment that a reasonable person in UR A and UR B's position "would find to be intimidating or offensive." Both the persistent nature of the conduct and the graduate-undergraduate student relationship between the parties support that a reasonable person would find the behavior both intimidating and offensive. Viewing the conduct in the light of the totality of the circumstances, as the policy requires, Respondent's conduct created a hostile environment in violation of policy.

Sexual conduct that creates a hostile environment violates the Sexual Violence and Sexual Harassment policy irrespective of whether the conduct also is *quid pro quo*. However, it is worth noting that elements of Respondent's conduct toward UR B also support a finding of *quid pro quo* harassment. On the one hand, Respondent was never UR B's official supervisor and did not have actual authority regarding her position in the lab. At the same time, when UR B rebuffed Respondent, Respondent said she had "stepped on his turf" in the lab, and he pressured UR B to leave the lab. Respondent denied these allegations, but as previously discussed in Finding of Fact 15, we did not find his denial credible. Respondent held himself out as having authority regarding UR B's position in the lab. In addition, given the close temporal proximity between Respondent's requests for sexual favors, a reasonable person in UR B's position likely would perceive that she would receive more favorable treatment from Respondent with regard to her position in the lab if she submitted to his requests for dates and sexual favors. UR B believed Respondent was saying she could "sleep with him" and maintain her space in the lab.


VII. CONCLUSION

For the foregoing reasons, the preponderance of the evidence substantiates that Respondent violated the sexual harassment policy.

Respectfully submitted,



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